

prisoner returning rapidly from his house towards Alexander's house with a gun in his hand. That she then turned off the road and went west by the cross fence until she came to a stile which she afterwards pointed out to Mr McNeil, and which he tells you is 191 feet from Alexander's house, and from which, it being on a rising ground, the door on the west end can be plainly seen to open through the window near the South West angle. That from that stile she saw the prisoner come from the North East round the South West angle of the house to the window and smash it with his gun. That through the window she saw the deceased open the door, and coming round the South West angle pass the prisoner six or eight feet, who was still standing at the window; that she saw no scuffle and heard no loud words, although she heard the glass breaking. That the prisoner faced about towards the deceased; that the gun was fired—that smoke and terror prevented her from seeing more;—that she rushed towards the spot—that the prisoner had fled—that she found the deceased bleeding copiously, lying on the ground on his side and elbow; that when she reached him he said, "Mother, he has done for me now," that seeing fresh blood on his mouth, she said, "And he has shot struck you in the mouth;" that he replied—"No, that is where he struck me after I fell, see there," pointing to the wound above the navel. That she was thus alone with her wounded son; that she screamed for assistance—that the neighbours came—that Mr Moodie, Mr Taylor, Mr Barbour and others came—that they carried the wounded man inside the house—that they laid him on a pallet, where, with in an hour and a half, he breathed his last. The other witnesses, the neighbours, who surrounded the dying man, assisting and relieving him, and who, especially Messrs. Barbour the elder, and the younger, pointed his way to that world where sin and suffering are no more, give a circumstantial account of his conduct during the short interval between receiving his death-wound, and his death. Gentleman, he died like a man, and what is better like a Christian. He felt conscious of the near approach of death, he betrayed no signs of fear; without uttering a complaint, he calmly describes the blows he received after he fell. In the midst of his own sufferings, he endeavours to comfort his mother and sister, who stand to weep at his side. He prays—he prays; his Christian neighbours cheer him up, and tell him that short prayers have been often efficacious. That mention the thief on the cross; with his dying breath he quotes one of the Paraphrases in reply, and says that—

While the lamp holds out to burn,
The greatest sinner may return;
And he dies, praying for, and forgiving the man who killed him.

It appeared to him (Mr E.) that Alexander had been trained up in the way he should go; that, had he been permitted to live to old, he would not have departed from it. Cut off suddenly at thirty—in the flower of his age, he dies comforted and sustained by that beautiful Paraphrase, which probably, in the morning of his days, he was taught to hush as his infant prayer. He (Mr E.) trusted that he should not be accused of any attempt to create an excitement against the unfortunate prisoner, by anything he had said. The Jury would remember that they had been called upon by the learned counsel for the defence, to give no weight to Mrs Alexander's testimony. The proof of this homicide, in that case, would depend on the statements made by the deceased. Those statements would not be legal evidence unless made in extremity—at the point of death—when every hope of this world is gone—when every motive to falsehood is silenced, and the mind is induced by the most powerful consideration to speak the truth. A situation so solemn and so awful is considered by the law creating an obligation equal to that which is imposed by an oath administered in Court. The Jury would therefore see the propriety of his (Mr E.) shewing them, as near as possible, the state of body and mind of the deceased; and it would not be proper to ask them to believe his statements, unless they were satisfied that the deceased felt that all of this world was over with him.

He (Mr E.) would now ask their attention to the gun, by which the wound was inflicted, and to the description of the wound, as given by Doctor Gordon. It had been insisted upon that the gun had gone off accidentally—in a scuffle between the deceased and the prisoner. Mrs Alexander tells you she saw no scuffle. But supposing there had been, he (Mr E.) would ask, by whom was it commenced? did not the prisoner leave Alexander's house, and go deliberately to his own, and return to the unfortunate window, and break it with his gun, provoking the deceased, who was peacefully inside the house? He would ask what was a man to do in such a case of invasion of his house? was he to fly? the poor deceased could hide himself in no private room, for the house was a shell without partitions. He (Mr E.) would tell them that a man should not fly in such a case; that his duty was to defend his castle as moderately as possible, yet firmly and effectually. Alexander opened the door, and came out to do so, and he was instantly slain by the aggressor. If this, he would ask, must be deemed an accident, merely because of its barbarity and atrocity, how will the learned counsel for the prisoner get over the subsequent blows, given to the deceased "after he fell;" given too with a force so great, and a malice so diabolical, as to knock out one of the canine teeth, and to cut a piece from the lip of the deceased; and given too with this very gun;—and he (Mr E.) would submit it to the jury, whether the bend in the barrel, and the fracture breech, being both in the same angle, and evidently produced by the same force, were not

