

NOTICE.

Henceforward, until further notice, Frank C. Withers and Frank Owen are authorized to collect and receipt for subscriptions and advertisements and other business of this office. Other duties calling I shall devote but little attention to the paper in the future, for some time at least. April 18, 1873. J. H. UPTON.

THE HASBROOK MURDER CASE.

The jury in this case returned its very extraordinary verdict after our paper had gone to press last week, and hence no reference was made in the editorial columns to the affair in that issue.

It is needless to say that nearly the entire community were surprised at the finding of the jury. A great crime had been committed and a mass of trustworthy evidence was adduced all tending to the conviction that it could have been done other than Coxon who did the deed. His maneuvers at the scene of the tragedy; his conflicting statements concerning it; the manifest trepidation evinced by him at the time; the utter improbability of his story of the commission and manner of the foul murder—in fact all known circumstances in connection with the awful and revolting deed bore heavily against the prisoner. There seemed nothing wanting to convict him as charged in the indictment save the want of evidence of "malice!" In other words, it was contended and the Judge's charge lent weight to the theory that a "motive" must be proved! To all observant minds that "motive," whether sufficiently proved or not, was apparent enough. The wife of the victim of the hideous crime for the commission of which Coxon was arraigned, was obviously enough, either with or without her knowledge, connivance or consent, the prize coveted or was in some way the subject and object of the atrocious and fiendish taking off of poor Hasbrook. It is possible she knew nothing of the intended murder or the manner of its commission or the motive prompting it. We say it is possible, and when we say this much we think we give her the full benefit of all that is due her actions from the date of the tragedy down to the hour that a jury of his peers pronounced Joseph Coxon "not guilty." We hope we would be incapable of uttering one word which might in the remotest degree lacerate the feelings or add poignancy to the grief of a woman stricken as one would ordinarily be whose husband had been cruelly brained by an assassin; but if the conduct of a wife under such circumstances shall be such as to encourage the suspicion that all is not right on her part, and it should happen that such suspicion is without foundation, why, she is doubly to be commiserated for being the victim of a train of circumstances at once so untoward and cruel. We have her own testimony to the point that, after the firing of the fatal shot was heard by her, and upon Coxon's first visit to the house after the murder, she asked him if he (Coxon) was hurt, when he replied no, but "poor Ben is," she flew not to his side but remained at the house, and that during that long, memorable night, and until during the next day, Hasbrook's body laid in the corral with no covering save a horse blanket and she visited it not nor sought the alleviation of the cheerless aspect surrounding it. And it was observed during the trial that her

reaction of the triumph of Coxon, or if they were not, then action and non-action were devoid of significance whatever. Although it was a momentous crisis in the career of Joseph Coxon, when he heard the tread of the jury approaching the bar of the Court, bearing as he knew the message which must in a moment say either liberty or death, yet that was infinitesimal compared to the great drama it inaugurated and made possible yet before him. By its authority a murderer stalks forth! not to communion with things pleasant to reflect upon; not to mingle and commingle with and be trusted by his fellow men; not to joy and gladness unalloyed, but to the perpetual companionship of a conscience whose chief function in future shall be to smite and smite continually the most monstrous of sinners. The spectre of poor, murdered Hasbrook will haunt his pathway, his day dreams and his night dreams, through life, and after death, well—then comes the judgment!

WILLIAM BENEDICT CARTER:

And yet, notwithstanding we have been so wantonly and maliciously assailed and vilified by this man Head; and notwithstanding his quotation, in last issue, of abuse of us and slander from the LAFAYETTE COURIER, a miserable, characterless, libelous sheet, published by that moral leper, J. H. Upton, we have no disposition to retaliate in kind—but in all the earnestness of our soul, can pray: "Father, forgive them."

Moral leper is good—coming from that wreck of poverty and monument of shame—our good Bro. W. B. Carter. And then he talks about praying for us in conjunction with the editor of the Democrat! Pray! truly! Is the man mad? One of his devotional exploits is a matter of notoriety about Corvallis, to wit: prostrate upon his bended knee before a forest maiden, and suddenly and as if by lightning impulse, he stretched both his hands heavenward, rolling his eyes in that direction so beseechingly as to provoke the ire of the maiden aforesaid, when, disappointed and surprised, she burst forth: "Ica mamuck coqua! Nika tum-tum mika hyas pitun. Klose mika potlach sitcum dollar; mika tickie klattawa."

We understand that a meeting largely attended by the neighbors of the late Benj. Hasbrook has been held at Sheridan. The definite object of the convocation we did not ascertain. It is probable that it would not be entirely safe for Coxon to put in his appearance in that region. The people up there cannot see how it could have been any other person than Coxon who did the foul deed.

