

TRIAL

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OF

Aratus F. Pierce,

AT LOCKPORT, N. Y.,

FOR THE

MURDER OF WM. BULLOCK.

EIGHTH JUDICIAL DISTRICT,

COURT OF OYER AND TERMINER, CHARLES DANIELS, PRESIDING ;

LORENZO WEBSTER AND G. L. JUDD, ASSOCIATE JUSTICES.

LOCKPORT, N. Y.:

M. C. RICHARDSON AND CO., BOOK AND JOB PRINTERS,
61 Main Street, (Journal Building).

1871.

P R E F A C E.

ARATUS F. PIERCE

Who was tried for shooting WILLIAM BULLOCK, was born, raised and educated in Lockport, Niagara County, and was about twenty-eight years of age at the time of his trial before the Supreme Court in Lockport, Judge DANIELS, presiding. He is a young man of fine personal appearance, about five feet ten inches in height, of genial, affable and gentlemanly address. From youth to manhood, and up to the hour of the fatal deed, he had sustained a reputation, in all respects, without a blemish or a stain. No young man in the city commanded more universal confidence and respect, and probably none was more uniformly correct in deportment. He was an only son, and had an only sister, HATTIE PIERCE, whom he loved, and whose society he had enjoyed from childhood. About two years since he engaged in the employment of FIELD, LEITER & Co., a wealthy wholesale firm in Chicago. His amiable deportment, pleasant address, his fidelity and vigilance, won for him the confidence and regard of his employers, and attached to him many warm friends. When the fatal affray took place, on the 11th of March last, Mr. PIERCE had been in the eastern part of this State on business, and was, on his return, intending to leave for Chicago the ensuing day.

WILLIAM BULLOCK,

From the eastern section of this State, had resided in Lockport five or six years, engaged in manufacturing. He was tall and athletic, being about six feet in height, and was about thirty years of age. He was a gentleman of industrious and temperate habits, and during the time of his residence in this city, had won many warm friends. The circumstances that led to the shooting of WILLIAM BULLOCK are fully set forth in the testimony, and the speeches of counsel herein published.

THE INDICTMENT.

The indictment in this case was found at the September term of the Court of Oyer and Terminer, in the city of Lockport, N. Y., on Wednesday, the 25th of September, 1871. The indictment contained five counts, and made quite a lengthy document. We insert two counts of the indictment, as follows :

STATE OF NEW YORK, }
NIAGARA COUNTY. } ss.

At a Court of Oyer and Terminer, holden at the Court House, in the City of Lockport, in and for the County of Niagara aforesaid, on the 25th day of September, in the year of our Lord one thousand eight hundred and seventy one, by and before Hon. Charles Daniels, one of the Justices of the Supreme Court of the State of New York, and Lorenzo Webster, and Garwood L. Judd, Justices of the Peace in and for the same County, designated as members of the Court of Sessions in and for said County, pursuant to the Statute in such case made and provided, duly assigned to keep the peace of the People of the State of New York,—authorized by law to hold the aforesaid Court of Oyer and Terminer,—and to Hear and Determine divers felonies, trespasses, and other misdemeanors, in said County committed, by the oath of Wm. F. Evans, foreman, and Martin Moyer, Horace B. Chapin, Joel Tripp, George Dysinger, Jonathan C. Duell, Myron Orton, Jr., Daniel Bosserman, Darius Ferris, James W. Reed, Lewis B. Smith, Dayton A. Johnson, Albert H. Pickard, Luther Townsend, Andrew Dennis, Leander Colt, N. W. Phelps, Job Reynolds, Harvey Cudaback, good and lawful men of the said County, then and there sworn and charged to inquire for the People of the State of New York, and for the body of the County of Niagara,—it is presented in manner and form following, that is to say :—

STATE OF NEW YORK, }
NIAGARA COUNTY, } ss.

The Jurors of the People of the State of New York, in and for the body of the County of Niagara aforesaid, upon their oath, present that Aratus F. Pierce, late of the City of Lockport, in the County of Niagara, and State of New York, gentleman, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, on the 11th day of March, in the year of our Lord one thousand eight hundred and seventy-one, with force and arms, at the City of Lockport, in the County of Niagara, and State of New York,

in and upon the body of one William Bullock, in the peace of God and of the said People, then and there, being feloniously, wilfully, and of his malice aforethought, did make an assault; and that the said Aratus F. Pierce, a certain pistol of the value of two dollars, then and there charged with gunpowder and one leaden bullet, which said pistol, he, the said Aratus F. Pierce, in his right hand, then and there had and held, then and there feloniously, wilfully and of his malice aforethought, did discharge and shoot off to, against and upon the said William Bullock; and that the said Aratus F. Pierce, with the leaden bullet aforesaid, out of the pistol aforesaid, then and there by force of the gunpowder aforesaid, by the said Aratus F. Pierce, discharged and shot off as aforesaid, then and there feloniously, wilfully and of his malice aforethought, did strike, penetrate and wound him, the said William Bullock, in and upon the right side of the belly of him, the said William Bullock, near the ninth rib of him, the said William Bullock, giving to him, the said William Bullock, then and there, with the leaden bullet aforesaid, so as aforesaid discharged and shot out of the pistol aforesaid, by the said Aratus F. Pierce, in and upon the right side of the belly of him, the said William Bullock, near the ninth rib of him, the said William Bullock, one mortal wound of the depth of ten inches, and of the breadth of one inch, of which said mortal wound he, the said William Bullock, at the City of Lockport, in the County of Niagara aforesaid, from the said eleventh day of March, in the year of our Lord one thousand eight hundred and seventy-one, until the twenty-ninth day of April in the last year aforesaid, did languish, and languishing did live, and on which said twenty-ninth day of April in the year last aforesaid, the said William Bullock, at the City of Lockport, in the County of Niagara aforesaid, of said mortal wound did die.

And so the Jurors aforesaid, upon their oath aforesaid, do say that he, the said Aratus F. Pierce, him, the said William Bullock, in the manner and form and by the means aforesaid, at the City of Lockport, in the County of Niagara aforesaid, on the twenty-ninth day of April, in the year of our Lord one thousand eight hundred and seventy-one, feloniously, wilfully, and of his malice aforethought, did kill and murder, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

* * * * *

And the Jurors aforesaid, upon their oath aforesaid, do further present that the said Aratus F. Pierce, on the eleventh day of March, in the year of our Lord one thousand eight hundred and seventy-one, with force and arms, at the City of Lockport, in the County of Niagara aforesaid, in and upon the said William Bullock, in the peace of God and of the said People, then and there, being feloniously, wilfully, and of malice aforethought, did make another assault. And that the said Aratus F. Pierce, a certain pistol (called a revolver) of the value of two dollars, then and there charged with gunpowder and a leaden bullet, which pistol last aforesaid, he, the said Aratus F. Pierce, in his right hand, then and there had and held at and against the said William Bullock, then and there feloniously, wilfully, and of his malice aforethought did shoot off and discharge; and that the said Aratus F.

Pierce with the leaden bullet last aforesaid, by means of shooting off and discharging the said pistol so loaded as last aforesaid, to and against the said William Bullock, as last aforesaid, did then and there feloniously, wilfully, and of his malice aforethought strike, penetrate and wound the said William Bullock in and upon the body of the said William Bullock, near the navel, giving the said William Bullock then and there, with the leaden bullet last aforesaid, by means of shooting off and discharging the said pistol so loaded as last aforesaid, to and against the said William Bullock; and by such striking, penetrating and wounding the said William Bullock as last aforesaid, one mortal wound in and through the body of him, the said William Bullock, of which said mortal wound last aforesaid, the said William Bullock, afterwards, to-wit: on the twenty-ninth day of April, in the year of our Lord one thousand eight hundred and seventy-one, at the City of Lockport, in the County of Niagara aforesaid, did die.

And so the Jurors aforesaid, upon their oath aforesaid, do say that he the said Aratus F. Pierce, him the said William Bullock, in the manner and form and by the means last aforesaid, at the City of Lockport, in the County of Niagara aforesaid, on the twenty-ninth day of April, in the year of our Lord one thousand eight hundred and seventy-one, feloniously, wilfully, and of his malice aforethought, did kill and murder, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

MORTIMER M. SOUTHWORTH,

District Attorney of Niagara County.

[A TRUE BILL.]

WM. F. EVANS, *Foreman.*

Sept. 26, 1871.—Prisoner arraigned. Plead not guilty.

Court adjourned to the 25th day of October, 1871, for the purpose of trying said indictment.

THE TRIAL.

Hon. R. E. Andrews, of Hudson, N. Y., representing the Attorney-General, conducted the case on the part of the prosecution, assisted by Hon. L. F. Bowen, and Hon. M. M. Southworth, District-Attorney, of Lockport. The defense was conducted by Hon. A. P. Laning, of Buffalo, and Wm. S. Farnell, Esq., of Lockport. In addition to the regular panel, the names of 175 jurors were drawn from the box and summoned.

FIRST DAY.

The Court assembled at 10 o'clock A. M.

Aratus F. Pierce, the prisoner, was brought in and placed at the bar, and the trial began.

The whole of the first day and a portion of the forenoon of the second was occupied in selecting the following named jurors to try the case :

John W. Davis, Hartland—Have read of this case, but have not formed an opinion of the same ; have no conscientious scruples about inflicting capital punishment. Mr. Davis was declared competent, and sworn in as the first juror.

Henry C. Howard, Niagara—Have read of this case ; have no convictions, but merely an impression, which impression would not bias me in rendering a verdict according to the evidence ; have no conscientious scruples about the infliction of capital punishment. There being no objections, Mr. Howard was sworn in as the second juror.

Myron Isabel, City of Lockport—Have read of this case and have formed no opinion as to the guilt or innocence of the prisoner ; have no conscientious scruples about the infliction of capital punishment. Mr. Isabel being declared competent, he was sworn in as the third juror.

N. C. Arnold, Wilson—Have heard of this case, but have no opinion as to the guilt or innocence of the prisoner ; read the newspapers containing a history of the case, but have formed no opinion one way or the other ; have no conscientious scruples about the infliction of capital punishment. There being no objections, Mr. Arnold was sworn in as the fourth juror.

Oliver H. Day, Niagara—Have heard of this case, but have formed no opinion as to the guilt or innocence of the prisoner. There being no objections, Mr. Day was sworn in as the fifth juror.

Elijah G. Reynolds, Wilson—Have heard of this case, but could not say that I formed any opinion as to the guilt or innocence of the defendant. There being no objection, Mr. Reynolds was sworn in as the sixth juror.

David L. Barnum, Wilson—Have read a short paragraph about the case, but formed no opinion as to the guilt or innocence of the defendant. There being no objections, Mr. Barnum was sworn in as the seventh juror.

Wm. H. Brown, Lewiston—Have heard of this case, but formed no opinion as to the guilt or innocence of the defendant. There being no objections, Mr. Brown was sworn in as the eighth juror.

Martin Witmer, Jr., Niagara—Have not read anything of this case; heard a little about it last spring; have no opinion as to the guilt or innocence of the prisoner. There being no objections, Mr. Witmer was sworn in as the ninth juror.

H. Townsend, Cambria—Have read of this case, but formed no opinion on the same. There being no objections, Mr. Townsend was sworn in as the tenth juror.

Dennis Hough, Newfane—Have heard of this case, but formed no opinion as to the guilt or innocence of the defendant; have had no discussions upon the case that I remember; have considered the question in my own mind, but am not now biased one side or the other in the case; have no conscientious scruples about finding a verdict of guilty in a case where the evidence would warrant, and where the punishment would be death. There being no objections, Mr. Hough was sworn in as the eleventh juror.

Cazier See, Cambria—Have heard of this case, and, to a certain extent, have formed an opinion; have no fixed opinion now as to the guilt or innocence of the defendant. There being no objections, Mr. See was sworn in as the twelfth juror.

SECOND DAY.

MORNING SESSION.

OPENING SPEECH BY HON. L. F. BOWEN.

At half-past 11 o'clock Thursday Judge Bowen, on the part of the prosecution, commenced the opening address to the jury, and spoke substantially, as follows:

If the Court Please and Gentlemen of the Jury—

It is wholly unnecessary for me to remind you of the importance of this case. You have been reminded of it from time to time, as the jurors have been called and examined as to their qualifications; but it

may not be amiss for me to say a few words with regard to why it is important—perhaps as important as any case that ever came before a jury of Niagara County.

In the first place, it is important to the accused, and we do not desire, in the least, to lessen its importance in that respect. His life depends upon the result of your deliberations.

It is important also to all with whom he stands connected, and you will not *willingly* pronounce a verdict which will deprive him of life, and cast a stigma upon those with whom he stands connected.

But it is important also in another point of view; it is important to the public—to the cause of justice—to the due administration of the laws of the land.

Under this Government, where every citizen is called upon to do his part in the administration of its laws, it is of the utmost importance that those laws should be vindicated wherever they have been violated. The Government undertakes to protect every one of its citizens in his property, his reputation, and his person. If any, the most humble, citizen be deprived of his property, the Government requires its restoration; if his character is assailed, it undertakes to vindicate it; if his person is violated, it undertakes to make reparation; and if, without just cause, he is deprived of life—although it cannot restore to life—yet it says to the guilty, cause of the death “your life is forfeit;” and to insure these results, it has instituted Courts composed of Judges to declare the law applicable to the particular case, and Jurors to determine the facts, and officers to carry into effect the judgments of the Courts.

In this case you have been chosen, tried and sworn to determine from the evidence, whether Aratus F. Pierce, the accused, be guilty of the violation of the law enacted for the purpose of protecting life, and from the care with which you have been selected—from the large number of jurors that have been summoned and called, you have been reminded of your duty to determine the guilt or innocence of the accused, solely from the evidence produced on the trial, uninfluenced by any opinions heretofore formed, and unbiased by any predilections.

In the language of the law, “You are to stand indifferent, as you stand unsworn.”

The accused stands charged with being guilty of causing the death of William Bullock, in violation of the law enacted for the protection of life.

The evidence that will be introduced to show his guilt will be brief, and allow me here to call your attention to it in a few words. On the night of the eleventh of March last the accused and the deceased were seen walking together, side by side, in an easterly direction along the northerly side of Main street in this city, (perhaps it will appear that they left the house of the father of the accused together on that occasion,) and on arriving at the corner of Main and Pine streets, near the National Exchange Bank, they turned as if to cross Main street, and after proceeding a few feet on the crossing they stopped; and when standing face to face, the accused discharged a revolver towards the deceased; that the deceased thereupon ran in a southwesterly direction across Main, and on to the westerly side of Pine street, the accused

following a short distance behind, discharging his revolver from time to time in the direction of the deceased ; that after arriving nearly in front of the Continental, the deceased fell in the gutter on the west side of Pine street ; and that after he fell the accused again discharged his revolver in the direction of the deceased ; that at this juncture the accused was arrested by two policemen, who had witnessed the firing of the revolver, and taken to the police office ; that at about the same time, two other policemen raised up the deceased, and supporting him between them, took him also to the police office ; that there the person of the deceased was examined, when it appeared that he had received two gun-shot wounds—one in the abdomen and the other in the back ; that after remaining in the police office until morning, the deceased was carried to his residence on Walnut street, in this city, where, after lingering between life and death, with occasionally a faint hope of his recovery, until April 29th, when he died ; that after his death an examination was had, when it was apparent that the death was caused by the gun-shot wound in the abdomen. I think the evidence will show conclusively that the death was caused by the wound inflicted by the first discharge of the revolver in the hands of the accused.

We think the evidence will show that the fatal shot was preceded by no threats on the part of the deceased, nor by angry words between the parties ; in short, that nothing occurred at the time to mitigate—much less to justify or excuse the act ; and if I am right in this, it only remains to determine the degree of criminality of the accused—the crime of which he is guilty. He is charged in the indictment with being guilty of murder in the first degree, which, in the language of the Statute, consists in the killing of a human being.

*“First—*When perpetrated from a premeditated design to effect the death of the person killed, or of any human being.

*“Second—*When perpetrated by any act immediately dangerous to others, and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual.

*“Third—*When perpetrated in committing the crime of arson in the first degree.”

And we insist that the proof in this case will clearly make the accused guilty of the crime of murder in the first degree, as that crime is thus defined by the Statute. That he effected the death of Bullock will be shown most conclusively, and that it was done with a premeditated design to effect his death—the circumstances under which the first shot was fired, and his following it up with the subsequent shots, can leave no doubt in your minds.

It may not be inappropriate for me to call your attention to the provisions of our Statute in relation to homicide, which consists in the taking of human life under all circumstances, whether it be criminal or justifiable or excusable ; and it will be found that our law is so careful in its protection of human life, that, unlike its provisions with regard to other crimes, it declares when the taking of life is justifiable and when excusable, and then declares that in all other cases it is criminal, and the perpetrator shall be punished. It provides that homicide is justifiable when committed by public officers in obedience to the lawful

judgment of a Court, and in some other cases which it is unnecessary here to refer to, as it will not be pretended that the killing in this case was justifiable.

It provides that such homicide is excusable when committed.

“*First*—By accident and misfortune in lawfully correcting a child or servant, or in doing any other *lawful act by lawful means, with usual and ordinary caution, and without any unlawful intent.*”

“*Second*—By accident and misfortune, in the heat of passion, upon any *sudden and sufficient provocation, or upon a sudden combat, without any undue advantage being taken, and without any dangerous weapon being used, and not done in a cruel or unusual manner.*”

And then the Statute provides that “the killing of a human being without the authority of law, by poison, shooting, stabbing, or any other means, or in any other manner, is either murder in the first degree, murder in the second degree, manslaughter, or excusable or justifiable homicide, according to the facts and circumstances of each case.”

It is equally clear that the homicide in this case was not excusable—that will not be pretended; and if it was not, then it follows that it was murder in the first or second degree, or manslaughter, either of which is a crime.

But as we understand the facts of this case, the accused is clearly guilty of murder in the first degree; and if any evidence shall be given tending to mitigate the crime to manslaughter, I leave it for my associate counsel and to the Court, to advise you as to the degree of manslaughter of which he is guilty.

If I am right with regard to the facts in this case, the defendant is clearly guilty of the crime charged in the indictment, and you must so find by your verdict—unless the accused shall show to your satisfaction that he was not a reasonable being—that he was in such a condition of mind that he was no more amenable to the laws of the land than the brute creation. But all the facts in the case, as they will be developed by the evidence, preclude such a supposition.

It has been publicly charged, and the charge may and probably has come to your knowledge, that the deceased had been guilty of seducing the sister of the accused, and that has been urged as a mitigation of the crime, and the cases of Cole and McFarland and Sickles may and probably will be referred to as precedents for an acquittal in this case. Were it proper for me to do so, I could show to you that there is a marked distinction between this case and the cases referred to—even admitting that the charge is true; but as I understand the rules of evidence, no proof will be allowed to be given tending to show that the deceased was guilty of the crime charged; and if such proof is excluded, it will be upon the ground that if true, it constitutes no mitigation, and much less a justification of the killing of the deceased. And will you, gentlemen, take the law into your own hands, or rather will you usurp the prerogative of the Legislature, and in violation of your oaths, make a law for this case. Were you a Legislator, and were it proposed to enact a law making it lawful for a brother to inflict death upon the violator of the chastity of his sister, you would reject that

order. And will you apply to this case a rule, contrary to law, that you would not approve of as a Legislator? I am satisfied that you will not take that responsibility.

One word more and I have done.

I have said that this is an important case; that the responsibility that rests upon you is an awful responsibility. And yet, should you from the evidence be compelled to find the accused guilty of the crime charged against him, and as a consequence the death penalty be inflicted, it will not be you, but the law which will be responsible; you merely say by your verdict that you find from the evidence that the accused is guilty of the crime charged against him, and the Court, in obedience to the mandate of the law, pronounces the judgment that the law prescribes.

You will hear the evidence patiently and render your verdict fearlessly, although reluctantly; if that verdict be guilty, and you render that verdict according to the evidence—whether it be guilty or not guilty—with that the people will be content, and with that the accused must be content also.

THE EVIDENCE.

The first witness sworn on the part of the people was Patrick Donnelly.