also evidences of the severity of the blow Doctor Gordon tells you the tooth was completely knocked out of its socket, and that it was a canine tooth, hard to be dislodged. Mr Barbour tells you that it was "spalled," "shattered," "splintered like a slate." The conduct of the prisoner negates the presumption. He flies—he does not bewail his fate as a man would who shot another by accident. The deceased, willing as he was to alleviate matters, does not say it was an accident; he forgives the prisoner, and prays for his forgiveness; for what? not for shooting him by accident. But the size of the wound, and the direction of the projectile into the body of the deceased, also negates the presumption of scuffle or accident. The jury would observe that this gun is of very small calibre—scarcely admitting the top of the little finger, but the wound is described as being as large as a dollar; had the charge entered the body, it being in contact with the muzzle, the wound would not be much larger than the muzzle; the charge begins to spread on leaving the muzzle, and had attained the size of a dollar before it struck the deceased, he must have been at some distance. Next as to the direction of the projectile. Doctor Gordon gives a description of this in a manner which [Mr E.] would submit could leave no doubt as to the absence of accident. Doctor Gordon has taken pains in this deplorable business alike creditable to his skill and sagacity as a surgeon, and his zeal as a Coroner of the County—he tells you the body was lying on its back—that the wound appeared about midway below the sternum, or breast-bone, and the navel, a little to the left of a straight line across from the hollow of the breast-bone to the navel—that he cut from the breast-bone to the wound, and from the wound to the navel; that he found the cavity of the body full of blood—that death was caused by the inward bleeding—that he introduced his hand and arm into the body, and ascertained that it was received by the deceased when standing, it took a perfectly horizontal, and point blank course into the body, not deviating from a direct line, either upwards, downwards, or sideways; and that the wadding or shot, or destructive material penetrated nine or ten inches into the body. He (Mr E.) would put it to the jury whether they did not believe that the deceased was shot, standing; and whether, after this description of the wound and its direction, the description given of it by the learned counsel for the prisoner could be correct. The learned counsel for the prisoner had taken up the gun, and described an imaginary scuffle, and had held the gun as men scuffling for a gun would naturally hold it; in which position he [Mr E.] contended that its discharge would not inflict a point blank wound; it would, he said, be inevitably diagonal to the square of the body. [Here Mr E. took up the gun, and placed it towards himself in a position in which its discharge would produce the wound described.] He would ask the jury whether it was possible that the deceased was likely so to have voluntarily placed himself before the muzzle of a gun, in the hands of a man of the proved passionate temper of the prisoner, who was in the act of breaking his windows, and of whom he knew, as Mr Moodie the witness knew and proved, that he had repeatedly declared he would be the death of him.

He [Mr E.] would make no further observation. He felt obliged to the Court and Jury for the patience with which he had been heard. He was influenced by no feeling in the matter, but an inflexible determination to perform a public duty in such a manner as might reflect no discredit on the administration of justice; he had no client but the public—no object but public protection, and the maintenance of the supremacy of the law.

After the closing for the Crown, His Honor Judge Parker charged the jury; luminously recapitulating the evidence, and explaining the law, and the distinction between Murder and Manslaughter. He stated that the prisoner had had the full benefit of able, experienced, and fearless counsel on his behalf; and said that the prosecution on the part of the Crown had been most ably conducted;—that in no case that he remembered, had so much pains been taken to collect and prepare evidence, and to place it before them in so satisfactory a manner; leaving, he said, nothing for Court or jury but to hearken to the evidence, and do by it that which the Law of God and man, and the due administration of justice, required.

The Jury being retired, in about an hour returned into Court with a Verdict of WILFUL MURDER! but recommending the prisoner to mercy.

Saturday, September 6, being appointed for the passing of the sentence of the law, at an early hour the court was crowded to excess. At 11 eleven o'clock the judge ascended the Bench, and the prisoner being brought up for judgment, after the usual proclamation, His Honor addressed him as follows:—

Francis Fullarton,
The Verdict delivered yesterday by the jury in your presence, has decided your fate in this world, so far as falls within the province of this Court.

The Law of this land, and of almost every other civilized country, following the will of God as revealed to us in Holy Scripture, declares that he who, wilfully and maliciously deprives a fellow creature of life, shall himself suffer the punishment of death at the hands of his fellow man.

The Law leaves it not to the Judge to decide upon the guilt or innocence of the prisoner, but commits this awful trust to a jury of his country—men of the county in which the crime is alleged to have been perpetrated—who decide on their solemn oath, according to the evidence heard openly in their presence, and in that of the accused.

When upon that oath they declare him guilty, the law fixes the punishment; the duty of the judge is merely to pronounce the sentence of the Law.

To perform that last office of the Court we are now assembled.

You, Francis Fullarton, were indicted by the Grand Jury of the wilful murder of Alexander Alexander, by shooting him with a gun on the 29th day of June last, at Beresford in this county. On their Indictment you have been tried before a most respectable Jury; the greatest care, the utmost deliberation, the most attentive consideration have been bestowed on your case; the widest latitude has been permitted in your defence; you have had the benefit of as zealous, learned, and faithful counsel as the Province could produce; the jury have pronounced you guilty, and I firmly believe a more conscientious verdict was never returned; and this verdict I am bound to say was fully warranted by the evidence. You are all alike strangers to me—I form my opinion solely from what I have heard at your trial.

