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THE
T R I A L
OF
JOHN YOUNG,
FOR THE
M U R D E R
OF
ROBERT BARWICK,

One of the Deputy Sheriffs.



NEW-YORK;

TAKEN BY MEANS OF SHORT HAND, FOR THE BENEFIT OF THE
CITIZENS OF NEW-YORK, BY WILLIAM GREEN, 1797.

THE

JOHN YOUNG,

MURDER

ROBERT BARNWICK,

One of the Deputy Sheriffs

NEW YORK

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One of the Deputy Sheriffs.

THIS trial came on the 28th July, 1797, on the part of the prosecution appeared Mr. Attorney General, assisted by Mr. Colden. For the prisoner Messrs. B. Livingston, Burr, and Pendleton.—The prisoner being called to the bar, and the indictment read. The Attorney General addressed the Jury as follows :—

GENTLEMEN OF THE JURY,

THE indictment just read to you states that JOHN YOUNG, the prisoner at the bar, did on the 29th day of June, last feloniously make an assault upon and kill ROBERT BARWICK, one of the Deputy Sheriffs in the execution of his office upon him the said John Young. As the fact is on all sides admitted it will remain for you Gentlemen, to decide the degree of criminality to be attached to it. It is for you to determine whether the Prisoner was actuated by malice, or not in the commission of this Act. And this you are to do from the attendant circumstances as they shall be related to you by the evidence in the course of the trial. If from circumstances you should be induced to believe that the prisoner was free from malicious intention, it will be your duty to acquit him of the crime of murder.

Mr. Lawfen was first sworn, who stated that on the 29th of June last between six and seven o'clock in the evening, being at the upper end of Broadway, near St. Paul's Church, he observed at a little distance the deceased and prisoner together, the latter with a pistol presented to the breast of the former, whose arm was extended as if to grasp at him. That upon this, the deceased retreated, and the prisoner stepped back. On repeating the attempt to grasp him the prisoner fired the pistol and the deceased fell.

Mr. Thomson being sworn, deposes, that he lives in Barclay street, that on the day mentioned in the indictment, about the hour of seven in the evening, being in his house, he heard the report of a pistol, and running out met the prisoner coming down the street with

a pistol in each hand, that on coming up to him and demanding why he had shot Barwick; he replied, he did it at the instigation of the Devil, then delivering the pistols to Thomson, he bid him beware, for one of them was still loaded.

Mary Ramage, was next called and sworn—

She said that late in the afternoon of the day aforesaid, she saw the deceased walking arm in arm with the prisoner in Broadway, that when they came near St. Paul's Church, they stopped on a sudden and parted a few steps, that the prisoner then took a pistol from his pocket and presenting it to the breast of the deceased, said
 “you have taken me but you shall never take
 another.”

Mrs. Seymo swore, That the deceased and the prisoner came together to her house, bet-

ween five and six o'clock in the afternoon of the said 29th of June, and went from thence between six and seven at the request of the prisoner to procure bail.

These, were the principal witnesses on the part of the prosecution.

Mr. Pendleton,—

Gentlemen of the Jury,

In a trial of such magnitude, where the life of a Fellow Citizen is at stake, it behoves a Jury, it is a duty they owe to humanity, to proceed with the utmost caution to admit nothing but the most positive evidence not merely of the fact, but of the degree of malice by which it was prompted.

We trust, *Gentlemen*, we can produce to you such circumstances not contradicted on the

part of the prosecution, as make it highly probable, that the prisoner at the Bar was not actuated by a premeditated malice, but induced by provocation at the refusal of a legal request and the forcible deprivation of his liberty.

Here, Jane Jones was called, who swore, that late in the afternoon of the day mentioned in the indictment, she saw the prisoner and the deceased in Broadway near the Park, that she heard the former ask the latter for his writ, who replied, he could shew it, that she had proceeded hardly ten steps, when she heard the report of the pistol.

D E F E N C E.