Judge Solmon P. Chase died in Washington City on the 7th of May, of apoplexy. Judge Chase was born in Cornish, New Hampshire, on the 13th of January, 1808. He graduated in 1826 and was admitted to the bar in 1830. In 1849 he was elected Senator from Ohio. He was Governor of Ohio in 1856, and in 1861 was appointed by President Lincoln Secretary of the Treasury, which he resigned to accept the appointment of Chief Justice of the United States.

A Washington dispatch of May 1st announced the death of James Brooks, one of the owners, and editor of the New York Express. His remains were taken to New York on the 3rd of this month in charge of the Sergeant-at-Arms of the House of Representatives.

JUDGE BONHAM'S CHARGE TO THE JURY IN THE COXON CASE.

IN THE CIRCUIT COURT OF THE State of Oregon for Yamhill Co. April term, 1873.

State of Oregon vs. Joseph Coxon—Indictment for murder. GENTLEMEN OF THE JURY:—The Defendant, Joseph Coxon, is charged by this indictment, with the crime of murder in the first degree.

The following is the statutory definition of that crime: "If any person shall purposely and of deliberate malice, or in the commission or attempt to commit any rape, arson, robbery or burglary, kill another, such person shall be deemed guilty of murder in the first degree. In this case the indictment does not charge that the murder was committed by Defendant while in the commission or attempt to commit any of the other crimes referred to, and hence you will not consider this case with any reference to such other crimes."

The Defendant pleads not guilty to the charges preferred against him. This plea puts in issue all the material averments in this indictment and makes it necessary, before a conviction can be had, for the State to prove such material averments beyond a reasonable doubt. The material averments or charges made by this indictment against the Defendant are:

- 1. That Benjamin Hasbrook was shot and killed.
2. That he was killed in Yamhill county, Oregon.
3. That he was shot and killed by the Defendant, Joseph Coxon.
4. That such killing was done by the Defendant in cold blood, or with premeditation—with malice aforethought.

Malice implies an evil design or desire to kill another. Upon the trial of a person indicted for murder in the first degree, there must be, to sustain the charge, some proof of malice, other than the mere proof of the killing. The law presumes malice from the deliberate use of a deadly weapon; but that presumption must be supported by some other evidence, either positive or circumstantial, to sustain this indictment.

There are three degrees of unjustifiable homicide; the first of which, murder in the first degree, I have described to you. The second, murder in the second degree, is where there is no previous deliberation or premeditation; but with this exception the definition of the crime is essentially the same as murder in the first degree. The third degree, manslaughter, is where the killing is unjustifiable and unexcusable, and is without malice, express or implied, and without deliberation, upon a sudden heat of passion, caused by a provocation apparently sufficient to make the passion irresistible.

The Defendant in this case is charged with having killed said Hasbrook, by shooting him with a shot gun, loaded with gun powder and leaden No. 2 shot, and that the act was committed on the 4th day of February, 1873.

So far as the time and manner of the killing are concerned, it is not necessary, under the law, that the State should prove the same specifically, in the manner and form alleged. But it is sufficient, in this respect, if you are satisfied from the evidence that the Defendant shot and killed the said Hasbrook, with some kind of gun or fire arm, and that the act was done at some time prior to the date of the finding of the indictment.

In all criminal prosecutions, the law presumes that the accused is innocent until he is proven guilty; and you must be satisfied of his guilt beyond a reasonable doubt, before you can convict. By this it is not meant that you must be satisfied of the Defendant's guilt beyond any kind of doubt, or beyond any kind of question whatever, for you might, if you should choose to do so, conjure up some kind of flimsy or visionary, and unreasonable doubt in almost any case that might be conceived of. But a reasonable doubt is such a doubt as would be entertained by a practical, fair-minded, reasonable and conscientious juror; and such as would cause him to hesitate and fear that if he should find the Defendant guilty he might do him an injustice. A reasonable doubt is such as would influence the action of a reasonable man.

Some men jump at conclusions and are willing to convict on too slight testimony, while others are unreasonably skeptical and, apparently, cannot be convinced at all. You should study to avoid these extremes, and endeavor to occupy the proper reasonable ground between them.

There are two kinds of evidence: positive or direct and indirect or circumstantial. Positive or direct evidence is that by which the act charged is directly proven, as, for example, where a witness testifies that he was present and saw the accused commit the act, or that the accused admitted to him that he did it.

Indirect or circumstantial evidence is that where the main fact in question is not sworn to directly, but the witness testifies to some other or extraneous fact which tends, with other circumstances, to prove the main fact in question. In other words, the existence of the main facts are inferred from the proof of the existence of the particular circumstances in the case.