That the life-blood of Alexander was shed by the instrument held in your hands, you do not yourself deny; that this would never have happened, had your conduct been such as it ought to have been, cannot be questioned. This unfortunate deceased was your near relation, his father was dead, to you, as his uncle and near neighbor, he might naturally look up to you for example and protection. Instead of encouraging friendly feeling towards him, you appear long to have harboured in your mind dislike and animosity; these feelings have been encouraged by frequent quarrels and irritating language; you have allowed the Spirit of Evil to seduce and instigate you.

Twice at his own house, and once at yours, shortly before his murder, you insulted him with a provoking imputation. No witness has testified that he used improper words or actions in return. He was at your house on the Sunday morning—he does not appear at all to have conducted himself improperly. He had peacefully returned to his own house, to which you came. There strife and quarrelling and violence had probably arisen; but it is not shewn he instigated them on, or acted on the offensive, at all. You left his house—he did not follow you—he remained in your own; you left, you say, in a rage. You had some distance to go over his field, across the highway, into your own house, before you seized the deadly weapon which has been exhibited here at your trial; you had then to return over the same ground. Had passion no time to cool? You go round his house—you enter not the door—you strike through the window with the gun. There was no place of shelter within; he naturally rushed out, and towards you. What other chance was there for protecting himself?

If he seized the gun, it must have been in self-defence; the firing it was no act of his—it was yours. I believe it to be the work of an instant then, but it was the natural, almost inevitable consequence of your previous acts. He lay prostrate at your feet, with a death-wound in his body. Your violence does not then cease: twice was he then struck, once at least most violently, on his face. The gun appears broke; you can give no account of the breaking, except it was then done. The unfortunate victim lay bleeding on the ground; you left him alone and fled; and in two short hours he was called upon to render his account to God. He died from your brutal violence. He was then surrounded by affectionate and pious friends; he forgave you, and to pray that God would forgive you likewise. I hope what he did, and what I now say, may make some impression on your heart. I hope from this example others may take warning, how they violate God's holy day—how they foster evil passions—how they aggravate those passions by indulgence in intoxicating liquors—how they give place to the Devil, that they may not be led on step by step, to ruin and death.

The jury have added to their verdict a strong recommendation to mercy; on what grounds they have not specified.

My duty will be without delay to lay this, with the evidence in the case, before Her Majesty's Representative; in whom alone is vested the prerogative of mercy. What effect it may have, I cannot say; I am unwilling to encourage any hopes which may not be realized; rather let me earnestly entreat you to turn your thoughts to another world. In the course of nature, if not by this ignominious death, you must soon die. Everlasting happiness or everlasting misery lie before you. God willeth not the death of a sinner, but rather that he may return and live. His blessed Son came into the world to save sinners. Seek the aid of the Ministers of Religion—pray earnestly for pardon of your sins,—do as your unhappy victim did; you have time, which he had not. All that is left for me is to pronounce the Judgment of the Court. The judge then rose—

The sentence of the Court, upon you, Francis Fullarton, for the murder of which you have been convicted, is, that you be taken from hence to the place from whence you came; that thence, on MONDAY, the Thirtieth day of October next, you be taken to the place of execution, and that you be there hanged by the neck until you are dead. And I earnestly pray that Almighty God may of his infinite mercy, thro' the merits and mediation of Jesus Christ our Saviour, save your soul in the last Great Day, from that destruction to which your body is on earth subjected.

This Address was delivered in a most solemn and impressive manner, during which the judge was deeply affected; and few who read it can doubt the effect it had on the crowded audience who listened to it.

Wanted.
Two or Three Good Moulders,
to whom CONSTANT EMPLOYMENT will be given on application to the *Miramichi Foundry*.
Miramichi, Sept. 5, 1845.

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PROPERTY FOR SALE.
At the Store of JOHNSON & MACKIE, on WEDNESDAY, the 1st October next, at 11 o'clock forenoon, will be offered for sale by Public Auction—

That Valuable Farm
On the south side of Napan River, owned and formerly occupied by F. James Porteous; containing about 100 acres, of which 40 acres is under cultivation, with a front on the road of 30 rods. On the premises there is an excellent
HOUSE AND BARN,
both in good repair. The House is well finished, and could be entered into without any expense. The Barn is 43 feet long, by 32 wide 12 foot posts. This Property is worthy the attention of any person wishing to settle on a Farm, in Situate about a mile below the post road from Chatham to Richibucto, and only about four miles from the Town of Chatham, with a good road leading to the very door.
Terms of sale—one third down, one third in June, 1846; and the remaining one third in June, 1847. The Deed will be given on the purchase money being secured agreeably to terms of sale. Further particulars made known on application to
JAMES JOHNSON, Auctioneer.
Chatham, August 15, 1845.

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WM. CARMAN, Junior.
Chatham, 6th May, 1845.