MR. PENDLETON,

We mean not, Gentlemen of the Jury to attempt to interest your feelings for the prisoner,

such attempt will avail nothing with you.—
 Tho' sensibility to the distresses of our fellow beings, is in private life an amiable characteristic yet the stern feelings of impartial justice are those which alone should sway the juror's breast—
 We shall therefore, keeping feeling out of view appeal to your reason, in the defence we are about to make. For this defence, we shall principally rely on the evidence of Jane Jones. She tells you; that in her hearing the prisoner demanded a sight of the writ, that the deceased said he would shew it, but did not—True it is, she tells you, that she went but ten paces from them, when the pistol fired; but Mr. Lawsen and others of the witnesses for the prosecution, though they were spectators for some minutes before the pistol was fired, tell you of no paper being read or shewn to the prisoner. He tells you that the prisoner withdrew his pistol after

presenting it the first time. Is it not highly probable (probability little short of certainty) That the prisoner's design was not to murder the deceased, but to force him to produce his authority if he had any, and if not, to defend his liberty, as in such case, we will shew you he had a right to do. (Here Mr. Pendleton read several authorities, which tended to prove, that the Sheriff is obligated to read to the defendant the Writ, or the Arrest is not valid.) Thus, Gentlemen, it appears that the deceased was bound to produce the Writ, and if he refuses and still retains the defendant in custody, tho' the latter cannot be justified in taking away his life, yet the crime amounts not to murder, it is only man slaughter. There is one circumstance deserving I think of no little attention. The deceased and the prisoner were together a considerable time. The prisoner had not opposed

the arrest. He had accosted
believing him to be an officer
a writ to warrant the arrest. When
it was refused, had he not
been for supposing that he had sub-
tained by one uninvested with a
Gentlemen, was not this a very ra-
position? Would the prisoner have remained
so long in the custody of the deceased if he had
been determined to murder him rather than to
go prisoner. I trust, Gentlemen, that if you
give to this circumstance the consideration it
merits, you will acquit the prisoner of every
thing like malice, which alone can make this
an act murder.

ATTORNEY GENERAL.

THE task, Gentlemen, which the duties of
my office at present impose upon me, is a pain-

the obligation under which
 as jurors be a pleasing one to
 the demands of me the truth,
 impartiality. I shall trespass but a
 little upon your patience, while I
 state the validity of the defence set up by the
 Counsel for the prisoner. We have no objec-
 tions to admit the evidence of Jane Jones in its
 fullest latitude. We will admit, that the sheriff
 did not produce his writ. We will farther ad-
 mit, this was the case.

That he was not vested with authority, and on
 the footing of a private individual. Still, Gen-
 tlemen, who will say, but the Counsel, that he
 was excusable, or, that this will mitigate the
 crime. It is a maxim of law and of equity that
 a man can be excused in putting another to

death only when all other means of preventing an injury to his property. Was this the case with the Mary Hamage, tells you, that the from his pocket a loaded pistol at it with these words, "you have taken me, you never shall take another." Was this the language of a man who wished to escape from one whose authority he doubted. Was there no other way of escape, but depriving this poor man of his existence, society of a member, and his family of their only support? Did the manner in which this act was committed evidence any thing else, than a fixed and savage determination to murder the deceased? Did he not with a steady hand, lead straight to his heart the instrument of death? But do not all the circumstances attending this fatal trans-

, this determination in the prisoner in the name of wonder had he to draw pistols in his pockets. Will any perhaps the Counsel for the prisoner to assert that the man who on any thing like provocation can draw a loaded pistol from his pocket, is free from malicious intentions. It is said by the Counsel for the prisoner, that it is not probable such intentions could have actuated a man who had so long a time submitted to be led about by the officer. But, Gentlemen, you are told that the prisoner and the deceased went from the house of Mrs. Seymour for the purpose of procuring bail, might he not have provided these pistols as a dernier resort in case bail could not be procured. In fine, Gentlemen, in whatever light we view this transaction we must be compelled, however, re-

pughantly to pronounce the prisoner guilty of the murder laid to his charge.

Judge Lewis, then summoned up the evidence as already stated, and addressed the jury in a very eloquent manner as the duties of their station. The jury then retired and in about an hour brought in their verdict

GUILTY.

The awful dignity of a Court of Justice was degraded and humanity disgraced by vociferated applauses. Was it not enough that the laws of his country had doomed the criminal to an ignominious death, but must the sting of insult be added to the already accumulated pangs of horror and repentance.

N. B. Mr. Pendleton is alone mentioned as speaking in defence of the Criminal, as Messrs. Livingston, Burr and Colden, spoke only to the points of Law started in the course of the evidence, which is uninteresting to the public in general, the Publisher thought unnecessary to note.

Names of the citizens who composed the Jury.

WILLIAMS, Foreman.

CLENDENNING, LOYD, COOPER,

MERSEREAU, COWLY, FELLOWS,

FERGUSON, REMSEY, LUDLOW,

STAGG, KNOX.