It very often occurs that crime is committed when there is no one present to witness it; and in all such cases the offender must go unpunished if his guilt cannot be established by circumstantial evidence.

The records of criminal trials disclose a number of instances where innocent persons have been convicted upon circumstantial testimony; but such unfortunate occurrences are the result, I think, more of a lack of good judgment and discrimination in the jury than the fault of this kind of evidence. It has been held by our most eminent lawyers and jurists, that circumstantial evidence is as conclusive and satisfactory as any, when a case is fully and thoroughly made out by it, and I think this is true. But it should always be borne in mind by jurors that where a case depends solely on circumstantial evidence, there should be such a complete chain or array of circumstances, indicating the guilt of the accused, that they are not susceptible of any reasonable explanation, consistent with the Defendant's innocence.

If you can explain away these circumstances on some other reasonable hypothesis than that of the guilt of the accused, it is your duty to do so. But, if in your sound judgment, carefully exercised, you can see no other rational solution of the circumstances proven, than to infer from them that the Defendant is guilty of the crime charged, then you should find him guilty; otherwise you should acquit.

Criminals sometimes, in their great anxiety and zeal to divert suspicion from themselves, make statements or admissions which, taken with all the other facts and circumstances proven, tend strongly to establish their guilt. You should carefully consider all statements of this character, and if by any reasonable solution you can reconcile them with the truth, it is your duty to do so; if you cannot so reconcile them, you should examine and determine what motive induced such false statements and give them such weight as they are entitled to, in determining the case before you. In considering the statements made by Defendant before the committing magistrate, at the Crooner's inquest and at other times and places you will not only consider all that was said by the Defendant, but you will consider it in connection with all the testimony in the case on both sides, and if you can reconcile the same consistently with the Defendant's innocence, you should do so; if not, then determine what weight it is entitled to in support of the prosecution.

In criminal trials the question of the good character of the accused, prior to the time of the commission of the crime charged, is sometimes invoked in support of the defense. The door to inquiry on this subject can only be opened by the Defendant. If he does not choose to open this door, then the law presumes that he was possessed of an ordinary or fair average character with other men, and the State cannot show that it was less than that. When the Defendant, however, does introduce evidence on this subject, then the question is an open one and the State may show if it can be proven that the Defendant's previous character was bad, and the Defendant may prove, if he can, that he possessed an unimpeachable character, or that it was better than the average. Inquiries on this subject must be limited, however, to traits of character necessarily involved in the crime charged. For example, when a person is put upon his trial for murder, he may show that he has always been a peaceable, quiet citizen, and has not been guilty of acts of violence towards his fellow men.

In this case, upon a motion by Defendant for a continuance, for the purpose, as claimed by him, among other things, of enabling him to produce evidence of his previous good character. It was admitted by the State that Defendant's character, as a peaceable and law-abiding citizen, prior to the 4th day of February last, was as good as that of any one; that it was without reproach, and you will so regard it—the same as if that fact had been satisfactorily established by the evidence of witnesses before you. The effect of evidence of previous good character is not to screen a person from punishment for crime, if his guilt is satisfactorily proven.

Men who commit crime ought to be punished, and the law contemplates that they should be, regardless of any question of previous good or bad character.

But the legal effect of evidence of previous good character of the accused, is to strengthen and support any reasonable doubt which may exist in the minds of the jury as to his guilt. And it

might have the effect, in certain cases, to raise a doubt which would otherwise not be considered a reasonable one—to the standard of a reasonable doubt.

It is your duty, gentlemen, to judge of the law as it is given you by the Court. But you are the sole judges of the credibility of witnesses and of the value and sufficiency of the testimony, to satisfactorily prove any given proposition or charge in the indictment.

A witness is presumed to tell the truth, but his credibility as such may be impeached in various ways. A witness may impeach himself by his manner of testifying and by making contradictory statements while on the witness stand. A witness may also be impeached by showing by other witnesses that he has made contradictory statements at different times, concerning the subject matter of his testimony; and, also, by proving that his reputation for truth and veracity, in the neighborhood where he lives, is bad, and that he would not be believed under oath.

One witness is sufficient if unimpeached and uncontradicted, to prove any given fact in a case like this, if he appears to have a full and correct knowledge of the subject concerning which he testifies.

Something has been said in the argument of this cause about the interest and zeal manifested by some of the witnesses; and to show the extent of such interest and zeal, all proper inquiry has been allowed. It is your province to determine whether witnesses have manifested an improper interest in the investigations which have led to this prosecution. It is hardly necessary for me to say to you that it is the duty of all good citizens, when a great crime has been committed in their midst, to be prompt and diligent, in every way that is proper and reasonable, to find out the perpetrator of the crime. You will judge whether the bounds of reason have been exceeded in this respect, and whether witnesses have manifested a degree of zeal in their investigations, inconsistent with the exercise of correct judgment.