Patrick Donnelly, sworn :—Am a policeman of the city of Lockport; am somewhat acquainted with the defendant; knew Wm. Bullock in his lifetime; in March last in the evening was on Main street in company with Adam Carr; it was on Saturday evening, the 11th of March; was standing at the northwest corner of the Lockport City Bank, (with reference to Pine street it would be the southwest corner of Main and Pine streets). Witness gave the location of Main and Pine streets where they intersect each other. Also named the occupants of the buildings on the four corners, where Main and Pine streets cross each other. Passing south on west side of Pine street, we pass Scovell's news room, next the Arcade, and next the building known as the Continental; I was standing with my back against the City Bank building, facing Main street; no other person was with me but Adam Carr; my attention was attracted by the report of a pistol; it was on the crosswalk between the Exchange and Niagara County Banks; there were gas lights burning at the corner of the streets; when I heard the report, saw a flash from a revolver; looking in that direction saw two men run when the shot was fired; they ran across on to the sidewalk on the west side of Pine street; the smallest man of the two who were running fired the first shot; one man ran ahead of the other; the smallest man was behind; heard other reports when the men were crossing the walk leading from the Niagara County to the City Bank; could tell the man behind fired the shots by the report and the flash of the revolver as it went off; when the men reached the crosswalk where the second shot was fired, they were 15 or 16 feet apart; could not tell how near they were together when the first shot was fired; they were closer than when the second shot was fired; they got on to the side-

walk on Pine street, about 16 feet south of Main, and the revolver was discharged the third time near the news room; two shots were fired here in rapid succession; I was running behind the men; they were running ahead of me very fast; I was about 12 or 15 feet behind the man who was firing the shots; they continued to run and the man who was ahead commenced to holler murder; they ran as far as the Continental and the man ahead fell to the sidewalk and into the gutter; I was then about 12 feet behind; just as the man ahead fell, the man behind fired again; the man had fallen before the last shot was fired; the man who fired the shots wheeled around with his revolver in his hand; just then I grabbed him and his revolver, put my revolver to his head and told him to stand or I would kill him; that he was my prisoner; he dropped his revolver and said he was ready to go with me; Mr. Pierce, the prisoner at the bar, is the man who fired those shots; after I saw the men start from near the Exchange Bank, did not see the man who was pursued turn around at all; don't remember now that I saw any person in the street at the time of the occurrence but Carr, who was running in the middle of the street; these two men were in my sight all the time until the man fell and I captured the prisoner; after I took the man who fired, Charles Burgess, the chief of police, came up and took hold of Pierce with me; I asked the chief to take my revolver and uncock it for me; we then took Pierce to the police station; (the revolver taken from Pierce was shown to witness and identified; it is a Colt's cap revolver—a five-shooter;) examined the pistol at the police station and the chambers were all empty; could not tell whether they appeared as if recently discharged; Bullock was shortly afterwards brought to the police station in charge of Francis Mooney and Adam Carr; have seen both Pierce and Bullock; Mr. Bullock was the taller of the two; after Bullock was brought to the station Drs. Gould, Kittinger, Clark and Buchner were summoned and appeared; Bullock was laid on a mattress and the physicians examined him; we moved Bullock to his house on Walnut street the next morning on a bed or stretcher; I noticed wounds on Bullock at the station house—one through the abdomen and the other through the back; he appeared weak and bled from both wounds; I think I did not examine Bullock's clothing to see if there were holes in them, or to see if he had any firearms on him.

Here the Court took a recess until 2 o'clock P. M.

AFTERNOON SESSION.

The Court re-assembled at 2 o'clock P. M. Patrick Donnelly's direct-examination continued:

Did not hear more than five shots fired that night; heard the man that fell say he was all shot to pieces; Main street between the buildings is five rods; have measured the distance between the point where the men stood when the first shot was fired and where I stood, it is between $4\frac{1}{2}$ and 5 rods; Pine street is four rods wide; the distance from where Pierce and Bullock started to run and the point where Bullock fell is about 13 rods; there were lights shining from the newsroom

windows and also other places on the west side of Pine street ; the distance from the southeast corner of the Arcade to where Bullock fell is about three rods ; there is an alley between those two points ; before the men started to run I did not hear any talking between them ; the street was still and free from noise.

Cross-examined by Mr. Farnell :—Was a police officer from the October previous to the shooting ; was on what is called day duty ; I came up from Cottage street before I stopped at the corner of the bank that night, myself and Adam Carr ; we walked slowly up until we came to the bank ; we walked side by side ; did not see as we walked up any person or persons that I recognized ; did not, I think, make any stop from where we started until we came to the bank ; we might possibly have done so ; we stood about half an hour at the corner of the bank ; we were not talking ; did not see any person passing that I remember of ; the night was not very dark ; at the place where we stood was tolerably well lighted up ; had not seen either of the two persons in this case until the flash and report that night ; I generally notice persons passing the streets in the night-time, especially strangers ; will not swear that no person passed that evening as we stood there ; the chief conversed with me a few minutes as we stood at the corner ; saw officer Mooney on the opposite side of the street ; did not see where they came from ; this was about five minutes prior to the shooting ; the chief went down Pine street as he left me ; saw the flash and heard the report of a pistol ; the parties were quite close together, but cannot state the distance exactly ; the parties were 23 or 25 feet south of the Exchange Bank, on Main street, when I first saw them ; should judge they were on the crosswalk ; when I heard the report I noticed that the man next to where I stood started to run and the other man after him ; I was about three feet from the corner of the City Bank, west ; the men ran very swiftly, and struck the sidewalk on the west side of Pine street, about fifteen feet from the corner ; we did not start until the men got by us up Pine street ; the second shot was fired on the crosswalk between the banks on the south side of Main street ; the men ran south up Pine street ; I was behind and had no means of seeing only what I could see from behind ; two shots were fired in rapid succession at the newsroom ; the parties continued to run up Pine, and another shot was fired after the man fell ; he fell on his back ; his head lay south ; I was fourteen or fifteen feet from the man when he fell ; saw the man's arm extended as he fired the last shot at the man that was down ; the man that fired was then turned about half way round ; he was then standing still ; as quick as the man dropped the other man fired at him ; the man had only a chance to fire and turn round when I grabbed him ; took hold of his right arm ; it was light enough so I could see a man's face ; had seen and knew Pierce by sight ; the chief came up just as I took hold of the defendant ; the chief and myself took him ; could not tell how many persons were present when we took him ; we came to the corner of the Lockport City Bank and down south side of Main street to Cottage, thence across to the police office ; think the gas-lights were burning as we walked along ; took Pierce to the jail half an hour, or thereabouts, after we got to the police office ; after doing so I went back

to the police office; did not make any examination of Bullock, only I saw the wounds and blood oozing from the same; went up again to the jail and took Pierce to the police station again; this was about 2 o'clock A. M.; the last time I took Pierce to the police station he remained an hour; the chief officer, Conklin, and myself took him back to jail; he was not taken out again that night; did not remain any length of time in the jail with Pierce; the pistol shown me on my direct examination is rather larger than a common pocket pistol; examined the weapon and saw the chambers empty; made no further examination of the pistol only so far as to see that the chambers were empty.

Adam Carr, sworn:—Was residing in this city in March last; was then and am now a police constable of the city; recollect of being with officer Donnelly on Main street about 11 o'clock on Saturday night, the 11th of March last; was on the southwest corner of the City Bank; my attention was called by the hearing of a report of a pistol; saw the firing on the crosswalk between the Exchange and Niagara County Banks; saw two fellows running there after the first shot was fired; they ran over to the southwest corner of Main and Pine streets; one was ahead of the other; did not know the men when I first saw them; could not tell which of the men fired the first shot; the second shot was fired half way between where the men started to run from, and where I stood; the man behind fired that shot; could see it from the flash of the cap; could not notice the position of his arm; saw the flash in front of the man behind; heard another shot fired at Scovell's newsroom; another shot in front of the Arcade Hall; none other that I heard; could see the man behind fire the last two shots; after the two men reached Pine street they ran south, on the west side of the street; did not see the fleeing man turn round; saw him fall; Donnelly and myself commenced to follow the men after they got on Pine street; I took the west side of the street, off the sidewalk; saw no other men in the street only the two men, one following the other and firing; the men were within my view all the time until the forward man fell; I followed them as far as the Continental, and I picked up the man that got shot; found him in the gutter near the Continental; he was laying on his back and his hat was off; Donnelly was on the sidewalk and Pierce also; seeing the men as I did all the time, could say that the man who followed behind and fired the shots was Pierce, the prisoner at the bar; his hat was on; when I got where the man was lying, no one was there but Pierce and Donnelly; heard Donnelly say to Pierce, "Stand, or else I will kill you;" did not hear anything else said; officer Mooney came up next, and the chief next; after Mooney came we picked Bullock up and took him to headquarters; he did not have his hat on; Mooney was on one side of him and I on the other; he walked down to near the station house, when Bullock became weak and Mooney called on me to assist in supporting him, and we carried him into the station house; as I was running on the west side of Pine street, the men were in plain sight all the time; saw the flashes were in front of the man behind; am a little hard of hearing, and was at the time of this occurrence; did not know Wm. Bullock in his lifetime; knew him

after he was shot; saw that he was wounded that night; did not examine his person particularly.

Cross-examined by Mr. Farnell:—At the time of the shooting was a police officer thirteen months; at that time was not so hard of hearing as I am now; could hear what Donnelly said when he spoke to Pierce; before Donnelly and myself stopped at the corner of the bank, we were at the corner of Main and Cottage streets; we walked up the street together; don't recollect whether we met persons or not on our way up; I stood outside of the doorway of the bank; I was standing east of Donnelly; was four or five feet from the corner of the bank; we stood there about half an hour; some persons passed during the time, but could not tell how many; did not know any of those that passed; had not seen the chief that night before the shooting commenced; I stood there all the time with Donnelly; did not see the chief at the corner talking with Donnelly; when I first heard the shot I could not tell who fired; the parties were on the crosswalk; after the first shot was fired the men commenced to run very fast; the next shot was fired close to the crosswalk, on the south side of Main street across Pine street; the two men ran up Pine street; I started from the corner and went out into the street; Donnelly took the sidewalk; I was ahead of Donnelly about five or six feet; was close to the hind man when the last shot was fired; as the man fired the last shot he stopped; Donnelly took him and I took the man that fell; the men that were running were about a rod apart; it was a darkish night; when I went up to the man that was down I picked him up; he did not tell me he was close to his home, nor request me to take him there; he came along with us to the police station; when we got on the sidewalk the man told me he was shot all to pieces; did not make any examination of Bullock, nor did I examine to see if there was a pistol where the man fell; after I picked the man up quite a crowd collected; Donnelly and Burgess took Pierce to the jail, and I walked behind them; I was not acquainted with Pierce, nor never had been.

Charles L. Burgess, sworn and examined by Mr. Southworth:—Reside in Lockport; was chief of police in March last, and am now; am acquainted with Pierce, and knew Bullock in his lifetime; on the Saturday in question, officer Mooney and myself left Adam Carr and Pat. Donnelly on the corner of Main and Pine streets, while we went down Pine street to a saloon kept by one Aiken to shut it up; the saloon is about sixteen or eighteen rods from the corner; after that we came out of the saloon and up Pine street on the west side; my attention was attracted by the report of a pistol or gun; was about forty feet from Main street at that time; before I heard that report, had not seen any persons on Main street; after I heard the report, saw two men start and run on the crosswalk between the Exchange and Niagara County Banks; had not heard anything said between the men before the shooting; my recollection now is that there was no gas lighted on Main street that evening; about the time of the shooting it was dark; could not see the men plainly, only as the flashes went off; the men started to run, one ahead of the other; they ran diagonally across to the City Bank; could see no difference in the height of the men as they

ran; heard two more shots in rapid succession at the crossing between the Niagara County and City Banks; those were the shots immediately after the first shot; Mooney and myself started to run after the men; saw Donnelly and Carr run ahead of us; I followed on the sidewalk; they ran very fast; had the men in plain sight as I followed them, and did not lose sight of them until I reached where Pierce stood; the man behind fired the two shots after the first; could tell from seeing the flash in front of him; heard two more shots, one in front of the news-room and the other near the Continental; I cannot tell who fired the last two shots, for in front of me was Donnelly and Carr; did not see the man ahead turn round at any time, nor did I see him fall; saw Carr and Mooney have hold of the man who fell; heard him holler murder as he was running, before he fell; heard the men say he was shot to pieces; can't tell how near he was to me; I was looking at the other man; did not know him (Bullock;) Carr, Mooney and Donnelly were there when I came up; saw nobody running ahead of me and between the men, Bullock and Pierce, only the officers named; when I overtook Donnelly and Pierce I sung out to Donnelly not to shoot him for I thought Donnelly fired the last shot; Donnelly handed me Pierce's revolver, also his own, and told me to uncock it, which I did; we took Pierce to the station; think I told Mooney to take care of the other man; was about seven rods off when the last shot was fired; the first three flashes I saw were fired by the same man; had a previous acquaintance with Pierce; knew him first in 1856; had not seen him much from the breaking out of the war; had understood he was in Chicago; first recognized him that night at the station; I asked him his name as we were taking him to the station; he told me A. F. Pierce, of Chicago; that he would give me his card; my recollection is that one of the men's hats fell off when they were running; think it was that of the man behind; Bullock was brought into the station shortly after Pierce by Mooney and Carr; he grew weak near the door and was helped in; saw wounds on his person that night as he lay on the mattress; examined his clothing to see if there were holes corresponding with those on the body; Bullock remained in the office that night; Drs. Buchner, Gould, Kittinger and Clark were called in; took Bullock home next morning; his clothing was taken home with him; his sister and mother were attending him at the station during the night; (the hat of Bullock was produced and identified as one brought to him next day after the shooting; also the revolver of Pierce was shown and identified;) did examine the person of Bullock that night to see if he was armed; the distance from where Pierce was taken that night to the police station is about 60 rods; when Bullock came to the station, Pierce was also there inside the railing; I said to Pierce, "My God, you have killed that man! What was it for?" I think he replied, "Wait, time would tell."

Cross-examined by Mr. Farnell:—Was sworn at the preliminary examination in this Court-room; I testified then that I said to Pierce, "My God, you killed this man," and that Pierce made no reply to that; I testified then that when I was taking Pierce to jail that I remarked to him, it was some woman scrape, and that he replied to wait, time would tell; on the night in question was on the street all the time between

seven and eleven ; did not see Bullock between that time ; for half an hour prior to coming to Mack's corner, have no recollection particularly where I had been ; was on Main street about 11½ o'clock ; was at Lewis' jewelry store ; was going up the street with Mooney ; was above that point two hours before that ; left Lewis' and went down Pine street with Mooney ; did see persons as I went up Main street and down Pine, but could not tell who they were ; after giving the orders to close up the saloon I came up towards the corner of Main and Pine streets ; don't recollect saying, next day, that I heard some loud talking on the street, as of parties disputing about some gambling matters ; cannot now remember whether the gas was burning on the street that night ; the first thing that attracted my attention was the report and flash ; think the wind was blowing from the south ; by seeing the flash I could distinguish two persons ; could not tell who fired at that time ; could see the men plainly ; followed up and heard two more shots fired in rapid succession ; these two shots were fired before they got on to Pine street ; the time the first shot was fired, until the second and third were fired, the men were 12 or 15 feet apart ; Mooney was ahead of me ; it was near the stairway leading to Murray & Green's office when the second and third shots were fired ; Mooney was still ahead of me ; could not see nor distinguish the motion of the arm ; am familiar with the use of fire-arms ; a man can throw his arm back and fire ; have not made any estimate as to the time it would take for two men running very fast to run across Main street ; made an examination of the clothing of Bullock between the hours of 2 and 4 A. M. ; first saw the hat produced in this case at the police office on the morning after the shooting ; in my examination I found only two indications of shot marks ; recollect after Pierce was arrested there was quite a crowd in the street ; met Harry Moore and his wife at the corner of Transit and Niagara streets as I was taking Pierce to jail ; Pierce was in the station house about fifteen seconds before I recognized him ; had been previously well acquainted with him ; don't remember who was in the office when I first came in with Pierce ; think Donnelly and myself were the only ones there.

Re-direct :—The reason I did not recognize Pierce was because I had not seen him before in a long time and never dreamed of seeing him in such a position ; the shots referred to were in Lockport, Niagara county.

Re-cross-examined :—Can't recollect now what I testified on my cross-examination at the preliminary examination of the case before the Police Justice in this court room.

Francis Mooney, sworn and examined by Mr. Southworth :—Was a policeman in March last and am now ; was acting chief on the night in question ; was on Pine street and Burgess was with me ; as we approached Main street my attention was attracted by a flash and a report ; the first shot was fired between the Niagara County Bank and Exchange Bank ; could see two men at the point where the shot was fired ; they were about four feet apart ; my attention was not called to them before the shot was fired ; saw them start and run across the street after the first shot was fired ; the man behind fired the first shot ; I started to run south on the walk after the men who were running ; witness described the shooting substantially the same as last witness ;

have no recollection of only four shots having been fired ; the man behind fired the four shots ; the men were in plain sight of me when the second and third shots were fired ; did not see the man ahead turn around at all until he fell ; saw no other person than Donnelly, Carr, Pierce and Bullock when I got up to where the man fell ; Donnelly and Pierce were within about eight or ten feet of the man that was down ; after we got the man up he said he was shot all to pieces ; recognized Bullock when we got him up ; think the man ahead had his hat on when he was running across the street ; when I picked up Bullock he had no hat on ; neither had Pierce ; I took hold of Bullock's right arm ; Carr to his left and we walked him down west side of Pine to corner of Main, and down south side of Main street to corner of Cottage and Main streets ; thence across to the police office ; when near that place he wilted and Carr and myself supported him into the office ; examined his coat and found a ball hole in the same ; saw his wounds ; one in the abdomen and the other in the back ; he bled some in the office on that same night ; myself and another officer took a lamp and searched all the way from the police office to the point where the first shot was fired, and all along the route they took, but found no pistol or gun.

Cross-examined by Mr. Farnell :—Was a police officer at the time, and was since the previous June ; before the shooting that night, myself and William Donnelly came down from Mrs. Earl's to the bank, and there met the chief ; Donnelly and myself proposed going home, and Burgess asked me to go down to shut up a saloon on Pine street ; we did so, and walked back as far as Mack's hardware store ; when the first shot was fired I was about forty or fifty feet north of Main street ; when I saw the shooting I started to run ; Burgess said they were shooting one another ; I replied, I guess so, or something to that effect ; as I ran, Donnelly and Carr turned the corner and got between me and the men ; as I came up to where the man fell, did not hear Donnelly say anything ; by the time we got Bullock up there were about thirty or forty ahead of us ; after we got the parties to the station, the District Attorney suggested to us the idea of making a search over the course where the parties ran, to see if we could find a pistol or gun of any kind.

Albert Lane sworn and examined by Mr. Southworth :—Reside in Lockport ; on the night in question was out till about 12 o'clock ; recollect crossing Pine street and seeing shots fired that night near that point ; have no distinct recollection of the gaslights on the corner being burning ; the one in front of the Arcade was burning ; when I reached Pine street I crossed diagonally to Balliet's store ; while so crossing heard a shot go off north of me, towards the Exchange Bank ; looked to see where it came from and saw two men coming towards me ; stepped out of their way and they went by me and up Pine street ; another shot was fired on the crossing between the Niagara County and City banks ; the shot was fired by the man behind ; could see the man ahead ; heard another shot at Scovell's news room ; it was also fired by the man behind ; did not notice any policeman until I saw them fetching the two men back ; recognized the men ; Burgess had Pierce in charge ; two other men had Bullock ; Burgess was ahead with Mr. Pierce ; as near as I can recollect I heard five shots fired ; as I was

crossing to Balliet's store before the shooting, I heard no loud talking by any persons ; the parties were very near across the street and running when I first saw them.

Cross-examined by Mr. Farnell :—Had been at Hall & Downer's store ; was not in company with any one ; when I first heard the report of the pistol I had struck off into the street, and was going diagonally across from the Niagara County Bank to Mack's store ; when I first saw the men they were into the road about eight or ten feet, and within three rods of me ; I ran to get out of their way, and ran down the street as far as the crosswalk ; saw no person at the corner of the City Bank ; men from the north side of the street passed me, and after the men ; there were five shots fired to the best of my recollection ; when I saw Pierce coming down the street with Burgess he had no hat on.

Patrick Sullivan sworn :—Reside in Lockport ; heard of the shooting of Bullock next morning after it occurred ; was out about 6 o'clock that morning on Pine street ; found a hat near the Continental that morning. (Hat shown witness and recognized as being similar to one found by him). Delivered the hat to William Murphy in the same condition which I found it.

Cross-examined by Mr. Farnell :—Found the hat near the Continental, about two rods from the curb-stone ; the crown of the hat was a little indented ; noticed a hole in the rim, and I thought it was the mark of the cork of a horse's shoe ; am familiar with horses ; owned horser and drove them considerable.

William Murphy sworn and examined by Mr. Southworth :—Live with Mr. Sullivan ; heard of the shooting of Bullock the next morning after it occurred ; recollect Sullivan gave me a hat that morning, and I took it to the police office.

Cross-examined by Mr. Farnell :—Donnelly took the hat in charge when I brought it to the police office ; he noticed the hole in it ; I did not.

E. Shepard sworn and examined by Mr. Southworth :—Was Police Magistrate in March last ; was at the police office Sunday morning after the shooting ; saw hat there. (Hat produced and identified).

Witness was not cross-examined.

Anna Bullock, sworn and examined by Mr. Southworth :—Am the sister of William Bullock, deceased ; recollect the night of the 11th of March last ; we were living together ; saw him at the police headquarters after he was shot ; William took tea at our house that night ; he was in good health as far as I knew ; we had lived seven years in Lockport together ; William had two coats on that night. (The hat of Bullock was shown witness and identified). The hole was not in the rim when I last saw it ; when I got to the police office that night, William was lying on the floor on a mattress, on his right side ; myself and mother remained there all night ; his appearance was such that I thought we never could get him home alive ; he was not moved in the office until he was finally taken home in the morning and put upon a bed ; I attended him from that time until his death ; he died on Saturday, about 5 o'clock P. M., seven weeks after the shooting ; Drs. Kittinger, Buchner and Tryon were in to see him at our house ; he had unceasing care from the time he was taken from the police office until

he died ; I saw that the prescriptions were administered properly. (The clothing of Bullock, the vest and other garments he had on when shot, were produced and identified). The condition of the buckle on the back was not the same as when I last saw it before that night. (A bullet hole through the vest was shown to witness and identified ; blood was also on the vest ; the coats were also produced, and the holes in them were stated by witness as directly opposite). At the death of William, Drs. Tryon and Kittinger, District-Attorney Southworth, Dr. Wisner, and members of the family were present ; William's age, at the time of his death, was about thirty.

Cross-examined by Mr. Farnell :—Was living last March on Walnut street, a short distance from the Continental ; lived there from April, 1870, to April, 1871 ; had not been making arrangements to go away from Lockport ; had previously lived on Ann street ; lived there about two or three years ; the family consisted of William, Charles, my mother and myself ; my brothers carried on woolen manufacturing in this city ; William and Charles took tea at our house on the night in question, after the rest of the family ; can't recollect what time William left the house that evening ; did not go to bed at all that night ; I never went to bed until my brothers came into the house ; that was a practice I had ; my brother was brought home Sunday morning ; there was a time after that when he commenced to rally, and I had slight hopes of his recovery ; he was put in an easy chair once, and sat up for a short time ; there was no point of time that I told anyone he was out of danger ; never told my brother Joseph, in a consultation, that he was out of danger ; remember that there was a consultation in the family about his probable recovery, and the course that might be taken with reference to taking proceedings against him for seduction under promise of marriage if he should get better ; Dr. Wisner was at our house next day after that.

Here the Court adjourned until 9 o'clock Friday morning.

THIRD DAY.

MORNING SESSION.

John T. Joyce sworn and examined by Mr. Southworth :—Reside in Lockport ; am an attorney ; on the night of the 11th of March was on Main street ; was on the north side of Main street, coming west ; Mr. Millar was with me ; crossed the walk across Pine street ; met as I was crossing at that point Bullock and another man ; heard nothing said between them ; they were going east ; they were but a few feet from Mack's store ; there Millar went south to the City Bank ; when I got to Boughton's drug store heard the report of a pistol ; turned around, saw a flash and heard a second report ; saw no person at this time ; saw the flash and heard the third report and then saw a man at the corner near the City Bank turn up Pine street running and another man immediately following ; both went up Pine street ; there was a lamp lit at the corner by Mack's and also one at the corner of the City Bank ;

when the third shot was fired I could see the arm of the man behind extended ; could not tell who the man was who fired the shot ; did not at that time recognize either of the parties who were running ; the arm of the man behind was extended in front ; I followed the crowd up the street ; heard two shots more after the parties got around the corner ; about the time the last shot was fired I heard the cry of murder ; when I got up to the parties they were in custody, and I heard one man say, " I am shot all to pieces."

Cross-examined by Mr. Farnell :—Mr. Millar and myself were talking as we came down the street ; Millar crossed over to the City Bank ; did not look back to notice Millar's position at the time the shot was fired ; there was no body at the City Bank that I saw ; it was about 11 o'clock at night.

Patrick Donnelly re-called and examined by Mr. Southworth :—In following the men I did not at any time discharge a revolver.

Donnelly was not re-cross examined.

Anna Bullock re-called and examined by Mr. Southworth :—She identified the hat produced in court as the one worn by her brother the night he was shot.

Re-cross examined by Mr. Farnell :—I know that this is the hat from the lining ; I cannot identify it particularly.

[The hat and clothing of Bullock, deceased, were shown to the jury, and examined by them with reference to the bullet holes in the same].

Dr. John L. Buchner, sworn and examined by Mr. Andrews :—Reside in Lockport ; am a physician and surgeon ; recollect the occasion of the shooting on the 11th of March last ; saw Wm. Bullock that night above Scovell's newsroom on Pine street ; he was on the pavement with two men, one on each side ; did not know him at the time ; he was being brought down Main street ; did not go with him ; he was taken to the police station ; he sank down on the step of the door ; I told the men to assist him in ; I also took hold myself and helped them ; he was laid upon the floor ; made a slight examination of his person ; examined in front one wound ; he told me that was not the wound that gave him so much pain ; it was in the back ; examined the wound in the back ; the wound in front was located in the cartilage of the right side near the sixth or seventh rib ; the wound was small and round ; there was a little blood about the surface of the wound ; it was about a few minutes after he left Pine street that I made this examination ; found a small circular wound on the back ; his shirts were perforated ; I remained there during the night ; the two wounds appeared to be gun-shot wounds ; Dr. Gould came in after me ; Dr. Clark and Dr. Kittinger also came ; was present at the time Bullock was removed to his home ; he was removed on a stretcher ; I attended him afterwards ; saw him almost continually for the first week ; after that, three times a day and once at night until I was discharged ; Dr. Kittinger also attended him ; Dr. Clark was also called in once ; Dr. Tryon was there also ; was present on one occasion when a ball was removed from the body of Bullock ; it was about three weeks after the injury ; we had been dressing the wound behind, and the question was

asked him if he had any pain behind, and he said 'a little lump hurt him ; we examined and found it was a bullet, and removed it ; it was about four or five inches above the wound in the back, near the 12th rib, and four inches to the right of the spinal column ; the ball was a little longer than a pea, somewhat flattened ; a leaden ball ; it was an entire ball ; Dr. Kittinger took the ball after it was taken out.

Cross-examined by Mr. Farnell :—At the time I was at the police office, the man laid on the floor, and was taken home the next morning ; I continued to visit him up to the 20th of April ; William Bullock said my services were no longer needed ; did not keep a diary of events at the house while in attendance ; the family kept one and Dr. Kittinger copied it ; the ball, in being taken out, was cut down upon and taken ; we only cut just under the skin down until we came upon the ball ; think it was a whole bullet ; it was given to Dr. Kittinger.

Dr. A. W. Tryon, sworn and examined by Mr. Andrews :—Reside in Lockport ; am a physician and surgeon ; am also engaged in the manufacturing business ; knew Bullock in his life time ; saw him for the first time after the shooting on the 25th of March, at his residence on Walnut street ; was called in consultation from time to time with Dr. Kittinger ; saw him daily part of the time ; sometimes there would be an interval of three days ; was consulted in reference to his treatment ; was at the house on the day of his death ; it was on the 29th of April, about 5:15 P. M. ; had been there on that occasion about an hour before his death ; had a conversation with him at the time in regard to his condition ; when I came into the room and to his bedside, he told me he was dying this time ; I told him I thought there was no doubt of it ; he said yes, I am going ; there were a number present in the room near by ; shortly after Dr. Kittinger arrived and told him that there was no doubt he was dying, and asked him if he realized it, and he said he did ; I examined him and found his pulse exceedingly depressed, and his general condition was very low indeed ; my opinion at that time was that he could not live but a very short time ; after Dr. Kittinger made the statement of his condition to him, I don't remember anything special that was further said ; questions were then asked him by Mr. Southworth, who was present ; Dr. Wisner was there, also members of the family and others ; Mr. Southworth asked him who shot him and he answered, Aratus Pierce ; the question was then asked, where Pierce shot him, and he said in front ; he said he had been to Pierce's house that night, and that they were returning from there together ; he said there were no hard words or threats passed between them ; on the contrary, all was satisfactory ; that he had made arrangements with Pierce to meet him at the depot the following day, to see him off to Chicago ; he was asked what he did after he was shot, and he thought for a moment and then turned and ran up Pine street and hollered murder ; that Pierce followed and kept shooting at him ; he was asked if he had any firearms of any kind, and he said he had none ; he was asked if he had any idea that he was going to be attacked, and he said none whatever ; that the first intimation he had of anything of the kind was when he extended his hand to shake hands with Pierce, and then Pierce drew the pistol and shot him (Bullock) ; that is the substance of all the questions that were put to

him; he stated in answer to a question that he was not aware that Pierce had a pistol until he drew it to shoot him, and stated that he was first shot in front; he died in half an hour after he made this statement; his mental condition seemed to be remarkably clear—so much so that it impressed me very much; there was no incoherency perceptible; there was a post mortem examination made of the body about sixteen hours after his death; it took place in the same room where he died; Drs. Kittinger, Buchner, Grosvenor, Leonard and Wilson were present; Kittinger and myself conducted the examination.

Witness then described the post mortem examination substantially, the same as given in the testimony of Dr. Kittinger.

He was cross-examined at length by Mr. Farnell, but nothing materially different from that given on the direct was elicited.

Dr. Kittinger sworn and examined by Mr. Andrews:—Reside in Lockport; am a physician and surgeon since 1853; was acquainted with William Bullock; saw him on the night of the 11th of March; made an inspection of his condition at that time; he was much prostrated, covered with cold perspiration, pulse low and difficulty in breathing; found a gun shot wound in front and one on back; clothing stained with blood; he vomited several times during the night; about 4 o'clock in the morning he passed about six ounces of bloody urine; he was taken home next morning; I went with him; I attended him from that time until he died; he died on the 29th of April, about 5 P. M.; heard Dr. Tryon testify; was present when Bullock made a statement in the presence of Dr. Tryon; made a post mortem examination after death. Witness here read a written memoranda of the post mortem, as follows:

POST MORTEM EXAMINATION.

LOCKPORT, April 30, 1871—9 o'clock A. M.

POST MORTEM EXAMINATION OF THE BODY OF WILLIAM BULLOCK SIXTEEN HOURS AFTER DEATH.

Body much emaciated and of a sallow hue. Rigor mortis well marked.

Posterior Examination.—A cicatrix, as from gun-shot wound, observed on the back, situated an inch and a quarter to the right of the spine and immediately below the twelfth rib. Another scar observed four and a half inches to right of the gun-shot wound. This second scar is the point from which a ball was extracted. A post mortem incision was made connecting the two scars. On the line of this incision nothing abnormal was detected. Directly beneath the point of extraction of the ball, the twelfth rib shows a roughness, a slight prominence and a line of fracture extending about an inch and a quarter on either side of this roughness in the direction of the length of the rib.

Anterior Examination.—On the right side over the region of the liver is observed a prominence covering a space about six inches square, the highest point being raised about two inches above the normal situation. Three inches to the right of the median line and four inches above umbilicus is observed a round closed cicatrix.

Abdomen Opened.—A large quantity of coagulated blood on the left side, also in pelvis in region of bladder; a small amount on the right side. Coagulated blood and fluid blood in abdominal cavity, estimated at three quarts, including the clot in pelvis about one pint.

Chest Opened.—Right lung pressed upward into less than half the space it naturally occupies, by effusion contained in right pleural cavity and by the

liver. It was adherent to the pleura costalis and sternalis by means of plastic lymph. Right lung almost completely collapsed—gives slight crepitation on pressure of upper lobe. Fluid in right pleural cavity, very dark in color and thin as water—quantity estimated at two quarts. Upper lobes of both lungs contained terbercles in latent state. Opex of left lung a small cicatrix, contracted to size of a ten cent piece and level with surface of lung.

Heart Removed and Examined.—Apparently healthy and entirely free from blood. At the anterior circatrix, just under the skin, wooly fibers as of cloth observed. About two-thirds of upper surface of right lobe of liver adherent to diaphragm. A portion of the right lobe of liver and also of left was covered with a thin layer of fibrinated blood, quite firm in consistency. The liver was pressed up, and an inch and a half to the left. Stomach also pressed to the left.

Liver and Right Kidney Removed.—A large clot of blood extended from the right kidney under the peritoneum, pressing it upward under the liver to which it was firmly adherent. Clot estimated at a quart. Two drachms of puss observed near the spine, nearly opposite the point of entrance of the posterior ball. An opening was made through the tissues covering the internal surface of the twelfth rib opposite the position from which the ball was extracted. Rib at this point is roughened.

Twelfth Rib Removed and Examined.—At the point of roughness on the internal surface is a slight depression, and on the external surface opposite the depression on the internal surface a slight elevation. The rib at this situation has every indication of having been penetrated by a ball, the ball entering from the inside. As heretofore stated, a line of fracture extends from this point one inch and a quarter on either side of it in the direction of the length of the rib. This point is situated four and a half inches from the spinal end of the rib.

Cartilage of Eighth, Ninth and Tenth Ribs Removed and Examined.—A fracture of cartilage of ninth rib two and a half inches from junction of the cartilage and oseous portion of rib, and one and three-fourth inches from Junction of cartilage of eighth rib and oseous portion of eighth rib.

Stomach Removed and Examined.—Contained about one quart of thin yellowish fluid, emitting an odor of brandy. At pyloric orifice internally a removal of mucus membrane one-half inch square, Ecchymotic points in vicinity of pyloric. Internal surface of stomach slightly congested. About one-half of right kidney was pulpy and disorganized. That part not disorganized in an apparently healthy condition, and surrounded by a large quantity of coagulated blood. Track of the ball discovered passing through the middle lobe of liver in an antero posterior direction. Three vertebræ removed opposite entrance of posterior ball. No injury on them discovered. An irregular piece of lead was removed on right side of vertebræ opposite entrance of posterior ball.

Witness also testified to extracting a ball from the back of deceased on the 28th of March; ball produced; also the small piece found at the post mortem examination; an examination of the urine indicated inflammation of the kidneys and some portions of the urinary organs; the disorganization of the kidneys was brought about by inflammation excited by secretions of urine; the cause of the immediate death of Bullock was secondary hemorrhage, and the secondary cause a gun-shot wound; found that he had lost sufficient blood to produce death; the wound in front was the one that produced death.

Cross-examined by Mr. Farnell:—About the fourth day from the time he was wounded he had a bloating; he remained extremely prostrated; he had the first sinking spell the 24th of March; at that time I would not be surprised if he had died within a day; two days after that he had another sinking spell; I had then the same opinion that I entertained when he had the first sinking spell; he had another sinking spell the 29th of March, and one on the 6th of April; my opinion as to his death was the same as at first; after the 9th of April he rallied and began

to improve ; on the 9th of April he had a very bad spell ; on that day I subscribed to nothing as to his dying declaration ; on the 12th of March I subscribed to a statement as to his dying declaration ; I told Bullock on that day that he probably would not get well ; he made a dying declaration that time ; don't remember seeing that statement on the preliminary examination before the Police Justice ; was present on another occasion, on the 9th of April, when he made a dying declaration ; Judge Bowen, Mr. Southworth, Dr. Buchner and the Bullock family were present ; think Mr. Van Horn was there also, and took down the dying declaration ; at that time I told Bullock he was sinking, and believed he could not recover ; asked him if he realized it and he said yes ; my hopes in his case at that time were extinct ; heard what the District-Attorney said to him upon the subject of his making a dying declaration ; the District-Attorney asked him if he wished to make any statement with reference to the shooting, and Bullock said yes ; this was the time Mr. Van Horn took down the statement ; after this occasion, on the 9th of April, Bullock was lifted from the bed, while the same was being made ; he was, on one occasion, lifted into a rocking chair ; on another occasion, into easy chair ; there was a time when he supposed himself that he would get well ; he sometimes asked my opinion, but I always gave it to the family ; at no time did I give them any hopes ; there was a time, for about two or three days, that I thought his chances of recovery and death were about equally balanced ; it was between the 15th and 20th of April ; this was the time he sat up some.

Here the Court announced a recess until 2 o'clock P. M.

AFTERNOON SESSION.

Dr. Kittinger—cross-examination continued :—The cause of the serum in the cavity of the lung was inflammation ; there were no indications that the liver was diseased ; the lung was collapsed and lost its elastic quality ; there was the presence of tubercles in the right lung also ; these are regarded as the foundation of lung disease of some kind ; the scar or wound in front closed over about three days before his death ; did not trace the course of the ball until after the liver was removed ; then approximated as to its course ; the most of the blood removed from next to the kidneys was fresh.

Counsel cross-examined the witness at great length, with reference to the post mortem, but nothing materially different from that already given was elicited.

Re-direct :—There was nothing in the tubercles on the lungs which had anything to do with the death of Wm. Bullock ; found the heart entirely empty ; that indicated hemorrhage immediately previous to his death ; death was the result of the wounds ; the symptoms were consistent with the injuries he received.

Charles L. Burgess, re-called :—Am acquainted with the use of fire-arms ; (Pierce's pistol shown witness, also the bullet taken from Bullock's body ;) witness stated that the bullet fitted the pistol.

Cross-examined by Mr. Farnell :—The bullet cannot be put into the muzzle of the pistol.

Redirect :—The breech of the pistol is larger than the muzzle. This is a bullet adapted for this pistol.

Oscar E. Mann, sworn and examined by Mr. Southworth, and the Sheriff of the county :—Have measured to-day the distance from the Continental to the point where the men started to run ; it is 305 feet. From the point where Bullock fell to the police office is 1008½ feet.

Witness was not cross-examined.

Patrick Donnelly recalled :—Heard Sheriff Mann testify ; I pointed out to him correctly the points from which he made his measurements.

Here the counsel for the People rested their case.

THE DEFENSE.

OPENING SPEECH BY MR. FARNELL.

Mr. Farnell opened the case on the part of the defense. He spoke substantially, as follows :

If the Court Please and Gentlemen of the Jury—

The indictment in this case was found September 25th, 1871. There had been an indictment found at the May term of the Court, but for reasons which are not very material for me to state, Pierce is not to be tried upon that indictment—so that the indictment upon which he is being tried was found last September. This charge is one of a serious character, and as the counsel upon the other side has said, is as important a case as ever was tried in Niagara county. Yes, and it is as important a case as ever was tried anywhere, for you never can get any case that involves anything more important than a human life. So in that point, it is as important as any case that ever was tried. I feel a grave responsibility in this case, being well acquainted for years with this man. I have known him from his childhood. I had, with an acquaintance, a personal friendship and a regard. He had been raised in our midst. He had been raised under circumstances that very few are placed in. A boy of poor parents, who, by extraordinary industry and purity of character, had elevated himself and his family. He had, as it were, carried them with him. He had been known by almost all of us. In looking at this case, we feel as all men feel, that it is an important case. It is but proper that I should say to you, that you may appreciate his condition ; that this man was born in the city of Lockport on the 14th of October, 1842. So you see that he is a young man, just started and in the prime of life. He has a sister Harriet, and they were the only children living at home, and the only members of the family besides Mr. and Mrs. Pierce. The father, Ellis F. Pierce, has been laboring under great physical infirmities for a number of years. He was often called from home for a greater portion of the time on business. This placed the duties of the son as that of the head of the family. At about the age of fourteen this young man was clerking for Mr. Winer, in this city, a year or two, quit his employment, and then, after going to the Union School a short time, was employed by Cook & Tyler as a clerk in their store. He remained there for some time, looking after his family and taking care of the business of the household as well as he could. One extraordinary feature of his character at an early age struck the public, and that was, that he seemed to have a strong attachment for his sister that was almost beyond human conception. It had been observed by all those who knew him that rarely would he go into society unless his sister was with him. Rarely would he go to any

public place but what he assisted and waited upon her. Many men who were observers of human character, assumed they were twins, although they were not. This care and watchfulness over his sister continued with him. His sister rarely went anywhere but that he went with her, and if she went out to spend the afternoon and evening, he usually would call for her in the evening and accompany her home. He continued working as a clerk until August, 1862. Then he enlisted as a private in the Nineteenth New York Battery and was soon promoted to the office of Quartermaster Sergeant. He remained in the army two years and ten months, being discharged in June, 1865. Associations in the army, as you are well aware, are of such a character as to often contaminate or demoralize young men, but these associations made no impression upon the character of Mr. Pierce, for he returned home with the same extraordinary worth and purity of character that he always maintained before he went into the army. In the army he was a remarkable man—a man whose mind seemed to be above and beyond the ordinary condition of the human mind. He had been recognized by all the members of the battery as a superior young man, and was placed in a responsible and prominent position on account of his integrity and exemplary conduct. On his return from the army in 1865, he was re-employed by Mr. Breyfogle as clerk and continued as such until April, 1865, having made progress until he became an excellent salesman. He was highly esteemed and won the confidence of his employer. All noticed his noble qualities while a boy, continued with him as a man. By reason of his possessing these qualities, Mr. Breyfogle gave him a letter of recommendation and he went to the city of Chicago some time in April 1868. There he was employed in the largest wholesale dry goods establishment in the city, that of Field, Leiter & Co., where there were several hundred clerks. Here again is another remarkable feature in his career; although in that store with nothing more than his personal appearance and conduct, he had become acquainted with Marshal Field, the head of the firm, who, as I am advised, forms an opinion of the relative value of men, and advances them according to their worth. Mr. Field promoted him in a short time to the position of second assistant in the wholesale department. This promotion was due to his fidelity and integrity, as a man, by which he had won the confidence and esteem of his employes. While in Chicago he had manifested the same care and anxiety for the welfare of his family as when he was at home, and his father always confided in him and communicated with him on all matters of business of importance. His sister visited him in 1868 and remained three weeks. She returned home in the fall, and in the summer following she went again to Chicago, and was employed as saleswoman in the same establishment with her brother. She remained there until December, 1870. We shall show you that while at Chicago his affections were so marked that every one of his acquaintances were struck with the extraordinary attachment between himself and his sister. While there he became acquainted with Miss Jennie Teachout, of Waterford, New York, and engaged himself to marry her. He had understood from his sister in the fall of 1870 that she was engaged to be married to William Bullock. He consulted with his family and understood that to be the case. The fact was communicated to him that this man Bullock had been introduced to his sister at church; that he had been in the habit of going to church and sitting in the same pew with her, and accompanying her home in the evening; that he had been in the habit of calling upon her at the house of her father on Sunday and Wednesday evenings. The family had supposed and Aratus had also supposed that his intentions were those of an honorable man. Aratus had confided in the judgment of his parents, and of his sister. In March, 1871, he comes home upon a letter he received, stating he was wanted here on important business. He arrived here on Wednesday. He was advised when he got home for the first time of the unfortunate condition in which his sister was placed. This was the first intimation that he had of her condition. Of course he was amazed and astonished. He felt at the moment that it could not be possible for any man to strike down the hopes of a family and destroy them at a single blow. He could not believe that there was so much depravity in the human heart that could strike out of existence the hopes of his family. Here, too, comes another painful situation of affairs. His sister had been discharged from the establishment at Chicago in the fall, and he knew that they still kept saleswomen entitled to less consideration than she. He saw at a