Under the testimony in this case you must find one of the following three forms of verdict:

- 1st. Guilty, as charged in the indictment.
2d. Guilty of murder in the second degree.
3d. Not Guilty.

If you should be satisfied beyond a reasonable doubt, that the Defendant deliberately shot and killed Benj. Hasbrook, in all respects as charged in the indictment, except that you are not satisfied with the evidence of the premeditation, or if you are not satisfied that the State has furnished other proof of malice in addition to that which the law presumes from the proof of deliberate shooting or killing, then you might find a verdict of guilty of murder in the second degree.

Gentlemen of the Jury:—I now submit this case to you. You are the conservators of the public peace, as well as the guardians of the rights of citizens. Exercise your sound judgment, fairly and impartially. Carefully analyze and weigh the testimony, and return a verdict according to the truth. B. F. BONHAM, Judge.

A terrible war is going on in Louisiana between the citizens and the Kellogg Government. The Grand Jury, now in session at New Orleans have passed resolutions to have Kellogg and his officers appear before them. Judge Abel ordered the report filed and that subpoenas be issued for the parties to appear before the Grand Jury. There is also a report against the Metropolitan police.

It turns out that it was the partisans of Kellogg, the Louisiana usurper, who slaughtered the negroes in Grant parish.

Interest in the woman suffrage agitation seems fast ebbing. The subject now scarcely provokes comment in any quarter.

TERRITORIAL.

L. P. Beach, Surveyor General of Washington Territory, died in Olympia on the 26th ult.

The workmen have begun on the new Penitentiary at Steilacoom, W. T.

Only eleven marriage licenses were issued at Olympia during the first four months of this year.

A rich ledge of coal has been struck in the Puyallup Valley, W. T.

The Washington Territory Penitentiary is expected to be finished in about seven months, at Steilacoom, W. T.

150,000 hoop poles were shipped from Steilacoom, by Mr. Phillip Keach, for San Francisco on the 26th ult.

Thirty-three names have been enrolled in the Olympia Military company.

A Post Office has been established at Ewartsville, Whatcom Co., W. T., with G. W. Wilbur, as Postmaster.

A Washington letter of April 16th, says that Josiah T. Brown has been appointed Register of the Land Office at Olympia. No mention has been made of it in the telegrams.

The Puget Sound Banking Company, at Seattle, has suspended. It is believed that they will resume again in a short time.

Olympia is expecting a balloon ascension soon.

All the livery horses in Montana and Idaho are down with the epizootic.

The will of the late L. P. Beach has been opened. He bequeaths his property half and half to his mother and Miss Mary A. F. James.

TELEGRAPHIC BREVITIES.

Bands of Mexican robbers are operating in Nueces county, Texas.

Gen. Sherman will send all the troops that Gen. Schofield needs to aid in putting down the Modoc war.

150 U. S. soldiers left New York on the 4th inst for the Modoc country.

Oakes Ames is stricken with paralysis and is not expected to recover.

100 boys escaped from the Worcester, Mass., Reform school on the morning of the 5th inst.

It is rumored that Stokes has been denied a new trial.

Laura D. Fair sues the lessee of Platt's Hall, San Francisco, for \$299 damages, caused by closing the hall on her last November.

A man named J. D. Robinson was robbed and murdered at his home about 5 miles from Oregon City, on the 6th inst.

James L. Orr, Ambassador from the United States, died in St. Petersburg, on the 6th inst.

Twenty-seven members of Congress have returned their extra compensation to the Treasury, in the aggregate amounting to \$111,000.

Col. Foster, of Indiana, new Minister to Mexico, has received his instructions and will leave for his post next month.

A proposition has been made to hunt the Modocs out of the Lav-beds with bloodhounds.

The epizootic is growing worse in San Francisco. Thirty horses have died in two days.

The earthquake at San Salvador still continues.

About as unprofessional and stupid an exploit as we have known a lawyer to be engaged in was the writing of a communication to the Oregonian by an assistant counsel of defense in the Coxon case congratulating himself that a Judicial murder had not been perpetrated! Lawyers seldom vouch for the innocence of criminals they are employed to defend.

Somebody writes again to the Oregonian to say that the acquittal of Coxon had rejoiced most people acquainted with the circumstances of Hasbrook's murder and of Coxon's trial! The father of liars is just no where compared to this scribbler.

For not grasping the thing in all its scope and pressing into the case the accomplice of the murderer of Hasbrook, the prosecution in the case may very appropriately be said to have been a sorry failure.

The army worm has appeared at Stokes Valley, Tulare County, California.