single glance that his sister's condition had been discovered by the saleswomen and other clerks, and that her discharge was the result. Then comes the anguish. He could scarcely stand up under a condition that he never had dreamed of could happen to his family, because of his manly confidence in man's honor. He could not deem it possible that such could be the case. He had an interview with William Bullock, and he appealed to him as a man not to strike out of existence his father, his mother, his sister. He says: "Don't, don't strike out of existence all of us at single blow! You owe it to yourself, you owe it to your manhood, not to perpetrate such a cruel and infamous act!" This defendant goes to Waterford, N. Y., on Thursday; sees the parents of Miss Teachout, and fixes his marriage for June 8th, 1871. He still had hopes that when he come to see this man Bullock again he would marry his sister, and therefore, when he left home, said to Bullock, "I trust you will meet me, and we will talk this matter over again." He telegraphed from Albany to Marshal Field at Chicago that he would be there on the Monday following. He did not dream of anything wrong; he was anxious, he was hoping for something to be done. He comes back to Lockport to his father's house, and there waited anxiously to see Bullock, believing that if he could talk with him something could be done. He could not believe but what everything would be arranged and properly adjusted. They had an interview at Mr. Pierce's house, and at that interview this man Bullock assumed to state things that showed great depravity or recklessness. I don't care by which name it is called. He said, "Wait until the child is born; we will send it off, and I will marry your sister afterwards." In that interview they could come to no very satisfactory conclusion. Bullock had also intimated that his pecuniary circumstances were such that he was not able to get married at that time, and presented that as an excuse. When Bullock talked of his pecuniary situation, Mr. Pierce walked out with him for the purpose of saying to him that he would give him all that he had got, that he would appeal to his (Mr. Pierce's) friends for aid. That was the motive that he had in walking out with Bullock. They passed along the street, Pierce all the time earnestly appealing to him to fulfill the promises made to his sister, and Bullock insisting upon waiting until after the child was born and sent off, or disposed of. Pierce says what can be done—you will destroy my sister, my family and my all. They passed along the street until they came to the Exchange Bank or about there. At this point of the case Pierce says to him, "Marry my sister and save our family," to which Bullock replied that she, or he, might go to hell, or something to that effect. That is the last recollection that Pierce has, so far as he is connected with this case, at that point. I stated to an eminent man the circumstances of this case and he said, taking into consideration the purity of his character, that such an act could not be done until reason was dethroned. The mind of Mr. Pierce was racked by agony and reflection, until the reply of Bullock, at the point referred to, completely shocked and upset his whole mental system, and what followed is now to him a blank. The learned counsel illustrated how temporary insanity may be produced in a person, by comparing him to a fleeing or panic-stricken army of soldiers, fleeing from real or imaginary dangers, and rushing into the very jaws of death. Their powers of reasoning are destroyed for the moment, and the men, if they would only stop to think, would see that the very thing which they do, leads them to certain destruction. How in the case of a burning ship at sea, persons will also lose all powers of reasoning, rush to certain death, and fail to avail themselves of what might be the means of escape. This state of things does not take place until reason is dethroned, and you have but the mere animal instincts of self-preservation. It is the law of creation. You see it not only in men, but in the animal kingdom. The stampeding of horses and cattle arises from fright, produced by some sudden alarm, and in this condition they will rush over precipices, to certain destruction. The law is recognized in them as universal as it is in the human mind. Again, you have another but opposite condition, that persons have from extreme joy become insane and die; others from extreme fear have become deranged, either permanently or temporarily; others again from extreme grief, anger or sorrow. The fact is now recognized that there are many causes whereby men have been deprived, for the time, of reason. This is clearly demonstrated. This brother had been brooding over the conduct of Bullock and the condition of his sister for three days. And now comes the final

shock in the aggravating answer of Bullock to his earnest and piteous appeals for the preservation of the honor of his sister, for the purer and nobler the brother the more terrible would be the calamity. The counsel said in his opening that this is an important case. It is a question whether this young man shall be stricken down in consequence of reason dethroned under circumstances like these—ruined hopes that blasted his life. When the public understand this case, every father and every mother, who have their little daughters growing up around them, and watching them with love and hope, must feel the pain and agony under which this young man must have been suffering. Every man must feel how revolting and aggravating is the crime of the seducer, especially when perpetrated under the cloak of religion, as in this case. Can you conceive of anything but a perfect shock? It is that very thing, that to the honor and credit of men in this enlightened age, they have recognized, what scientific writers have recognized, for seventy-five or one hundred years back. The trouble with the English people had been that they treated insanity as a crime and put the victims of it into bedlam, and what years ago was condemned is now an accepted fact. Some persons may say there will be danger to life if this be recognized. Is it dangerous to recognize that which is the truth? Is it dangerous to recognize the act of God in his creatures? Not at all. Let these people who are so afraid that laws may be violated and human life taken contrary to law, understand that for one man who loses his life like Bullock, hundreds of confiding and loving women are sacrificed, hopes blasted, homes ruined, families made desolate, and the confiding heart laid cold in death by poison, drowning, or other means to save them from disgrace, or even a worse fate, that of becoming inmates of a brothel. This brother comprehends life and its relations. We shall show in this case that on this very night in question and on this very day, by a physician who was in attendance, Dr. Fassett, the mental condition of this defendant. Dr. Fassett talked with him. Although the Doctor had known him from boyhood, he was struck with his extraordinary appearance. He was talking incessantly about his sister, fearing she would die and sighing. This state of mind in one whom the Doctor had known so well, struck him as very remarkable. Not a charge or a threat, not a word about this man Bullock, was uttered. We shall also show you by another person, that when Bullock came to the house Pierce was white as death. He went down into the room where his mother and another person were. Here was a condition of things noticed by a neighbor, and it was the subject of conversation that he was a crazy man. The sister had been home for some time, and her presence here was not known to even the most intimate friends of the family. Her condition was kept a profound secret. Neighbors living the very next door knew nothing of the case; knew nothing of the misfortunes of this girl, nor the anxiety it caused to the brother, yet they noticed the strange and unaccountable manners and actions of this man, and were impressed with the idea that some great calamity had befallen him. We shall show you a fact which illustrates to the mind the wonderful knowledge of the present day, that enables scientific men to arrive at correct conclusions. An eminent man has said that if Pierce is as pure a man as you say he is, and these circumstances are true, certainly insanity runs in some branches of the family. You will find that fact with as much certainty as any other fact. The learned counsel here instanced cases of insanity in the family of Pierce. Where an uncle, having lost a sister, became insane in consequence, was taken to the Utica Asylum and died a short time afterwards. A sister of Mrs. Pierce had spells of light headedness and she died at the age of 25 of insanity. Another sister had spells of grief, and would be for hours in a spasmodic condition, and would not know when she came out of it what had occurred during the time. In the examination of this case we ascertained the fact that when this young man received the shock to his fine and sensitive feelings, he lost his reason as completely as does the soldier who is fleeing panic-stricken from imaginary dangers and rushing into certain death. The learned counsel on the other side has asked that you be governed by the evidence in the rendering of your verdict. We ask only that you be governed entirely by the evidence in this case. The learned counsel has asserted that the Sickles, Cole and McFarland cases were different from this. One of them is different; the other two are not. The Sickles case was similar to this, and there is not a sane man in the country who did not say

the verdict was a just one. The Cole case was also similar. The shock was too great for human endurance. The mind was shattered and the powers of reason had fled, leaving but the mere animal instincts. In this case Mr. Pierce is absent in Chicago, unable to advise and watch over his beloved sister with that great care with which he was always wont to do while at home. In this state of affairs the seducer creeps in, and under the cloak of religion ingratiates himself into her confidence and accomplishes her ruin. It was under such circumstances as these that Aratus F. Pierce returns to Lockport; and it was under these aggravating circumstances that the events which followed took place. Bullock having had intimations that he might ultimately recover, and fearing that he might be punished for seduction, under the promise of marriage, subsequently sent for Miss Pierce, and under the advice of Rev. Dr. Wisner, and by him the marriage of the parties was accomplished. If the marriage was on account of repentance of his own act, and to do justice to the girl he had deceived, I may say that true repentance alone can make atonement to his Maker. If it was done from the other motive, that he could take advantage of this woman and the law, and only to avoid the penalty of the law, he made a formal marriage, it is unnecessary for me to speculate as to his punishment in the other world, and if the marriage was not from pure motives, you and others will judge what kind of a being he must have been. When you have heard the facts in this case every pure-minded person will wish to see Pierce acquitted. Why? Because he is an innocent man. This case is not surrounded as some cases are by wicked associations. It is one in which we shall show you that he could not have done this act until reason was dethroned. Crime is as repugnant to him as to any of you. He never had stained his hand with the blood of any human being. He had lived uprightly, had performed his duties as a son and a brother. He had protected his father, his mother and his sister. He never was willingly associated with vicious men. He would always shrink from them. An examination will show you that he has a fine and sensitive physical and mental organization, and one most readily overturned. We will show that there was no such thing as premeditated design, and that will aid you in arriving at the condition of this man's mind. Mr. Pierce, when he had been in the army, was in the habit of carrying a pistol, as most all men were at that time, and when he left here for Chicago he borrowed one to take with him. While Aratus was in Chicago he was telegraphed to come down here and look after a street that was being cut down in front of his father's house, and to see that their rights were protected; and always when he went on a journey he took a pistol with him, and when he was written to come home he took this pistol in question with him. It was loaded, but he had not examined it. He went to Waterford, N. Y., and thence to Albany, and there telegraphed to Field, Leiter & Co., at Chicago, that he would be there on Monday following. This evidence will be introduced to show you there was no such thing as premeditated design on his part. It will show that he did not come here with any idea of committing crime. The people have produced but one of the dying statements of Bullock. We shall produce the others. We wish you to see them as a part of the history of this case. The story that Pierce supposed everything was all right as between Bullock and his sister is not true, as these statements will show. We shall show you that his reason was overturned, growing out of the circumstances of this case. If you are satisfied, from all the evidence in this case, that Pierce was temporarily insane at the time he committed the act in question, then it will be your duty, under the evidence, to render a verdict of acquittal.

The testimony for the defense was then introduced, as follows :

Willard Weld, sworn and examined by Mr. Farnell :—Reside in Lockport; am engaged now in farming; am acquainted with Aratus F. Pierce from when he was a child; my acquaintance with the family is more intimate than with other families, from the fact of their worshipping at the same church with me; have known the young Pierce as a person of good moral character, a dutiful son, and noticed his brotherly care and affection for his sister, going to church with her

regularly ; my attention was especially directed to his affection always manifested for his sister ; have at different times conversed with Pierce, so that I was well acquainted with him.

Cross-examined by Mr. Andrews :—Understand that the girl was his only sister ; have seen her employed in the store in this city where her brother was ; have always observed him coming to church with her ever since they were able to come alone ; can't tell how many years I noticed this ; the sister, I supposed, was younger than he was.

Rev. Dr. Wm. C. Wisner, sworn and examined by Mr. Farnell :—Have resided in Lockport 34 years last May ; have been 30 years pastor of the First Presbyterian Church ; was acquainted with Aratus Pierce from childhood ; also with the other members of the family ; they attended my church ; observed Aratus usually came regularly to church, and with his sister ; observed for years that they were very much attached to each other, and that he looked after her interests continually ; there was a Sabbath-school in my church, and he attended it from his early childhood ; he was a young man of whom I never knew anything against his character up to the time of this occurrence ; so far as I know, Mr. Pierce was a very upright and honest young man ; was very well acquainted with him ; recollect the time of the revival, when Rev. Dr. Hammond was here, about $2\frac{1}{2}$ or 3 years ago ; Harriet Pierce was a member of my society and had been for years ; knew Wm. Bullock somewhat ; my acquaintance with him was not of so long a standing ; noticed after Dr. Hammond was here that Miss Pierce and Bullock were in attendance together at my church ; Wm. Bullock was not a member of my church previous to that time.

The witness was not cross-examined.

P. D. Walter, sworn and examined by Mr. Farnell :—Reside in Lockport, and have for 26 years ; am a jeweler ; am acquainted with Pierce and sister ; have known them since they were children ; noticed I saw them on the street together very often ; noticed the uniformity with which they were always together, and the affection manifested by Aratus for his sister ; Mr. Pierce is a steady young man ; never knew anything derogatory of his character ; was always very much pleased with his conversations with me ; never noticed any manifestations of bitterness or turbulence.

Cross-examined by Mr. Andrews :—Pierce and his sister were employed at a place where they had to pass by my store in going to and from the same.

O. C. Wright, sworn :—Reside in Lockport, and have for 30 years ; engaged in the book and stationery business ; the express office was formerly connected with my store, and Mr. Pierce, the father of the defendant, was employed there as messenger ; am well acquainted with the family ; have often seen Pierce and his sister together, and noticed remarkable affection for each other ; noticed this ever since I knew them ; have often conversed with Aratus Pierce ; was acquainted with his general disposition ; he grew up to be an amiable young gentleman from boyhood ; was always pleasant and agreeable ; he was a moral young man so far as I knew ; never saw any manifestations on his part of violence or turbulence from my acquaintance with him and his moral sense ; I should say his standing was above the medium ; s

conduct towards his father and mother was unexceptionable in every respect ; was acquainted with him after he came back from the army, as well as before ; did not see any change in his previous good character after he came back.

Cross-examined by Mr. Andrews :—Saw him and his sister together on other occasions than when engaged in business at the same store ; they frequently came to my store together ; he had been engaged in business some years before going to Chicago ; have never seen the defendant in a quarrel, and cannot say how he would act in a case of difference of opinion.

T. T. Flagler, sworn :—Reside in Lockport, and have for over 35 years ; am acquainted with all of the Pierce family a good many years ; am acquainted with Aratus and Harriet Pierce since they were very young ; they were members of the Sabbath-school with which I was connected ; they came into the school in early childhood ; I was in charge of the school as superintendent or assistant during all this time ; they acted as a brother and sister should always, manifesting courtesies which are due in that relation ; have frequently conversed with Aratus, and formed an opinion of his character ; I regarded him as a young of irreproachable character, and esteemed him very highly ; never saw any manifestations of violence on his part ; on the contrary, noticed he was exceedingly quiet and agreeable ; after he returned from the army I cannot remember whether he continued his relations with our Sabbath-school, but so far as I observed his previous good character was unchanged ; his attendance at church after his return from the army was regular.

Cross-examined by Mr. Andrews :—Cannot recall with any distinct recollection when their attendance upon our Sabbath-school ceased ; never witnessed his conduct when under provocation.

Rivera Stevens, Mrs. Nichols, Miss Maggie Agen, Horatio Kilborne, Augustin Hardy, J. L. Breyfogle, J. W. Vail, John Chaplin and W. H. Ransom testified to substantially the same facts as the preceding witnesses with reference to the uniform good character of the defendant, both before entering the army during the Southern rebellion, and after his return home ; and Harry H. Moore, E. W. Rogers, Wm. C. Beck and Michael Long testified to his continued good character and amiable disposition while in the army. All of these witnesses also testified to the remarkably strong attachment he always manifested for his sister Harriet.

Here the Court adjourned until 9 o'clock Saturday morning.

FOURTH DAY.

MORNING SESSION.

John Van Horn sworn and examined by Mr. Farnell :—Reside in Lockport and have for over twenty-five years ; am acquainted with Pierce and his sister ; my acquaintance was not intimate, though I knew them well ; saw them on the streets frequently together ; knew Mr. Bullock in his life time ; was present when Bullock made a dying declaration on the 9th of April ; on that occasion Drs. Kittinger and Buckner. District Attorney Southworth and Judge Bowen were present ; the family were in the house, but don't know that they were in the room ; Dr. Kittinger remarked to Bullock that he could not live but a short time and he felt it his duty to tell him so, that he had put it off and now he was compelled to tell him. He asked Bullock if he realized his condition, and he said he did. On that occasion I reduced the statement to writing ; it was signed by myself and Dr. Buchner, and is as follows :

APRIL 9, 1871—7½ P. M.

Dr. Kittinger, in presence of Dr. Buchner and others, stated to Bullock that he was failing, and that he had put off the telling him of his condition until the last, and he now felt it his duty to inform him that he could not live but a short time, and asked him whether he did not realize that he was failing. Bullock said that he did.

District Attorney Southworth then asked him if he, under the circumstances, wished to make any statement in regard to the interview with Pierce and about the shooting, in view of his death.

Answer—Yes.

Mr. Southworth then asked him who shot him.

Answer—Aratus Pierce.

He then asked him : Where were you when the shooting took place ?

Answer—In the street between the Exchange Bank and Mack's corner.

How many times did he shoot you ?

Answer—Twice.

What time was it ?

Answer—In the evening.

Were you facing him when he first shot ?

Answer—I was.

Where did that shot hit you ?

Answer—It hit me in the abdomen.

Says he stood still a moment, and then turned and run up Pine street in front of the Continental and Pierce following him up and continuing to fire at him : think he fired five times ; when opposite of the Continental I hallowed murder.

Mr. Southworth asked him, if before Pierce fired on him, did he make any demands on you to do anything ?

Answer was *no*.

Did he make any threat against you ?

Answer—No. I supposed everything was arranged satisfactorily.

Where did you start from to come to Main street ?

Answer—Was at Pierce's house talking over matters. Aratus' sister said she was satisfied with what he proposed to do, but wanted he should satisfy Aratus ; they then left the house and came down street, when at the junction of New and Old Main streets Aratus asked him why not do what he proposed to do now. He answered that he had thought the matter all over and thought his way the best, and that Hattie was satisfied. Aratus then made the remark that he hoped she would make him as good a wife as she was a sister. We then

passed down street, and when in front of the Alhambra he asked Pierce to go in and take a glass of ale. Pierce replied that he did not drink beer.

Mr. Southworth then asked him whether before the shooting Pierce told him he was going away the next day.

Answer—He did state that he was going away in the morning, and I agreed to meet Pierce at the depot.

Did you shake hands?

Answer—No; Pierce then shot me.

How far was you from Pierce when he fired the first shot?

Answer—Was close in front of him.

JOHN VAN HORN,
J. L. BUCHNER.

Was also present on the 12th of March when a statement was made; I reduced that statement to writing as near as I could; it was on Sunday, March 12th, at 11 o'clock A. M.; Dr. Kittinger stated to Bullock that he could not live but a short time; the District Attorney and others were present; Bullock remarked that he felt as though he could not live.

Mr. Van Horn read from his minutes the dying declaration made March 12th, as follows:

SUNDAY, March 12, 1871—11 o'clock A. M.

William Bullock stated:—Had an interview with Miss Hattie Pierce, and agreed to support her through her trouble and after it was over to marry her; Pierce understood it; appeared to be satisfied; walked with Pierce from his father's house to the place where the shooting took place, and then agreed to meet him the next day at the depot for train to Chicago. Said it was cowardly to shoot him as he did.

JOHN VAN HORN,
M. S. KITTINGER.

I was present in the police office on the morning of the 12th of March when there was a sworn statement made by Mr. Bullock; that was reduced to writing by Justice Shepard.

Cross-examined by Mr. Andrews:—The statement taken before Shepard was made about 4 o'clock on the morning of the 12th.

Mr. Farnell, counsel, produced the warrant issued for the arrest of Pierce on the night of the shooting. He also read in evidence the dying declaration taken down by Justice Shepard on the night in question, as follows:

Deposition taken before E. Shepard, Police Justice of the City of Lockport, on the night of the shooting, March 11th, 1871.

THE PEOPLE,

vs.

Defendant charged with assault with a deadly weapon with intent to kill.

ARATUS PIERCE,

William Bullock, being duly sworn in the presence of the prisoner, says:—My name is William Bullock; live in Lockport; know the defendant; he shot me this night. I was not armed with any revolver or deadly weapon, and had not threatened him with any violence. He shot me on the corner of Pine and

Main streets, in this city, after eleven at night; had been walking with him from his father's house, in this city, previous to the shooting. He shot several times at me, and shot me twice. He had not threatened to shoot me before he shot me, and was not aware that he was armed.

his
WILLIAM X BULLOCK.
mark,

Taken, sworn and subscribed in the presence of the prisoner, by the said William Bullock, before me.

E. SHEPARD.

Asher Cudaback, sworn and examined by Mr. Farnell:—Reside at Suspension Bridge; am engaged at the Custom House; am acquainted with Pierce since 1866; was employed as a clerk in Mr. Breyfogle's in 1868; recollect when Pierce was going to Chicago; was at that time employed at Breyfogle's; he borrowed from me a pocket-pistol on that occasion to carry with him; it was returned to me in about two weeks afterwards; at the time he borrowed it I understood he was going to Chicago, and that he was to take it with him.

Witness was not cross-examined.

Dr. D. S. Fassett, sworn and examined by Mr. Farnell:—Reside in Lockport, and have for 33 or 34 years; during that time I have been practicing as a physician and surgeon; had been intimately acquainted with the Pierce family for a great many years; had been, portions of the time, their family physician; had been for years acquainted with Aratus F. Pierce from childhood; know his habits of thought and general character; was some time in March at Pierce's house when Wm. Bullock was there; could not tell the date; recollect the time Aratus came from Chicago; had seen Bullock at the house before that time; had seen Harriet several times at the house; also conversed with Wm. Bullock as to Miss Pierce's condition; there were a few words spoken between us, but nothing of consequence; he was reticent and so was I; went to Pierce's house after he came from Chicago; was there on the night of the shooting; it was about 7 or 8 o'clock in the evening; remained there between one-half and one hour; was sent for by Aratus; his father came for me; I conversed with Aratus; he was present in the room where I was all the time; there was very little conversation indeed; he asked me if I thought his sister would live; he kept repeating this all the time and said very little else; he would get up out of his chair and turn round and sit down again; his face was bloodless; he said very little on the subject of my attending her; I asked him if he was sick because he looked so pale, and was so incoherent in his talk; he said he was not going to Chicago next day; his incoherency consisted in his uneasiness, and repeating the question if I thought Harriet would live; this continued while I was there; it struck me so very remarkably, and I asked him three or four times if he was sick; discovered an appearance in the man that I never saw before; he was always very quiet before; this was in the room at the end of the hall; could not tell who was in the house at the time; no one was in the room but us both; it was in the forepart of the evening when I left; there was nothing occurred while I was there to excite him, except talking about his sister; I have never made the science of the mind a special study; the conduct of Pierce was very unnatural to him and surprising to me; there was no conversation to excite him.

Cross-examined by Mr. Andrews:—His agitation appeared to be in respect to his sister altogether; the unnaturalness of which I speak was his excitement on that subject; never saw him under agitation before, nor under any particularly trying circumstances; his incoherent language consisted in repeating the question, "Do you think Hattie will live," and in getting up and sitting down; in most cases he went through with the sentence; he answered my questions; in answer to his inquiry about Hattie I stated I had no apprehensions at all; don't recollect anything further that was said on that occasion; have an indistinct recollection that there was something else said; I always answered his inquiries in the same manner; his manner was very excited and very extreme, as though he was in great trouble and anguish; no one else was present in the room but ourselves; on my first appearance at the house he bid me good evening, and about the next he said was, "If I thought Hattie would live;" he made no mention of Bullock or anybody else; did not inquire of him what the reason of his inquiry was, and I left him without knowing what his reason was; there was nothing natural in his conduct that night; his manner was different from what it ordinary was; had been called to see Hattie the day before, and about five or six times previously.

Hiram Wertman, sworn and examined by Mr. Farnell:—Reside in Lockport, and have for eight years last spring; am in the hack business; know Pierce; recollect an occasion of driving him from the depot to his father's house last spring; it was on the Saturday before the shooting, at noon; drove him from the depot to the house; he told me to call for him the next day for the train west to Chicago; I told him I should be there; I had taken him in my hack when he was going east, a few days before the Saturday mentioned.

Witness was not cross-examined.

Mrs. Matilda Bennett, sworn and examined by Mr. Farnell:—Reside in Lockport, and have for 33 or 34 years; am acquainted with the Pierce family; have always been so acquainted; live near them as a neighbor; recollect in March last when Aratus came from Chicago; was at the house and saw him; had been well acquainted with him from childhood; recollect seeing him on Saturday evening when Bullock was shot; was at the house; went there about eight o'clock; no one was there but Harriet and his mother; entered the house through the basement; first saw Aratus up in the sitting-room, after I was there but a few minutes; his appearance was very pale, and it struck me as remarkable, and made me feel bad, though I said nothing; never saw such an appearance on his countenance before; he came down into the basement; Bullock came to the house, but don't think Aratus was in the room when Bullock came; I was in the basement and Aratus came down and acted like a crazy man; rung his hands, walked the floor, and leaned his head upon the partition, and continued this for some time; he sighed very heavily, breathed hard, and looked very pale; remained in the basement a little while and then went home; I bid him good evening; I took hold of his hands; they were very cold; I did not say anything to him; I saw he felt bad and therefore said nothing to him; never saw him in that condition before.

Cross-examined :—First saw him in the sitting-room ; he came in while I was there ; noticed he was very pale ; he said nothing ; I think his mother was there ; don't know where he came in ; don't remember whether he said good evening, or whether I spoke to him ; did speak to his mother about his looking pale ; did not inquire if he was sick ; had seen him at home a day or two before this Saturday evening in question ; was only a few minutes in the sitting-room ; he walked the floor and said nothing ; his hat was not on ; never saw him walk the floor before ; I can't tell whether he walked the same as he usually walks ; his mother was in the basement when I went down ; left his father with him in the sitting-room ; when Aratus came down to the basement room he walked the floor ; rubbed his hands ; he did not rub them while in the sitting-room ; I was entirely silent ; never before seen him under any trying circumstances ; he did not sit down while I was in the basement-room ; he would continue to lean against the wall about a minute or so, and then walk the floor again ; he walked quite fast ; did not notice his heavy breathing in the room above ; only noticed this in the basement-room ; the ringing of the hands was continued all the time ; when I went to shake hands with him, he stopped to shake hands with me ; I spoke to him and told him to bear all his trouble with Christian fortitude ; all I observed about his face was that it was pale.

Re-direct :—First saw him when he came home from Chicago ; there were none of these unnatural manifestations observed then by me.

Ellis F. Pierce, sworn and examined by Mr. Farnell :—Reside in Lockport and have since 1823 ; myself and family are living on Main street ; have lived there since 1837 ; Aratus was born at that house ; have two children, Harriet and Aratus ; my business has been foreman on public works ; from 1865 to 1870 was absent from home nearly all the time at Erie, Buffalo, Oil City, Pa., and at the head of Lake Huron ; Aratus had charge of the family, and I entrusted to him its management after he came from the war ; while Aratus was at Chicago I was part of the time four miles below Schenectady ; during that time my wife and Harriet were the only members of the family at home ; Aratus came home on some occasions while he was at Chicago ; I sent for him to come ; I was in the habit of consulting him always on important business matters ; recollect at the time when the street was cut down in front of our house ; I telegraphed for him to come. (The telegram was produced, and is dated May 30, 1871.) I wanted to consult him about the cutting down of the street ; before he came home and at the time he was at home ; knew of William Bullock coming to our house ; when Aratus was home in May, 1870 ; myself and Aratus had a conversation relative to the conduct of Bullock and Hattie, and made inquiry as to the motives of Bullock in paying attentions to her ; I told Aratus that I wanted to be sure before he went away that he knew what Bullock's intentions were and his motives in paying attentions to Hattie ; told Aratus that my wife told me that Bullock was in the habit of associating with Harriet and had been since the winter before, and I was anxious to know what his intentions were ; don't know that Aratus was home again ; he came last March ; up to the time he came

home in March last ; his practice was always to help the family peculiarly and I looked upon him as a dutiful son ; I never had occasion to doubt his dutifulness ; he always went to school with his sister whenever they attended the same school ; he always went with Harriet to places of amusement ; in March last when he came home, I sent for him ; he came I think on Wednesday ; Bullock came to my house that night (Wednesday night) ; he had an interview there with Harriet and Aratus ; I was in the room ; am deaf and could not hear what was said ; Bullock was there a couple of hours ; I told Aratus the condition I supposed Harriet was in ; after this interview with Bullock on Wednesday night, Aratus went away the next morning ; he told me he was going to New York ; he told me about his arrangements to get married ; he came back on Saturday evening ; I saw him when he came home ; was with him some portions of Saturday evening ; I was at home all that evening except I went down to the city to do some marketing ; I noticed that he was extremely excited ; he looked pale ; he would sit down a moment, then get up, and was crying all the while (here the witness was overcome with emotion and shed tears) ; he wanted to know from me for God's sake what would become of us ; portions of the time he would be pale as death, and then he would be flush ; he tried to compose himself ; I saw Bullock that Saturday evening ; it was between 9 and 10 o'clock when he came ; he remained until about 11 o'clock ; know that Aratus and Bullock conversed together ; could not hear what they said ; they conversed all the time from the time Bullock came until he left ; they would stop at times, and then commence to talk again ; Harriet was in the bed in the next room ; the door of the room was open at the time ; when the conversation stopped Aratus would move a good deal and manifested uneasiness ; a great deal of the time while Aratus was talking with Bullock he was crying ; never before saw Aratus in the condition he was that night ; I was in the room when they went out of the house ; nobody was there but my own family ; during all the time that Bullock was there I saw no manifestations of violence on the part of Aratus ; when Aratus came home on this occasion I had a revolver in the house ; it was originally mine ; I gave it to Aratus before he went to the army ; it is a Smith & Watson six-shooter, too large and heavy for a pocket pistol ; that pistol was at home from the time he went in the army and after he came home, and up to the time he went to Chicago.

Cross-examined by Mr. Andrews :—My son and daughter went to school together ; my son's age is twenty-nine ; my daughter's age is thirty-one in last January ; saw my son on the night of the 11th before I went down to do the marketing ; don't recollect at what time ; I can't tell whether I sat down in the room with him ; these singular actions of his were manifested after I done the marketing ; I got home about 8 o'clock ; I saw these actions of Aratus before Bullock came ; can't tell how long I was in the room with Aratus after I had done the marketing and before Bullock came ; I think I had a conversation with Aratus after I came from marketing and before Bullock arrived ; I asked him or he asked me whether Bullock would be here that night ; I think I told him I thought Bullock would be here ; can't tell whether Harriet was present then ; don't think he said anything to me while Bullock

was in the room ; before Bullock arrived I noticed him walking the room, sitting and getting up, crying and exclaiming, " Oh, my God, what will become of us." (Here the witness was again deeply moved and shed tears.) He made use of the expression, " My God, what shall become of us," more than once ; he and I were alone in the room then ; we were in the room alone before Bullock came, about three-quarters of an hour ; my wife was in the basement and Harriet in the bed-room in the bed ; noticed nothing but these manifestations, which was different from his ordinary manner ; saw Mrs. Bennett there that evening ; don't recollect whether Aratus was in the room when she was ; after Bullock came I think I remained most of the time in the room with him ; Aratus was there, also ; Mr. Bullock sat at the door between the room where Harriet was and the sitting-room where I was ; Bullock went into the room where Harriet was ; he went there immediately after he came ; while he was in the bed-room, I was in the sitting-room ; Aratus went into the bed-room, also, while Bullock and Hattie were there ; they remained about ten or fifteen minutes ; the principal part of the time they were in the room with me ; Aratus and Bullock kept up a constant conversation ; they appeared to be very anxious and decided while conversing ; they were sitting ; they did not sit all the time ; Aratus was up and down frequently ; would walk back and forth in the room and keep up the conversation some of the time ; he would then take a seat again and resume conversation ; Aratus was crying a part of the time while conversing with Bullock ; I did not interpose to inquire about what he was crying for ; never saw Aratus crying in that state before except the Wednesday night before that when he returned from Chicago and found the condition of Hattie ; never saw him in any special trouble before ; there was nothing else in his manner that I had not seen before excepting these manifestations.

Mrs. Louisa J. Pierce, sworn and examined by Mr. Farnell :—Reside in Lockport. My name was Louisa Jane Harrington before my marriage with Mr. Pierce. Was born in Royalton. My father's name was John Harrington. My mother's name was Hale before her marriage. She is still living. My sister Liddie was the oldest of the family. She was a young lady when she died. She died in Royalton. She was 25 years of age when she died. My sister Harriet died when she was 8 years of age. My brother, Henry Harrington, lived in Buffalo. He was at home until he was 16 years of age, then went to Utica. Learned a trade and then went to Buffalo. He died in the asylum at Utica. Mrs. Mary Wright was the next member of the family. She resides in this city. Mrs. Williams was the next one. She is now dead. Mrs. Dr. Bristol was the next member. She was Dr. B's first wife. She is now dead. I am the youngest living member of the family. My father died when I was about three years old. I never had any children except Aratus and Harriet. They were always together since they were quite small. He never would allow her to go with any one. He always took her every place up to the time he went to the army. He lived at home. While in the army he remitted his earnings to me. He always took care of the family like a father. After his return from the army he went to work for Mr. Breyfogle, and he then again boarded at home. My husband was most of

the time away. Aratus had charge of the family, produced all the necessities. Was always kind and affectionate. (Here the witness was overcome by her feelings and shed tears). Aratus came home from Chicago in June to have a consultation about the street in front of the house. Bullock commenced to pay attentions to Hattie at the time of the Hammond meetings, the spring previous. When Aratus came home we had a conversation about Bullock and his attentions to Hattie. Aratus did not again come home until March last. Recollect Harriet going to visit Aratus at Chicago the first season he was there. He always wrote to his sister every week, and she to him while he was away, and that continued up to the time of his return in March. Harriet went to Chicago to work in September, 1870. She was gone until the February following, when she came home. After the time she came home, and up to March, 1871, she was never seen outside the gate. After she came home Bullock came to the house to visit her.

Here the Court announced a recess until 2 o'clock P. M.

AFTERNOON SESSION.

S. N. B. Gates, sworn and examined by Mr. Farnell:—Reside in Albany; have been there a few months. Keep books for the W. U. Telegraph Co. Have with me a telegram from Mr. Pierce, sent to Field, Leiter & Co., from Albany to Chicago, stating that he would reach Chicago Monday morning, March 13th, 1871, and signed A. F. Pierce. Got the dispatch from the files of the office at Albany, and brought it here in pursuance of a subpoena from this Court. The dispatch was offered in evidence.

Witness was not cross-examined.

Mrs. Louisa Pierce, recalled and examined by Mr. Farnell:—Aratus came home from Chicago in March last, on Wednesday, about 7 P. M. I met him in the door of the house as he came in. I said to him immediately, "Oh, my God! what will become of us." Mr. Bullock came to our house that night; he might have remained one hour or more. Aratus stated to Mr. Bullock that he had business east, and that on his return he would see him again. When Bullock was at our house that evening, he and Aratus were talking about the subject of Hattie's condition. He said he would bring a basket there and clothing from his mill, and if it was a bright-eyed boy he would bring it up, if not, he would dispose of it. (Here the witness spoke with great emphasis, and exhibited much feeling, but was admonished by the Court to repress her feelings and answer the questions of counsel). I met Aratus when he came home from the east on Saturday evening; met him at the door and kissed him. Bullock came to our house about 9 o'clock that evening. I was in the basement when he came. I opened the door for him and went up stairs. Aratus was at the house then. Before Bullock came there that evening, Aratus manifested much feeling, and was constantly crying, "Oh, God! what will become of us." When Aratus left the house that night, I did not see him again until he was in prison. My brother died in Utica. I recollect the occa-

sion of the death of my sister, Mrs. Bristol. My brother came there to the funeral. It had a powerful effect on him, and he became insane and died in the Utica Insane Asylum the following winter. My other sister, Lydia, died when she was twenty-five years of age; when she died, and prior to that time, she was insane. I had another sister, Mrs. Williams, of Buffalo; she is dead; whenever she had sorrow, she would be deranged. Dr. McCollum attended her. Dr. McCollum has also sometimes attended me; he has been at our house to see Aratus. My father's family was born in Connecticut.

Cross-examined by Mr. Andrews:—I was about fifteen or sixteen years of age when my sister Lydia died; she died at Royalton; she was out of her head when excited; perhaps some years before her death; she would ring her hands and walk the room with face pale; trouble would excite her; she become insane when my mother lost her property. My brother became insane at my sister's funeral; he was in good health before that time; I saw him after he became insane; he was then in Buffalo; he would ring his hands and walk the floor; you could not get his mind on any subject; he was at Utica about six weeks; I was never there to see him. On Saturday night, the 11th of March, I was the greater part of the time in the room with Aratus and Bullock. Don't remember whether they left the room until they went down street together. Mr. Bullock invited Aratus to walk down the street with him. Don't remember what time of the evening it was. Don't remember how long Aratus and Bullock conversed together. Bullock had a conversation with Harriet. Aratus wanted Bullock to marry Hattie, and he would not do it. Bullock said he would fetch a basket from his mill and clothing for the child, and if it was a boy, he would bring it up, and if a girl, he would dispose of it. Don't know what reply Aratus made to Bullock when Bullock invited him to walk down street with him. Hattie's condition was talked over on Wednesday evening when Aratus came, and also on Saturday evening. Don't remember whether the basket was talked of on both evenings. Bullock said he could not marry Hattie, on account of fear of his sister.

[Here Mrs. Pierce was overcome by her feelings and sobbed aloud, and called on the gentlemen of the jury to save her dear son. Every person in the Court-room was deeply moved, and many gave way to their feelings in tears.]

Mrs. Mary E. Wright, sworn:—Reside in Lockport thirty-six years. Am sister of Mrs. Pierce. I live close to Mr. Pierce's house. Have resided there about thirty years. Known Aratus and Harriet from the time of their infancy. Recollect the occasion of seeing Aratus when he came home last spring. My attention was called to him by another. He was in his door-yard. He looked very strange. He was very pale. He looked up all the time. I was struck by his remarkable appearance. Then he went round to the back part of the house, and my attention was called to him again by his measuring the depth of water in the cistern with a long pole. This was on Saturday, about 4 o'clock. Bullock was shot the same evening. I am older than Mrs. Pierce. Recollect the death of Mrs. Dr. Bristol, my sister. She died at my house. Know my brother, Mr. Harrington, came to the funeral of my

sister. He appeared very sad during the funeral—so much so that I noticed it. I saw him after that funeral, in the fall following. The funeral was in May.

[Here the counsel offered to show that Harrington was reported to be insane a very short time after the funeral referred to, but the Court ruled it out.]

Saw Mr. Harrington in Buffalo a short time after this funeral. He perspired freely and was very reticent.

[The counsel offered to show that it was a fact well known in the family that Harrington was sent to Utica Asylum and there treated as an insane person, but the Court ruled it out.]

Am acquainted with my sister, Mrs. Williams. She is younger than I. Dr. McCollum sometimes attended her as a physician. Her condition at times was spasmodic. She had spasms. They would sometimes last two days. She would tear her hair and pull things. Observed that after these spasms my sister would have no recollection of what transpired. She would say where have I been, or what makes me feel so strangely. This was her condition about two years prior to her death, and continued up to her death. It is about twelve years since she died. I was with her when she died. She died in Buffalo. My sister, Mrs. Pierce, has always been a nervous and excitable person.

[At this point Mrs. Pierce was overcome by her feelings and sobbed loudly, crying frantically, "My Lord, save my son! My Lord, save my son!" She had to be led from the Court-room.]

Cross-examined by Mr. Andrews:—It was on Saturday, March 11, that I noticed Aratus in the manner described. When I first observed him he was looking up. I was about 15 feet from him, facing him. I saw as he looked up I noticed his eyes larger and brighter than usual. Never saw him before looking up in that manner. Nothing more about his eyes than that I could see more of the ball of the eye than when he did not look up. His face was pale. Observed him on that occasion for a few minutes. About five minutes after that my attention was called to him putting the stick down in the cistern. He took it out again and then left our sight after a moment or two. Henry Harrington, my brother, came to my house, and he did not seem to want to talk with us. He appeared to feel bad, and seemed odd; could not tell exactly but he did. He seemed more sad than when he was here before. When I saw him in Buffalo he perspired freely, and would sit in the chair only a short time, then get up and sit down again. Mrs. Williams commenced to have spasms about two years before her death. When in those conditions she wanted to pull her hair and tear it. Sometimes she was prostrated and unable to move, then she would recover and could not remember what transpired while she was in the spasms. Was with my sister only once or twice when she was first taken with spasms. When she had the spasms Dr. White, of Buffalo, attended her.

Re-direct:—My brother was present when Mrs. Bristol died.

Kate Williams, sworn and examined by Mr. Farnell :—Reside in Lockport and have for eleven years. The last witness is my aunt. Am acquainted with Aratus Pierce ; was well acquainted with him after he came back from the army ; saw him on the Saturday of the shooting, in the afternoon about 4 o'clock ; he was in the yard at his father's house ; his appearance was very strange ; he looked very pale ; his eyes large and he looked very wild ; I called the attention of my aunt to him ; looked at him a few minutes ; don't know exactly how near I was to him ; he was then in the front yard ; saw him afterwards in the back part of the yard ; he took a pole and put it down into the cistern as though measuring it ; he then went into the house ; never saw him at any time when he had an appearance like this.

Cross-examined by Mr. Andrews :—He looked pale and his eyes large. I was but a short distance from him. His countenance looked wild ; he was pale. Did not notice any change of his mind. Never saw him look up into the sky before. Saw him putting the pole into the cistern. Did not notice him do anything else. He looked the same as when I first saw him. Could not see his eyes.

Mrs. Hattie Pierce-Bullock, sworn and examined by Mr. Farnell :—Reside in Lockport. In 1868 I went to Chicago to visit my brother. I remained there about four weeks. I boarded during that time at Alfred Day's ; my brother boarded there, also. I returned home from there. I afterwards went back to Chicago in August, 1870. I remained in Chicago till some time in last February. I returned home. While in Chicago I first stopped at the Tremont House ; remained at that house from Wednesday until Friday morning, when my brother made arrangements for my board at Mr. Fanchard's. I went there. I was employed in the cloak department at Field, Leiter & Co's. My brother was in the wholesale shawl department. He was always with me in the evening, unless he had some pressing engagements ; he also went out with me. Before I went to Chicago I was employed here at Tyler's, and also at Breyfogle's. My brother and I went always together from the time he was a lad. While he was in the army he corresponded with me regularly, While in Chicago he wrote me every Sabbath and I replied the next Sabbath. While he was in the army, and also while in Chicago, Aratus remitted money for the benefit of the family. Recollect my brother was sent for to come home in June, 1870. He had a consultation with me in reference to Bullock. He asked me what Bullock's intentions were, and I told him from what Bullock said to me I thought his intentions were honorable. My brother and I visited the house of Bullock for the purpose of his becoming acquainted with him. My brother was not previously acquainted with Mr. Bullock. When I went to Chicago in August, 1870, Aratus and I talked about Bullock promising to marry me. I came home in February, 1871. My brother came home the March following. I told my brother at Chicago that Bullock promised to marry me. The time my brother came home in March last was on Wednesday, about 7 o'clock in the evening. At the time when he came I conversed with my brother. Bullock came there that evening ; it was about eight o'clock. Have no knowledge of Bullock's being sent for. When he came there was an interview between my brother, Bullock, and myself. It lasted about two hours. My

brother came into the room where Bullock was, and said he was very much surprised to see me the way I was. Bullock said, "Why so?" My brother said, "I was not aware of Hattie's condition before." He asked Mr. Bullock if he was the cause, and Bullock said he was. He asked Bullock what he intended to do, and Bullock said he intended to marry me when my trouble was over. He asked him if he thought he had done right, and on that subject Bullock had nothing much to say. Bullock asked my brother how long he was going to remain in the city, and my brother said he was going to return to Chicago on Sunday at noon. Bullock thought that as it was all a secret, the child should be hid in secret, and that its birth should never be known. My brother asked him if he thought that was right. During this interview, that is the substance of what was said. My brother asked him why he did not do as he ought to. Bullock hesitated, and said that it was better to wait until after my trouble was over. My brother asked him what were his reasons for this, and Bullock said he never wanted it known that he was compelled to marry a girl; he did not want his mother to know it; also, he did not want a Mr. Clark at Albion, who had done a good deal for him and had a good deal of confidence in him, to know it. First became acquainted with Mr. Bullock at the Presbyterian Church, during the revivals of Rev. Mr. Hammond; his sister introduced me to him. My brother was in Chicago at that time. After Bullock had been introduced to me he made it a practice to call at my house on Wednesday and Sunday evenings. When I was busy at the store in the evening he would call there and accompany me home, but that was very rare; he accompanied me to church and sat in my pew. Aratus came from the east on Saturday; saw him part of the time. Bullock came to the house about 9 o'clock. The condition of my brother was strange; he appeared very well; he had a strange look out of his eyes; he was very pale. I noticed this on Saturday. When he was in the room with me he was talking all the time about my condition, walking the room and crying; had never seen him before in that condition. Crying was a very unusual thing for him. This was his condition on the evening of the shooting. On Saturday evening when Bullock came, he came into my bed-room and asked for my brother; I told him he was in the house. My brother then came. They went into the adjoining room and a conversation ensued, in substance, as follows: My brother asked Bullock what he intended to do; he said he intended to do as he told him before—marry after my trouble was over. My brother asked him why he did not do as he promised, and Bullock said it would put him in a very embarrassing position just now. My brother said he did not think this was right. Bullock said he thought there would be no harm in it if no one knew it; my brother thought such an action could not be hid. Bullock asked me if I was satisfied with what he told me before; I told him I was not. Bullock asked me if I had lost confidence in him, and I told him I had. Bullock said that he would take the child away; if it was a smart, bright-looking child he would adopt it in a year or so; if not, he would dispose of it. During this conversation my brother sat in the rocking-chair, crying incessantly. He told Bullock he thought he did not do right. Bullock said as he said before—he did

not want it said that he was ever compelled to marry any lady. Bullock was seated all the time during the conversation. My brother would at times get up and walk the floor. This interview lasted about an hour; it might have been more and it might have been less. At the time of this interview Bullock said he was not in pecuniary circumstances to marry. My brother said money was no object, as he would help him all he could. I got out of bed and went into the room before they left; I sat in the rocking-chair. Bullock asked my brother to walk down street with him. I told my brother to put on his overcoat, as it was raining. They then left the house, Bullock bidding me good-night as they left.

Cross-examined by Mr. Andrews:—No one was in the room with Bullock and my brother during the conversation referred to. My mother was in the room with me. Mr. Bullock told my brother in the conversation on Wednesday that I was satisfied before he (my brother) came from Chicago. On Saturday evening the question was put to me, in presence of my brother, if I was satisfied, and I said I was not.

Ellis F. Pierce, re-called and examined by Mr. Farnell:—I had brothers, one sister; had an aunt; never saw her but once; was at the house; stayed one day and a night; could not converse with her; she sometimes talked rationally, and then again she was very deranged and confined in a room; my brother took me to my uncle's to see the crazy aunt; she died, as I was told, 10 or 15 years ago; this was about 5 or 6 miles from Bath, N. Y.; I was 21 when I saw her; I am 64 now.

Cross-examined by Mr. Andrews:—Did not see my crazy aunt but once; did not hear her say anything; she was sitting still most of the time; don't know that she said anything; I saw her talk with one of the females that took care of her; saw the females feed her.

Dr. William McCollum, sworn for defendant and examined by Mr. Farnell:

Ques.—Where do you reside?

Ans.—In Lockport.

Ques.—How long have you resided in Lockport?

Ans.—Twenty-six years.

Ques.—Are you now and have you been for many years a practicing physician and surgeon?

Ans.—Yes, sir.

Ques.—How many years?

Ans.—About thirty-seven or thirty-eight years, I think.

Ques.—Are you acquainted with Mrs. Samuel Wright?

Ans.—Yes, sir.

Ques.—Are you acquainted with Mrs. E. F. Pierce?

Ans.—Yes, sir.

Ques.—Were you acquainted with Mrs. Williams, sister of Mrs. Wright and Mrs. Pierce?

Ans.—Yes, sir.

Ques.—Were you acquainted with Henry Harrington, a brother?

Ans.—I was not.

Ques.—Were you called upon to see Mrs. Williams at different times?

Ans.—Yes, sir.

Ques.—Can you state about what time it was—how many years ago?

Ans.—I think my first attendance upon her was twenty-four or twenty-five years ago.

Ques.—Did you see her at different times in Lockport when she was sick, or when she was laboring under what you called a mental difficulty?

Ans.—I never knew her laboring under any special mental difficulty; she had attacks of hysteria, and her mind was a little wandering, but I didn't suppose at the time it was any mental difficulty.

Ques.—When did you last see her?

Ans.—I cannot tell you. She removed to Buffalo and lived there many years. I remember of her being taken ill at Mrs. Wright's, I cannot tell how long ago that was.

Ques.—Can you tell the difficulties she labored under then?

Ans.—They were mental; from domestic trouble, I suppose.

Ques.—It was a mental difficulty?

Ans.—Yes, sir.

Ques.—From excitement, brought on by trouble?

Ans.—Yes, sir.

Ques.—Do you recollect on the occasion which you refer to when you saw her at Wright's, about how long she was there?

Ans.—It was not long, a day or so.

Ques.—Do you recollect about how long you were there, that is, about how long, about what length of time?

Ans.—I don't.

Ques.—You didn't make any entry of the fact, but you recollect the fact?

Ans.—Yes, sir; I charged, but what the bill was I don't know.

Ques.—Can you describe her condition?

Ans.—As near as I can recollect, she would pass into an unconscious state and toss herself about, and perhaps pull her clothes and pull her hair and talking very much disturbed.

Ques.—Are you acquainted with Mrs. Pierce, the mother of Aratus?

Ans.—Somewhat.

Ques.—Seen her often?

Ans.—Yes, sir; I have seen her frequently.

Ques.—Are you acquainted with her temperament?

Ans.—Somewhat.

Ques.—To what temperament does she belong?

Ans.—Billious nervous, I should say.

Ques.—From your acquaintance with her temperament, and with her personally, what do you say as to her being a very excitable temperament?

Ans.—I should think was a *very* excitable; I think a good deal more than ordinarily so.

Ques.—Are you well acquainted with Mrs. Mary E. Wright?

Ans.—Yes, sir.

Ques.—What is her temperament?

Ans.—Of the same temperament, but quieter. Belongs to the family of billious nervous temperament.

Ques.—Are you acquainted with her daughters?

Ans.—I am, sir.

Ques.—What is their temperament?

Ans.—Very much the same temperament runs through the family, billious nervous or nervous billious.

Ques.—Do you know, or have you known, the mental conditions of those cousins, the Wrights?

Ans.—I do.

Ques.—And the daughters of Mrs. Wright?

Ans.—Yes, sir.

Ques.—How many are there?

Ans.—Two. They are of the nervous billious temperament.

Ques.—Do you know what has been the condition of one or both of them—the mental condition within the last three or four years?

Ans.—Yes, sir. The older one, Miss Lydia Wright, has been very much out of health and quite insane for a year or more; she had slight attacks of ill health before that, but never anything that made her really insane until nearly two years ago.

Ques.—They were living near Pierce?

Ans.—Yes, sir; their places joined.

Ques.—How is the other?

Ans.—Her health is good; nothing noticeable about her.

Ques.—Lydia is a cousin of the defendant?

Ans.—Yes, sir.

Ques.—What temperament do you designate as the temperament of Aratus F. Pierce?

Ans.—The same, nervous billious; that is, as far as doctors can determine about persons.

Ques.—That is this angular, dark complected?

Ans.—Yes, sir.

Cross-examination:—Ques.—Did you know Lydia Wright's father?

Ans.—I did, sir; very well.

Ques.—Did he commit suicide?

Ans.—I suppose so.

Ques.—When did that occur?

Ans.—It was a year ago last July. I wouldn't be sure of the time, but I made a memorandum of it at the time, but I cannot recollect.

Ques.—What was *his* temperament, sir?

Ans.—His was more the nervous sanguine, according to the books on phrenology, that would be about it.

Ques.—You stated that Mrs. Williams a good many years ago had attacks of hysteria, and when in that condition her mind wandered?

Ans.—Yes, sir.

Ques.—That is common?

Ans.—Not uncommon.

Ques.—Under attacks of that description?

Ans.—Yes, sir.

Ques.—Afterwards you say you saw her in a mental condition that was not favorable, when was that?

Ans.—I don't know when it was; perhaps three or four years ago, and perhaps it was the first time I saw her.

Ques.—That was the time she would pass into an unconscious condition?

Ans.—Yes, sir.

Ques.—Consider whether the temperament of William Wright would not come under the class of nervous billious?

Ans.—It was nervous, but not billious.

The Court here took a recess until Monday morning.

FIFTH DAY.

MORNING SESSION.

Frederick Hunting, sworn and examined by Mr. Farnell :—Reside in Chicago; I formerly resided in Lockport, and was in the employ of Mr. Breyfogle; was acquainted with Pierce in Chicago; was employed in the same store with him—that of Field, Leiter & Co.; there were 780 clerks in the store; Mr. Pierce held the second position in the store; his sister Harriet was employed in the same store; Mr. Pierce's conduct was perfect; he was very affectionate and attentive to his sister; never knew of his manifesting a revengeful disposition or any kind of vice.

Witness was not cross-examined.

Harry H. Moore, re-called and examined by Mr. Farnell :—On the night of the shooting was on the street; met Mr. Pierce corner of Cottage and Main streets, in custody of the officers; his appearance was such as I never saw him in before; his face very pale, hair flying in the wind, and he was much excited; he gave no indications that he recognized me at all, though he and I were very intimately acquainted.

Cross-examined by Mr. Andrews :—I came down Cottage and met him at the corner; he was on Main street; the night was such that I could recognize him; could also recognize the officers; Mr. Burgess on one side and Mr. Donnelly on the other; did not speak to Pierce nor to the police at that time; my wife and I stopped there and they passed on; could not say whether it was windy; his hair was confused; he had no hat on; did not hear him speak to the officers; did not hear the officers speak; I think the officers had hold of his arms; could not see anything else about his countenance; my opinion of his excitement is drawn from the fact of his being without a hat and his looking pale.

John Humphrey, sworn and examined by Mr. Farnell :—Reside in Lockport and have for 20 years; known the defendant for 14 years; saw him on the night in question, soon after the shooting; saw him but a moment; his appearance was such that I should not know him at first look; he was pale and eyes bright; never saw him look so before.

Cross-examined by Mr. Andrews:—Saw him as was about to leave; he might have been in the office a minute before he left; had seen him within a year before that, and think I have talked with him; I think he had a cap on when he left for the jail; when I looked him in the face; can't tell whether I stood in front of him; saw him in the face; can't tell exactly, but think he had a cap on with a very wide front; he was facing the south, and away from the light when I saw him in the face; don't remember whether Mr. Southworth was there at the time; I thought his eyes looked smaller than usual on that occasion; can't describe it exactly, but they looked sharp and wild to me; did not hear him say anything, nor did I hear anyone speak to him; his eye-balls did not look half the usual size to me; I suppose I might have been deceived about this, and they were as large as usual; I was not excited.

Cornelius Teachout, sworn and examined by Mr. Farnell:—Reside at Waterford, N. Y., and have for about 15 years; am a carpenter; acted as under-sheriff for a number of years; have a daughter named Jennie; she was in Chicago a year ago; she was there about a year and a half altogether; she came home about a year ago; saw Mr. Pierce at my house on the 10th of March, 1871; he was there in the forenoon; he asked permission of me to marry my daughter; I talked it over with him, and we set the marriage for the June following; he left my house in the evening at about 8 o'clock; I heard from my daughter, before Mr. Pierce came, that she was engaged to be married to Mr. Pierce.

Witness was not cross-examined.

Aratus F. Pierce, sworn and examined by Mr. Farnell:—Was born in Lockport; am 29 years of age; had been employed at S. M. Winer's, in Lockport, about $4\frac{1}{2}$ years, learning the dry-goods trade and selling dry goods; went there when I was about 14 years of age; after that I attended one term at the Union School; then engaged at Cook & Tyler's to sell dry goods for them; was in their employment some time over a year; my sister was employed there also, in the millinery department; after leaving there I engaged with Mr. Breyfogle and remained a year, until I enlisted in the 19th N. Y. Battery, in August, 1862; was 2 years and 10 months in the battery; I first enlisted as a private; was then promoted to Quarter-Master Sergeant (witness described the duties of Quarter-Master Sergeant); before I was in the army have had attacks of pneumonia; had an attack of it while in the army, while at Suffolk, Va.; was off duty 14 days at that time; had an attack of it in the fall of 1865, after I came from the army; was sick then about four weeks; Dr. Kittinger attended me as physician; after I came from the army was engaged at Breyfogle's; remained there until March, 1868; my sister was there when I left; while I was in the army I corresponded regularly with my family; whenever I had an opportunity I always remitted them my pay; after I came from the army my father was absent from home most of the time and I had charge of the family; in 1868 I went to Chicago and was employed in the establishment of F. N. Hammond & Co., on Lake street; was there about six months and then went to work for Field, Leiter & Co.; was in the cloak and dressmaking department when I first went; remained in that department until June, 1870; it was a retail department; I went to the

wholesale shawl department to fill a vacancy as assistant superintendent in the wholesale shawl department; never knew Field & Leiter until I went into their employment; it is the largest house west of New York City, and I think the third house in the country; while I was in Chicago I came home twice; know Asher Cudaback; when I went to Chicago I borrowed a pistol of him; know Harry Bowers; he boarded in Chicago at the same house with me; I borrowed a pistol of him when I came home; I was in the habit, since I was in the army, of carrying a pocket pistol; they employ watchmen in the store of Field, Leiter & Co.; there was always a pistol kept in the desk; Harriet came to Chicago in August, 1868, and boarded at the same house with me, and stayed three weeks; she came again in the latter part of Sept., 1870; when she came first she stopped at the Tremont House; the next evening after she came I got her a boarding-house; I got her a situation in the store of Field, Leiter & Co.; she worked until December, 1870; while she was there I always made it a practice to call at her boarding-house and spend the evening with her; while I was there I became acquainted with Jennie Teachout, in May, 1869; she worked for J. B. Shea; she remained in Chicago until August, 1870; during the time she was there I became engaged to be married to her; I told her I should see her parents before we were married, and get their consent; the first acquaintance I had with Wm. Bullock was in the summer of 1869; saw him at my father's house; knew him by sight before, but was never introduced to him until then; remember when I received a telegram to come from Chicago, with reference to a street that was being cut down; had a conversation with my father, mother and sister with reference to Bullock's attentions to Hattie; I had understood he had been paying his attentions for two years, and she told me she thought his intentions were honorable; I thought so too, and I had no objections to him; knew nothing of her situation until I reached the (my father's) house, in March last; my mother told me first of her situation; we had a conversation about it; when I came from Chicago at that time, I received a letter from my father to come home on business connected with the family; when I came, I came with the double purpose of seeing my father, and also Mr. Teachout on the subject of my marriage; I borrowed a pistol when I left; the pistol was handed to me and I had reason to suppose it was loaded; I put it in my pocket—in my inside coat pocket and brought it with me; had an overcoat; I next changed it and put it in my overcoat pocket—outside right-hand pocket; when I first came home, on the first evening, I saw Bullock and had an interview with him on the subject of the condition of my sister, and of his marrying her; he came to my house and came in through the basement; he went to my sister's room and I went there, shook hands with him and told him I was sorry to find this condition of things; I asked him if he was the father of that child and he said he presumed he was; I said I wanted no presuming about it; I wanted a direct answer; he then sat down; I told him I thought he could not be guilty of a thing of that kind; I had always placed confidence in him; asked him what his intentions were and he said he would marry her after the child was born and her troubles over; I asked him what he intended to do with the child, and he said he would attend to that;

that he would take it away, and that he wanted it kept as still as possible; asked him if he thought that was an honorable way to do such a thing, and he said it was as well to do it that way under the circumstances; I said I did not think so, and asked him why he did not want to marry her now before she was confined; he said he had several reasons, and I asked him what they were and he said one was he would not for the world have his mother know it; the other reason was that he thought it would injure his reputation and also injure him in his business; I asked him if he wanted my sister to take the whole disgrace of this thing on herself until some future time when he felt disposed to marry; he said he did not know as it was a disgrace; that when the child was born we would have it disposed of and kept as still as possible; I told him I did not think that was the way to do that kind of business; I had always lived here in Lockport and that Hattie was known as a sister of mine; that as long as I lived here I had always endeavored to live an honest and honorable life, and that so far as this case was concerned, I thought the only thing he could do was to marry her at once; he said so far as that was concerned, he thought it was just as well to leave it as he had proposed; I did not think so, if he did; he then asked me how long I was going to remain in the city; I told him I should leave the next day for the east; I think he stayed at the house until about half-past ten; that was the only conversation we had that evening, other than that I would return on Saturday, and I hoped we should make some definite arrangements then; he said he would call next day, Thursday; in the evening I left for Albany, and got there about 7 o'clock next morning; when I got to Albany I telegraphed to Marshall Field, at Chicago, that I would be there on Monday; I intended to go, certainly; was on Friday at Waterford, N. Y., the greater part of the day; while there I saw Mr. and Mrs. Teachout; it was talked over about my marriage; asked Mr. Teachout's consent, and he gave it; arranged the day of the month; remained there until it was time to take the evening train for Albany; missed the train, and took a street car; left Albany about 11 o'clock; got a ticket for suspension Bridge; got a lay over check, (check produced by witness); when I got to Lockport Mr. Wertman took me to my house; I asked him to call for me in time for the train next day; I intended to go to Chicago, and for him to be sure and call for me; I was at the house talking with my mother and sister all the afternoon; saw Dr. Fassett that evening, about 5 o'clock; knew Mrs. Bennett; I think I saw her that evening at our house; I saw William Bullock that evening; think it was about 9 o'clock; I had a conversation with him that evening; asked him if he had thought this matter over; he said he had; asked him what conclusion he came to; he had not come to any more conclusion than he had the day before; asked him if he had any particular reason for not marrying my sister now, or before she was confined, and he said he had asked him if they were any different than on Wednesday evening; he said there was one particular reason; he had made up his mind that he never wanted it said that he was compelled to marry any girl; another reason he gave was that his business was such that he could not get married as he wanted to; I told him in a case like this money was no object; I was willing to do all I could for

him ; give him my earnings, if necessary, rather than have a disgrace of that kind come on my family ; he spoke of a gentleman in Medina who helped him considerably, and if he knew anything of that kind he would lose confidence in him ; I asked him if there was any other reason, and he said he would not for the world have his mother know ; that was all the conversation until he came to leave, and he asked me if I would not walk down town with him ; I told him I would if I wish to ; I put on my overcoat and walked down with him ; it was a cold, raw night when I left the house ; we came down Old Main street ; we had a conversation as we were coming down ; he opened the conversation on the improvements on the street ; I asked him if he supposed this thing could be kept as quiet as he supposed, and he said he thought it could ; I asked him if he did not think he was doing a great injustice to my family, and he said he did not, and then he assigned as the reason why he would not was on account of his pecuniary matters ; I again told him I would agree to furnish him all the money he needed for the present, that I would reduce my own personal expenses and give it to him rather than be disgraced myself, my family, and especially my sister ; he then made use of the same reason as before—that it was better to wait until after her sickness was over, and then he would marry her ; I then told him if he ever did marry her I hoped she would make him as good a wife as she was a sister to me, but I could never believe he intended to marry her ; I asked him if he knew her condition when she went to Chicago ; he said he did ; I asked him why he allowed her to go, and he said she would go and get rid of the child and then come back again ; I asked him who he supposed would take care of her, and he said he knew I was there and would take care of her ; I told him I was glad he placed such confidence in me ; he asked me if I intended to come east again this summer, and I said yes ; I told him I would take the train next day for Chicago ; as we came to the corner of the Bank he told me he should have to leave me ; I told him I did not feel that I could go back to Chicago and leave things in the condition they were ; I should be entirely unfit for business ; I asked him again if he would not marry my sister before she was confined, and he said he would see me in hell ; that was the last I recollect until I found myself in the custody of a man I did not know ; while I was passing up street with Bullock, I was under great grief and shedding tears ; had not heard from any source on what theory this defence would be put up ; to the time he said he would see me in hell first, I had not conceived the taking of his life ; I thought he had more humanity about him and that we should come to some definite conclusion ; did not carry the pistol with a view to inflict injury upon any one.

Cross-examined by Mr. Andrews :—The last I recollect after Bullock said he would see me in hell was when I found myself in the hands of a man ; could not tell at the time what street it was ; my impression is it was Pine street ; could not tell the precise place ; it might have been near the Continental ; could not tell how far south from Main street it was ; don't know who the officer was ; it was said it was officer Donnelly ; had not known him before ; Burgess might have been there ; my impression is there was only one man ; could not recognize any one ; my impression is there were persons there ; I was on the sidewalk ;

saw nothing of William Bullock at that time; first saw Bullock at the police station; we went down Main street to the station; did not pay much attention to where I was going; there were two men with me; don't know who took my pistol; don't know when it was taken from me.

Harry Bowers, sworn and examined by Mr. Farnell:—Reside at New Haven, Conn.; I resided at Chicago; lived in Lockport formerly; am acquainted with Pierce; boarded at the same house in Chicago; recollect when Pierce was coming home; on the occasion he borrowed a revolver; think it was in the spring of 1869; understood he was going on a journey.

Witness was not cross-examined.

Fay Haskell, sworn and examined by Mr. Farnell:—Have been running a line of hack in Lockport for a long time; recollect seeing Pierce last March at the depot; saw him as he took the train to go east; it was about three days before the shooting; I conversed with him at the depot; it was 6:42 P. M.; he told me he came from Chicago, and that he was going to Waterford, N. Y.

Witness was not cross-examined.

MANIA TRANSITORIA.

Dr. McCollum, recalled and examined by Mr. Lanning:—Have been a practicing physician for thirty-seven years; have, during that time, been in active general practice; have had, while in that practice, occasion to treat persons who were insane; standard authors recognize the fact that insanity is hereditary.

Ques.—I will ask you whether the strength of the hereditary disposition in the individual is increased by the number who have been found to be insane in the family?

Ans.—It is, sir.

Ques.—State whether a nervous temperament is likely to be one of the results of hereditary insanity?

Ans.—Yes, sir.

Ques.—State whether delirious or transitory mania is a condition recognized by medical authors?

Ans.—Yes, sir.

Ques.—Is that same term used by some authors as impulsive insanity?

Ans.—Yes, sir; impulsive and transitory.

Ques.—What temperament would be most likely to be affected by a nervous or emotional shock?

Ans.—The nervous.

Ques.—Is insanity often caused by a mental shock?

Ans.—As frequently as by any other cause, perhaps.

Ques.—Is Blanford an acknowledged medical authority?

Ans.—Yes, sir; I believe he is.

Ques.—A recognized authority?

Ans.—I believe he is acknowledged to be among the best.

Ques.—He is a professor of psychological medicine to St. George's Hospital, London?

Ans.—I believe he is.

Ques.—Have you examined what he says on the subject?

Ans.—Yes, sir.

Ques.—Do you remember that he says on page 49, speaking of this subject, "That the first disorder," &c., "and that a sudden shock may be followed by a great many consequences," &c.?

Ans.—Yes, sir.

Ques.—Do you understand that to be the doctrine that he has laid down?

Ans.—Yes, sir.

Ques.—Does that correspond with other authors and your experience as far as you have observed them?

Ans.—It does, sir.

Ques.—These are all symptoms of shock—these are the result of shock?

Ans.—Yes, sir.

Ques.—State whether molecular structures may be set in motion, and that involuntary?

Ans.—Yes, sir.

Ques.—How would it affect the person?

Ans.—There would be probably wringing of the hands, and walking about, and great agitation.

Ques.—What do such acts imply—great disturbance of the mind?

Ans.—Yes, sir; authors state that it denotes a continual change going on in the center; that is, we suppose so.

Ques.—Is that true so far as you have observed in practice?

Ans.—Yes, sir.

Ques.—May these symptoms of this transitory mania be very brief?

Ans.—Yes, sir.

Ques.—Are these cases where persons may awake out of a sleep and at once become delirious?

Ans.—Yes, sir.

Ques.—What do you say, where the more sudden the attack the shorter its duration?

Ans.—That is what he said, and I have no doubt it is true; in any person predisposed to mental disturbance it brings it about in a very short time.

Ques.—Does your experience and examination corroborate this result?

Ans.—Yes, sir; fully.

[Mr. Lanning reads from Blanford, page 219.]

Ques.—State whether the history of the subject, the character and constitution, his past history, his habits, his family character, in case it manifests itself in homicide, the nervous temperament, the fact of nervous temperaments and insanity in the family, how does that effect it?

Ans.—They develop themselves very suddenly, and perhaps as suddenly over it.

Ques.—Suppose you take a person who is excitable and prone to violent disturbances, would the attack come on from trifling circumstances?

Ans.—Yes, sir; very trifling, probably.

Ques.—In cases of this sort do you gain anything by the personal observation of the physical condition of the patient?

Ans.—I suppose an expert would; perhaps I would not myself.

[Counsel here read long extracts from Blanford on the subject of momentary insanity, in all of which the witness fully concurred.]

Ques.—Does the same person appear to know what they are doing?

Ans.—Yes, sir.

Ques.—Do they sometimes commit homicide, and use all the means for avoiding detection?

Ans.—Yes, authorities think that.

Ques.—When they have perpetrated the act and availed themselves of means of secretion, and where there was no doubt of their insanity?

Ans.—Yes, sir.

Ques.—Take a person who never was known to have such an attack, can you tell to any certainty whether it is to be momentary, or to continue for a time?

Ans.—I believe if the attack is very violent the duration is short.

The Court:—Ques.—Do you say persons have been considered insane by the medical profession, when they have shown design and deliberation?

Ans.—Yes, sir; the older doctors have recorded such cases.

Mr. Lanning:—Ques.—Is this "American Journal of Insanity" a standard authority?

Ans.—Yes, sir.

Ques.—Where is it published?

Ans.—At Utica.

Ques.—Have you examined the article there written by Dr. Jarvis?

Ans.—Yes, sir.

Ques.—Is he a standard authority, or so regarded?

Ans.—He is perhaps, regarded the most acute on the subject.

[Counsel then read from an article in Vol. 26, No. 1, July, 1869, American Journal of Insanity.]

The Court :—Ques.—Have you read that article?

Ans.—Yes, sir.

Ques.—What do you say as to the ideas inculcated there?

Ans.—I should say they are true as far as I know anything on the subject.

Ques.—In speaking on the practice of French Courts and Juris, a case of Ballard, does he say, “there are some men condemned,” &c., (page 60.)?

Ans.—Yes, sir.

Ques.—And does he state that there is no difference in it, only in the duration?

Ans.—Yes, sir.

Ques.—And does he say they are just as insane, those who are only insane for a few hours as those for years?

Ans.—Yes, sir.

Ques.—Do these French authorities (Esquirol) state it is transitory and fleeting?

Ans.—Yes.

Ques.—Is Ray regarded as standard authority on medical jurisprudence?

Ans.—I believe he is regarded as foremost among American men.

Ques.—Does he state that it manifests itself under various mental conditions, &c.; may or may not be impulsion in character, &c.?

Ans.—Yes, sir.

Ques.—Is Pritchard regarded as authority?

Ans.—Yes, sir.

Ques.—May a person be seized with a sudden impulse to commit some terrible act when the person is in apparently sound health and mind?

Ans.—Yes, sir.

Ques.—Are there still distinct cases, where a mother who has given birth to a child is seized with a sudden impulse to destroy it?

Ans.—Yes, that is quite common.

Ques.—Does Ray say that an insane impulse may come on instantly, frequently, abrupt, and instantaneous?

Ans.—Yes, sir.

Ques.—Is Dr. Bell, an authority on the subject?

Ans.—Yes, sir.

Ques.—Does he say the outbreak is so sudden that the patient is hardly conscious of his act?

Ans.—Yes, sir.

Ques.—Is this laid down as sound doctrine by Ray, Esquirol and others, that this is spontaneous and fleeting?

Ans.—Yes, sir.

Ques.—Ray says that paroxysm may be as great in transitory as in long cases?

Ans.—Yes, sir.

Ques.—Is Woodward a standard authority?

Ans.—Yes, sir.

Ques.—He says the impulse usually expends itself in a sudden act, that the outbreak of an insane person is the outburst of his insane passion?

Ans.—Yes, sir.

Ques.—Does he state that the recovery takes place gradually, and sometimes suddenly?

Ans.—Yes, sir; he may recover suddenly, and may be protracted.

Ques.—It may be produced by sudden fright?

Ans.—Yes, sir.

Ques.—Take these cases of mania transitoria generally, does the violence cease immediately following the act?

Ans.—Yes, sir; the violence of the act relieves his excitement and he is quiet.

[Mr. Lanning reads cases where Woodward mentions the case of a patient striking a blow with a bludgeon upon the head of an inoffensive female. Esquirol, also states the same thing, sometimes with coolness and sometimes excitedly. Bell says, often after the paroxysm of violence, the patient appears perfectly calm.

Witness fully concurring in these views.

Ques.—It is generally the case that persons are unconscious during the outbreak, and forgetful and having no recollection afterwards of what had occurred?

Ans.—I believe that is the experience and doctrine among authors at any rate.

Ques.—And that a person may remember what happened previously, and what immediately followed?

Ans.—Yes, sir; that agrees with the doctrine.

Ques.—Does Ray say where the paroxysm of insanity is very sudden, there is generally found a break of memory?

Ans.—Yes, sir.

Ques.—Any thing that produces sudden emotion may cause it?

Ans.—Yes, sir.

Ques.—Bucknell, is he an authority upon criminal lunacy?

Ans.—Yes, sir; he has written upon the subject.

Ques.—He refers to grief as the cause of it?

Ans.—Yes, sir.

Ques.—Are Castelo and Bernard French authorities?

Ans.—Yes, sir; they are regarded as authorities.

Ques.—They speak of those that instantaneously loose there reason from great grief?

Ans.—That agrees with the general experience of the profession.

Ques.—How is Farnell upon that?

Ans.—He is one of the earliest.

Ques.—Excessive joy or excessive fright, and sometimes *dementia* follows from the same cause?

Ans.—Yes, sir; that is a fact.

Ques.—From all the evidence giving in this case, taking into account the moral and religious training, taking into account that insanity exists in the family, the question of the temperament of his mother and his own, the grief under which he was laboring, the affection that he had for his sister, and his own statement of his mental condition, would it not be probable that the powers of his will and judgment would be suspended, and that the accused was in the mental condition described by the authorities as *transitoria mania*?

Ans.—Yes, sir.

Ques.—Have you any doubt upon that subject?

Ans.—No, sir; I have no doubt about it.

Ques.—Is there such a condition recognized, that from a mental shock a total suspension of the mental faculties may occur, so that reason and judgment may not act?

Ans.—Yes, sir; that is a recognized fact.

Ques.—Is the *Journal of Medical Mental Science* also regarded as authority, published in London?

Ans.—Yes, sir.

Cross-examination by Mr. Andrews:—The statements that you have made of what authors state on the subject, have you derived it from reading these two books?

Ans.—Yes, sir; and others long ago.

Ques.—What other books have you read from which you have made statements as to the doctrine upon this question of insanity?

Ans.—Beck's *Medical Jurisprudence*.

Ques.—Have you read Beck upon this question?

Ans.—Yes, sir; some years ago; that was an old work when I commenced studying.

Ques.—What does Beck say upon this question?

Ans.—It was, perhaps, pretty early for this question.

Ques.—Does he discuss this question?

Ans.—Yes, sir.

Ques.—What does he say?

Ans.—That there is this sudden loss of sense, and insanity of sudden character; that persons are suddenly insane and get over it instantly, almost.

Ques.—Does he recognize that a person may be insane during the commission of a homicide, and sane immediately afterwards?

Ans.—I don't recollect that he mentions that in his books.

Ques.—Beck is a writer on Medical Jurisprudence?

Ans.—Yes, sir.

Ques.—Those works you have spoken of are none of them works on Medical Jurisprudence?

Ans.—No, sir.

Ques.—You have read in this Journal of Insanity the article upon the subject of mania transitoria, by Jarvis?

Ans.—Yes, sir.

Ques.—You saw that that was a particular statement of testimony given by him upon a trial in Massachusetts?

Ans.—I believe so.

Ques.—Did you see that another professor of great eminence, Professor Choate, testified upon the fact in direct opposition?

Ans.—Yes, sir; I didn't read it but I have no doubt about it.

Ques.—There are different theories about this?

Ans.—Yes, sir.

Ques.—There is one school of medical men that don't believe in it at all?

Ans.—I guess not; I don't know of any such school.

Ques.—How about Choate?

Ans.—He doubts it, but there is a great array of testimony against Choate.

Ques.—Have you, in your experience, ever known of any case where a sane person has, under any sudden shock, become insane, and after being insane three or four minutes become sane again and remain so ever afterwards?

Ans.—I think I have sir.

Ques.—Will you name the case?

Ans.—I have seen a person that I was very sure was insane at the time.

Ques.—I want you to speak from your own experience?

Ans.—I have not any; no, sir.

Ques.—If the only evidence of insanity that you could discover in the person was the commission of a crime, you would not think because the person was sane before he committed it and sane afterwards—you would not infer that he was insane at the time he committed it, and not afterwards?

Ans.—Yes, sir; I should say they were insane to a certain extent; all persons who commit homicide are insane to a certain extent.

Ques.—That is a theory, too, of very respectable authors?

Ans.—Yes sir.

Ques.—You agree with them in the main?

Ans.—Yes, sir.

Ques.—Taking into consideration the prisoner's temperament and age, and the belief entertained by him for three or four days prior to the homicide that the deceased had seduced his sister, to whom he was warmly attached, and had refused to marry, that the prisoner had been, during these three or four days, much troubled in mind about the condition of his sister, and disgrace that was likely to come upon himself and his family, the probable birth of an illegitimate child to his sister, and that within five minutes before the homicide had asked the deceased to marry his sister, which he had refused to do; taking into account the fact that he had always been of a mild disposition and character, had served in the late war two or three years, that on the evening in question he was in possession of the pistol with which he shot the deceased, and was sane up to the time when the deceased left him and offered to shake hands, and upon which the prisoner forthwith shot the deceased in the abdomen, the ball entering about the ninth rib, and the deceased turned and ran, the prisoner following him about eighteen rods, firing four more shots, the last at the end of the eighteen rods, the prisoner being sane immediately before and immedi-

ately afterwards, what, in your opinion, was the condition of his mind at the time of the shooting?

Ans.—I think he had no mind at all.

[Loud applause and the audience reprimanded by the Court.]

Ques.—What was the state of the mind of the prisoner at the time of the shooting under the same conditions, except that instead of the deceased offering to shake hands at parting, the prisoner asked the deceased to marry his sister, upon which the deceased told him to “Go to Hell;” with these variations, what would you say was his mind at the time of the shooting?

Ans.—I think the shock was so great that he didn't know anything.

Ques.—I wish to call your attention after this, from all the evidence given in this case, taking into account the moral and religious character of the prisoner, the fact that hereditary insanity exists in his family, taking into account the temperament of his mother and of his own, taking into account the grief under which he was laboring, his affection for his sister, wouldn't it be probable that the power of his will was suspended, and that the accused was in the condition described by the authorities as transitoria mania—I want to know your opinion, leaving out the statement of the prisoner?

Ans.—I should think it was mania, sir.

Ques.—Even without that?

Ans.—Yes, sir.

Ques.—I want you to state in what particular of these facts that are stated as the basis of your opinion, what circumstance you find showing mania?

Ans.—The description of his condition at his own house, his own conduct, the whole condition of this young man was a state of nervous excitement.

Ques.—I wish you to state the principle from which you draw your conclusion?

Ans.—His excitement at the finishing of conversation with Bullock—he had a little hope Bullock would do what was right, and upon the reply that he made, to “Go to Hell,” it was a shock that produced mania; I have no doubt of it whatever; if he had had no gun he might have stood there benumbed and gone off crazy.

Ques.—Would your opinion be the same if you leave out this insulting remark that Pierce says Bullock made?

Ans.—I think it would modify it.

Ques.—Do you mean to say you would not think Pierce was insane?

Ans.—No, sir; it would modify, in my opinion, Pierce's action.

Ques.—I want to inquire of you, as a scientific man, what condition you would regard Pierce as having been in, omitting this insulting remark made by Bullock?

Ans.—I think he was partially insane all the time.

Ques.—You think if that remark was left out he was still unconscious?

Ans.—I think he would have been.

Ques.—You speak of insanity in members of the family—how much insanity do you find there for you to base an opinion?

Ans.—The aunt of Pierce.

Ques.—Which relatives enter into your calculations, on which you base that opinion?

Ans.—An aunt on the maternal side and a cousin on the maternal side; that I know, for I have treated them myself.

Ques.—Did you take into account the daughter of the man that drowned himself?

Ans.—Yes, sir.

Ques.—He was no relation to Pierce?

Ans.—No, sir.

Ques.—What other?

Ans.—None others except the extreme nervous sensibility of his mother.

Ques.—For the purpose of determining whether there was insanity, state whether you look among ancestors or collateral relations?

Ans.—To both.

Ques.—The insanity of collateral relatives is not of much importance, or any appreciable importance?

Ans.—I think it is some.

Ques.—Is it of much importance where there are none found among ancestors?

Ans.—Not much, but it at least shows the tendency.

Ques.—Do you know that the opinion of learned men have been changing greatly, very recently upon the question of moral insanity?

Ans.—I don't know as it has generally; I have no doubt different individuals have different opinions on the subject; it is like all opinions connected with medicine, it has two sides to it.

Ques.—Don't you know that for years past, there has been very much less of insanity attributable to moral causes than other causes?

Ans.—Yes, sir; physicians begin to believe that it is attributable to disease.

Ques.—For the year 1867, 1868, and 1869, in the Utica Asylum, there was no moral insanity?

Ans.—Yes, sir.

Ques.—Isn't that diminishing the belief in moral insanity, and hasn't it decreased because they have examined the subject to a greater extent than formerly?

Ans.—Yes, sir.

Ques.—You mean to have us understand that any person who does not know what he is about in any sudden shock is insane, do you?

Ans.—I do, sir.

Ques.—Then your opinion is that persons who, by a sudden shock of any kind, are thrown into any great passion and excitement, so that he loses consciousness, that is insanity?

Ans.—I think it is; I don't know what else you would call it.

Ques.—What would you think of the condition of the man who, in a fight, a personal conflict with another, should get his passions roused in the course of the conflict so that he loses his consciousness entirely and killed his adversary—would you regard him insane at the time?

Ans.—I would, sir.

Ques.—Hasn't it got to be now pretty well established by authority among men learned in science of the mind, that there are physical causes almost invariably to account for every case that arises?

Ans.—Not every case that arises, for they find more persons without any physical disease at all—for persons in sound health have these attacks.

Ques.—If you find no physical cause, and find no evidence of insanity, and nothing except the act itself—sane before and sane afterwards—would you have to fall back upon that theory, that all criminals were insane under those circumstances?

Ans.—Yes, sir; we would; there is no other way to get out of it.

Ques.—Is proof of insanity of even ancestors of any value?

Ans.—It is considered of some value.

Ques.—Without any direct evidence of insanity of a person alleged to have committed the crime, does the very fact of ancestors constitute it—I want to know whether that alone would amount to anything?

Ans.—Yes, sir; it would aid the mind in a judgment in the matter.

Ques.—In this case of Pierce do you consider the matter of motive as having anything to do with the act; that is, conceding that he committed the act, in making up your mind?

Ans.—I don't know what motive; I don't know from the testimony, and I have heard it; I don't think there is any motive in the matter, for Pierce had hope that Bullock would make matters all right.

Ques.—At this last interview—you heard Pierce's testimony—Pierce ascertained that Bullock pretty peremptorily refused to marry his sister, didn't he?

Ans.—Yes, sir.

Ques.—Wasn't there any motive or revenge that might have existed in the mind of Pierce under those circumstances?

Ans.—There was no evidence of its manifesting itself.

Ques.—Didn't the basis of revenge exist—injured honor and disgrace—these facts did exist, didn't they?

Ans.—Yes, sir.

Ques.—In making up your mind on the question of insanity, did you consider the question of motive in coming to your conclusion on the subject?

Ans.—Yes, sir.

Ques.—You considered there was no motive existed?

Ans.—Yes, sir; because if the young man had his reason, there was a great deal better way out of it.

Ques.—You have given that no weight therefore in your opinion?

Ans.—No, sir; because there was a great deal better way for him to get out of it if he had his senses.

Ques.—Do the insane have any motive?

Ans.—They act almost without motive; sometimes they seem to have motive.

Ques.—Do they ever act from motive?

Ans.—Not a rational motive; I mean something that will operate upon the mind—an actual cause.

Ques.—I enquire whether the insane have any actual motive?

Ans.—It is so difficult to tell, I cannot answer the question really.

Ques.—Does an insane impulse to kill ever come from any exciting cause without?

Ans.—Sometimes it does and sometimes it does not.

Ques.—Are you acquainted with the opinions of authorities upon that question?

Ans.—Yes, somewhat.

Ques.—What are the opinions of authorities upon that question?

Ans.—The opinions of some are it is a mere blind impulse to injure and kill.

Ques.—May it come from a disease, an insane homicidal impulse?

Ans.—Yes, it may.

Ques.—Is a single act contrary to the usual course of life, and against what would be probable from the character of the person sufficient in your opinion to form a conclusion that the person was insane?

Ans.—Yes, sir; that would be one of the strongest evidences.

Ques.—You think this impulse of insanity may exist for five minutes?

Ans.—Yes, sir.

Ques.—And never any symptoms existed before, and none of them ever exist again in a long life?

Ans.—Yes, sir; it is not a question of duration at all.

Ques.—Would the fact that the prisoner was in the war of the rebellion in the performance of practical duties in that position for three years ending in 1865, and accustomed to seeing human life constantly destroyed, render it less improbable that he would take human life under ordinary circumstances?

Ans.—I don't know what effect it would have upon him, perhaps it would lessen the gravity of the act in his opinion.

Mr. Lanning:—Ques.—Judging him as you would men generally?

Ans.—If you ask me as a general hypothesis, I say yes.

Mr. Andrews:—Ques.—You have been asked something about the consciousness of the person in this state of mania transitoria, and I understood you to say they did not always lose their consciousness?

Ans.—No, sir; I didn't say that; they always lose their consciousness, that is the opinion of all the authors I have seen.

Ques.—You have not seen any authors who hold otherwise?

Ans.—No, sir; I have not given any serious attention to this subject.

Ques.—Isn't it a general characteristic common to persons laboring under moral insanity that they are not in any kind of delusion in respect to the act they are doing, they know they are doing it, but they are unable to resist and there is some power driving them to the act?

Ans.—Yes, sir; I think they feel an impulse they cannot resist, they are not conscious of what they are doing; would a father murder his own child, would a mother murder her own child, if they were conscious of it. I do not think they are really conscious of what they are doing, or they would not do it.

Ques.—Then you say it is not the usual condition in transitoria mania to be conscious?

Ans.—I think not.

Ques.—Isn't it regarded as an influence of their emotions instead of influence of their mind—the mind remains sound, yet the emotions overpower their mind—isn't that the condition?

Ans.—I am not well enough posted to make these distinctions.

Ques.—Are persons of mild disposition less liable to become insane than persons more violent?

Ans.—No, sir; I think they are just as liable.

Ques.—You think the excitable character has nothing to do with the tendency to insanity?

Ans.—I think it is a cause.

Ques.—You think a person like Pierce is just as liable as a person more excitable?

Ans.—I think that would be the very cause, his being quiet.

Ques.—That does not agree with the authors, does it?

Ans.—I don't know what authors.

Ques.—He would have been just as liable to shoot somebody else?

Ans.—I think he would if they had been there.

Ques.—He would have been no more liable to shoot himself?

Ans.—No, sir; I think they rarely shoot themselves unless it is to commit suicide.

Ques.—The steadiness of his aim, continuing a sixteenth of a mile, and hitting him twice in the course of his firing, do you think the correctness of his aim and his pursuit has any importance upon the question of his insanity?

Ans.—No, sir; the man shot before him and didn't know what he was shooting at.

Ques.—You think an insane man could shoot just as well.

Ans.—Yes, perhaps better.

Ques.—Pursue an object, and perhaps better?

Ans.—Yes, sir.

Ques.—In doing this act as you have testified from the history of this case do you consider him insane except on the taking of the life of Bullock?

[Mr. Lanning, —He has not stated that he considered him insane on that.]

Mr. Andrews :—Ques.—I want to know if you consider him insane on any other subject except taking the life of Bullock?

Ans.—No, sir.

Ques.—Is not it common for persons who are in this condition termed moral insanity, or transitoria mania—

The Court :—They are not quoted in the books as the same.

Mr. Andrews :—Ques.—Is not it common for persons who are laboring under moral insanity to themselves, ask to be put under restraint?

Ans.—I am not well enough acquainted, but I think I have known of cases of that kind.

Ques.—From your knowledge and your acquaintance with Mr. Pierce, and from the testimony you have heard given, if Pierce should now shoot a person in this court room, you would consider him insane, would you?

Ans.—I would, sir.

Re-direct Examination :—Ques.—You were asked the question, whether as a rule, if a man had been engaged in a military life, and accustomed to seeing persons killed, would he not be more liable to commit homicide himself than one who had not?

Ans.—I said as a general rule I thought he would.

Ques.—Now take a person like the defendant, of a kind, moral character and disposition and religious, would the fact of his being in the service render such a one any more liable to commit homicide?

Ans.—That would be the exception to the general rule.

Ques.—If at the time of the commission of this homicide, the defendant was insane, was he not so at the time, during the paroxysm; was not he so in respect to everything, wasn't he wholly unconscious of everything?

Ans.—Yes, sir.

DR. CLARK'S TESTIMONY.

Dr. Simeon T. Clark, sworn :—Ques.—Where do you reside ?

Ans.—In this city.

Ques.—How long have you resided here ?

Ans.—Eleven years.

Ques.—Are you a practicing physician ?

Ans.—I am.

Ques.—Are you president of the Medical Society in this county ?

Ans.—Yes, sir.

Ques.—Have you been engaged in the general practice of your profession ?

Ans.—Yes, sir.

Ques.—Have you been acquainted with persons laboring under diseases of insanity, more or less common, during your practice ?

Ans.—Yes, sir.

Ques.—Are you also familiar with the authors who have treated upon that subject ?

Ans.—Reasonably so.

Ques.—Do your profession, physicians and standard authorities recognize the fact that insanity is hereditary ?

Ans.—Yes, sir.

Ques.—Persons whose ancestors have been afflicted with that are more liable than persons without that predisposition ?

Ans.—Yes, sir.

Ques.—Is this strength of this hereditary disposition increase with the members of the family found to be insane ?

Ans.—I cannot call any authority to mind that would establish my own opinion in that matter, but I should think it very likely would.

Ques.—State if a nervous temperament is one of the results ; whether the issue of persons afflicted with insanity are more liable to insanity than where it is not so ?

Ans.—Yes, sir ; and *vice versa*.

Ques.—Is there such a condition as transitoria mania, or impulsive insanity ?

Ans.—Yes, sir ; there is.

Ques.—It is one and the same thing ?

Ans.—Yes, sir.

The Court :—These terms indicate one and the same condition ?

Ans.—Yes, sir ; Ray, in one edition, mentions one and then the other.

Ques.—Is insanity often caused by a mental shock, and is it so laid down by Blanford and other authors ?

Ans.—Yes, sir.

Ques.—Is Blanford regarded as a standard authority on this subject ?

Ans.—Yes, sir ; in England, and in this country, too.

Ques.—How is it with Ray ?

Ans.—He is an acknowledged authority.

Ques.—Esquirol ?

Ans.—Yes, sir ; among the French.

Ques.—Pritchard ?

Ans.—Yes, sir.

Ques.—How is this Journal of Insanity, published at Utica ?

Ans.—It is considered as standard.

Ques.—What position does Dr. Jarvis occupy ?

Ans.—He is considered one of the best psychological authors in New England.

Ques.—What is the Journal of Medical Science, published in London ?

Ans.—I am not acquainted with it, but I am informed it is standard.

Ques.—Edited by Robinson & — ?

Ans.—Those are excellent names.

Court took recess till 2 o'clock.

AFTERNOON SESSION.

Dr. Clark's examination resumed:—Ques.—What temperament would be most likely to be affected by a nervous shock?

Ans.—A nervous temperament.

Ques.—Of what temperament is the defendant?

Ans.—A nervous temperament.

Ques.—In what degree would you imply it, whether of a highly nervous temperament or not?

Ans.—I don't know as there are degrees recognized; I should call him of a nervous temperament, decidedly.

Ques.—What are the consequences that are usual, or may follow this sudden shock?

Ans.—What sudden shock?

Ques.—Any sudden mental shock of the nervous system that would produce this condition of mind, what would be the outward appearances?

Ans.—It might produce instant death.

Ques.—What effect frequently has extreme grief upon nervous persons, or extreme joy or fright?

Ans.—To produce insanity either permanent or temporary.

Ques.—What effect does it have upon the circulation in reference to the brain?

Ans.—It may produce a great decrease of the circulation, or almost a sudden stoppage of it.

Ques.—How does it affect the muscular structures?

Ans.—Usually manifests itself by lack of control, producing trembling and involuntary motion.

Ques.—You have said that Blanford is an acknowledged authority upon the pathology of insanity?

Ans.—I have.

Ques.—He states on page 49, "The first is sleeplessness, heated brain, and may be continued, &c.;" do you recognize that as true?

Ans.—I believe it to be.

Ques.—In that, do all authorities, so far as you have read, agree?

Ans.—Yes, sir.

Ques.—He also states on page 50, that sudden mental shock produced death, &c., what do you say as to that?

Ans.—I endorse it.

Ques.—Is Dr. Maudsley regarded as authority?

Ans.—I am not acquainted, only the author you are reading from cites him.

Ques.—Does this author cite Maudsley and coincide with his view?

Ans.—Yes, sir.

Ques.—I read from page 218 in reference to diagnosis or transitory mania; what do you say about that?

Ans.—I believe it.

Ques.—Take a case of acute delirium, what do you say as to its duration?

Ans.—It will be short in proportion to its intensity, probably.

Ques.—From your reading and from your observation, what appears to be necessary to constitute a case of mania transitoria?

Ans.—I should make one of the essentials, perhaps, the first essential; that there should be a hereditary tendency to insanity in the case of the individual—to some form of insanity, it would not necessarily be this form. I should think there ought to be, from any reading, a decided mental and physical alliance on the part of the individual to that part of the family, which has the tendency to insanity, some great shock such as grief, sorrow or joy would produce some outbreak not at all premeditated, and not at all in keeping with the character of the individual in question. It would be characterized by some act monstrous in itself, and altogether out of keeping with the general habits of the individual.

Ques.—You stated that Dr. Jarvis is a standard authority upon this subject?

Ans.—Yes, sir.

Ques.—Are you acquainted with him?

Ans.—I have seen him.

Ques.—You have read his views on mania transitoria ?

Ans.—Yes, sir.

Ques.—How does it accord with your observation, and from your reading on the subject ?

Ans.—I could not speak much from observation, but from reading, I think his views are correct.

Ques.—Does this mania transitoria frequently take the homicidal form, either to kill someone else or himself ?

Ans.—That is the opinion of Dr. Jarvis, I think.

Ques.—Is Castelnau, a French writer, an authority on the subject ?

Ans.—Yes, sir.

Ques.—I will ask you whether this disease assumes any regular forms, or whether it assumes as many forms as there may be persons and circumstances ?

Ans.—I so understand it.

Ques.—Does this condition sometimes come upon the subject without apparent cause, and ending in a criminal act ?

Ans.—I suppose it always assumes that form to make it mania transitoria.

Ques.—Do you find cases where the previous character has been without reproach, and the first manifestation is what otherwise would be a crime ?

Ans.—Yes, sir.

Ques.—Are those the characteristics of what is termed transitoria mania ?

Ans.—I have so understood it.

Ques.—You may state whether these cases, these conditions of mind, are acknowledged by all the prominent and well received authorities on this subject ?

Ans.—Yes, sir ; those that have written within the last four or five years.

Ques.—And was it also by the French and German writers before that time ?

Ans.—I have so learned ; I don't know of my own absolute knowledge.

Ques.—Take this case, you have heard all the evidence ?

Ans.—Yes, sir.

Ques.—From all the evidence given in this case, taking into account the moral and religious character of the accused, the fact that hereditary insanity exists in his family, taking into account the temperament of his mother and his own, and his appearance and the grief under which he was laboring, and his affection he had for his sister, and his own statement of his mental condition, is it not probable that his powers of reasoning were suspended and was in the condition described by the authorities and yourself as transitoria mania ?

Ans.—I think it is highly probable.

Ques.—Is there such a condition recognized by medical authorities and your profession that control a mental shock that is received, a total suspension of the mental operations so that reason and judgment does not exist ?

Ans.—Yes, sir ; in certain individuals.

Cross-examined by Mr. Andrews:—Ques.—What facts do you find in the condition of the prisoner from which you infer that it was highly probable that he was in the condition of transitoria mania in this case ?

Ans.—The fact of hereditary insanity, that he received a severe shock, that he committed an act entirely out of keeping with his moral ideas, leads me to suppose it was mania transitoria ; the unpremeditated nature of it and lack of motive.

Ques.—Would that be your inference in respect to his mental condition at that time if he had committed any other act besides the homicide ?

Ans.—If it had been something as startling ; any trivial act committed under these circumstances would not have warranted me in thinking so.

Ques.—What do you regard as the important shock in this case that rendered him unconscious and produced this condition of mind ?

Ans.—The culmination, I have no doubt ; it was the language that passed by Mr. Bullock to him at the moment in question.

Ques.—You refer to the language as sworn to by Mr. Pierce ?

Ans.—I do.

Ques.—Do you think there is any thing about that language so especially startling as to produce this great effect on his mind ?

Ans.—To the mind that was undergoing the suffering as described by Dr. Fassett, I think that was the last straw that broke the camel's back.

Ques.—Do you think that could be so under repeated refusals to marry his sister; wouldn't that have been a greater shock than this?

Ans.—It has not transpired in the testimony, so far as I have learned, that he ever did peremptorily refuse to marry his sister until that remark was made; it had only been to put the time of marriage farther in the future.

Ques.—You didn't understand that remark as a peremptory refusal?

Ans.—Yes, sir; I should, if it had been made to me under the circumstances, and I presume Mr. Pierce did, although I did not know.

Ques.—Assuming that there was no such remark as that made, but on the contrary that Bullock being about to separate from Pierce extended his hand towards him, upon which Pierce shot him, would that produce any other effect on your mind than the other?

Ans.—It would produce a different effect on my mind.

Ques.—Provided there had been no point of culmination of that kind, except these declamations about which you have heard to marry at the time desired?

Ans.—I don't know as I can make you understand me exactly by answering the question, but my idea is this: Something was required to make Mr. Pierce feel that there was no faith in this man. My presumption is that he labored and struggled in his own mind, still believing that Mr. Bullock was a man of honor until that very moment.

Ques.—About this moment you think he was thrown into a state of unconsciousness?

Ans.—Into a state of mania transitoria.

Ques.—What do you understand that condition to be?

Ans.—Judgment and reason to be in abeyance.

Ques.—In that condition, would he be more liable to seize a pistol and shoot Mr. Bullock than any other man?

Ans.—I think he would be most liable to do the most unreasonable thing he could.

Ques.—How so if he was entirely unconscious?

Ans.—I say if reason and judgment were in abeyance it would not have surprised me any more if he had shot himself, than his shooting Bullock.

Ques.—Then it is the act that he committed that influences your belief that he was certainly in that condition?

Ans.—It certainly does.

Ques.—Do you think that a person can be perfectly sane immediately previous to a homicide, and insane or without reason or judgment at the time the homicide is committed, and sane immediately after?

Ans.—The authorities so hold.

Ques.—Will you state what authorities so hold?

Ans.—Dr. Jarvis, in quoting from Esquirol and Dr. Ray in his medical jurisprudence on insanity.

Ques.—Isn't there a wide difference of opinion among men who make this study?

Ans.—It is only very recently that these ideas have been entertained by competent medical men. You take the works of medical jurisprudence ten years ago, and you find that it is scarcely advanced that there is any such thing as mania transitoria.

Ques.—Do you know Mr. Choate, an eminent man in this department, in the State of Massachusetts?

Ans.—I have seen his name.

Ques.—The opinions which you read of Mr. Jarvis are taken from his opinion in the trial of Samuel S. Andrews?

Ans.—It was in a case of a deacon who committed a murder.

Ques.—Don't you know that Dr. Choate, a physician and superintendent of a lunatic hospital, was a witness on that same case?

Ans.—Yes, sir.

Ques.—In regard to men's skill on that subject, what do you say in regard to his opinion in respect to this question?

Ans.—Of course they are entitled to weight; in the first place they are directly opposed to Dr. Jarvis; they are entitled to the weight of the opinion of any one man, of course.

Ques.—Do you think that the insanity of collateral relatives implies insanity to direct relatives?

Ans.—There can be no effect; it is a cause which would bear on any case.

Ques.—Is any insanity of ancestors or collateral relatives of any value in determining the question of insanity in a particular case, or tendency to insanity in a particular case, without some evidence of insanity in the particular case?

Ans.—Authorities who have written in respect to the laws that should govern marriage recognize that fact, although the persons have shown no disposition, as of his grandfather or grandmother, or any of his ancestors, it should be regarded as a suspicious influence on the case, owing to the transmittable effect of the insanity.

Ques.—Are you willing to state that the fact of insanity that has been shown in respect to collateral relatives of Pierce, that there is a tendency to insanity in the whole family?

Ans.—As I said in my definition, all those that take in the mental or physical conformation on that branch of the family through which the taint descends, under those circumstances I should consider it a suspicious circumstance; if it was in my own history I should be exceedingly afraid that some time I might be insane myself.

Ques.—Where there was a large number of relatives, only two had been afflicted with insanity, would you think that worth considering?

Ans.—Certainly, worth considering.

Ques.—Would you be willing to give it as your opinion, that where there had been insanity in collateral relatives to so slight an extent as this, and no evidence of insanity in the person who committed the homicide, from the mere fact of the homicide would you be willing to give it as your opinion that that act was committed under transitoria mania?

Ans.—That fact would weigh in making up the case; I should make it a primary consideration in this case.

Ques.—Suppose there was a motive for the act, which, under other circumstances, you might consider insane—suppose it was revenge, what weight would you give it?

Ans.—Revenge I should not consider in a good, pure-minded man. In a case of a man disposed to commit a crime, it would not be necessary for him to be laboring under aberration of mind. I don't mean to say that all criminals are insane. Self-preservation is the first law of nature.

Ques.—If resentment and revenge showed itself in a particular case, would you consider that had any bearing in the case—I am referring to this case?

Ans.—I should consider it was no motive at all; it would have no sort of influence in this case.

Ques.—No sort of revenge has entered into your conclusions that it was highly improbable that he was without reason in committing this act?

Ans.—No, sir.

Ques.—What is your opinion as to whether the prisoner at the time he committed this act was conscious of what he was doing?

Ans.—I think he might or he might not have been conscious of the act; I think judgment and reason were at abeyance.

Ques.—If he was conscious that he was committing the act, were the powers of his mind as you think entirely suspended?

Ans.—Not all the powers of his mind; men have been known to have these attacks of mania transitoria, and the first act they committed was a crime; they were conscious of it at the time and felt so bad about it, and when they have felt another attack coming on they desired to be bound, but there was no volition in respect to the act being committed, although they may have a consciousness they were committing the act.

Ques.—Then it is from their inability to control their acts that they commit the act, the mind is unable to overcome the power of the emotion?

Ans.—Yes, sir.

Ques.—Have you ever known of any case in your own personal experience of mania transitoria?

Ans.—Not unless we have one here before us.

Ques.—I believe you have not answered the question that I wish to know;

that is, whether motive in respect to judging whether a person is laboring under mania transitoria; whether motive is an important question to consider?

Ans.—It certainly would be; I think I stated in giving my description of the disease that it should be unpremeditated and without motive.

Ques.—Has a person when in that condition any motive?

Ans.—I don't know, sir.

Ques.—You couldn't give any opinion about that?

Ans.—I could not state.

Ques.—Do you think the prisoner, according to the history of this case as you have heard it from him, was in that condition of mania before he fired the shot?

Ans.—I suppose this loss of mental power and act of violence were instantaneous; I don't suppose there is much difference; just where a man ceases to be sane and begins to be insane is very difficult to tell; just as where a man ceases to be well and begins to be sick.

Ques.—You would think it safe to assume that a single act of homicide contrary to what you would expect from his life and character, that he was in that condition?

Ans.—Not unless he had all these other collateral things indicating mania transitoria; I must have my case made up.

Ques.—Would you conclude, notwithstanding the act was contrary to the course and what you would expect from his life and character, if there was no other circumstance, nothing about his history to lead you to the contrary conclusion, would you conclude that you had any evidence of mental aberration?

Ans.—I would not on that alone; I would not on any one of these alone; it is not necessary to repeat them.

Ques.—Do you understand the authorities to which you have alluded to hold that the general manner in which transitory mania develops itself is particular in commission of acts which are crimes if they are not committed while in that condition?

Ans.—Yes, sir.

Ques.—They generally develop themselves in that way?

Ans.—Yes, sir.

Ques.—Does the fact that the prisoner was in the war of the rebellion as a soldier, about three years previous to 1865, and accustomed to seeing human life destroyed, render it less improbable that he would have committed this act?

Ans.—You might as well ask me the question whether surgical operations had made me harder hearted than before; I should say not; it will in some men, others it would not; on the contrary, it would make them more liable to avoid destruction.

Ques.—Do men laboring under great mental excitement from anger, passion or revenge, under what they regard as great provocation, lose consciousness at times?

Ans.—I think they do.

Ques.—Are they at such a time in a condition of transitoria mania as you understand it?

Ans.—Not unless they have a predisposition to be insane; the mere want of consciousness alone would not be any evidence of insanity.

Ques.—I am asking whether in a state of unconsciousness, under provocation, whether he is in a condition of transitoria mania?

Ans.—If he is unconscious; yes, sir.

Ques.—That is if he don't know what he is about?

Ans.—I do; yes, sir.

Ques.—Are persons of mild, amiable disposition, less liable to become insane than persons not of that disposition?

Ans.—I don't think they are.

Ques.—You don't think an excitable disposition is any evidence of a predisposition in that way?

Ans.—That is not the question; I think a person may be highly excitable and yet be very amiable.

Ques.—Do you regard the correctness of the aim and his pursuit any evidence of his insanity?

Ans.—No, sir; I think it very poor shooting.

Ques.—If he had a standard of honor by which he regarded the life of any one forfeited if he dishonored the virtue of his sister, what would you think of his act?

Ans.—I should not be able to decide that question.

Ques.—Is there any case of transitory insanity where it was inferred to exist from its first development by homicide?

Ans.—I believe so, but I cannot cite you to the case; I think my reading within two or three days furnished me with such cases; the act I refer to is where a father seizes a child and is in the act of putting him into a well without any provocation whatever.

Ques.—In shooting the deceased, do you regard the prisoner insane on any other point except taking the life of the deceased?

Ans.—I think at the time of the commission of the crime, he would have been insane on any point on being interrogated; I don't think he could have told you anything.

Ques.—Suppose he remembered what he had done immediately after the homicide, how would that affect your opinion in respect to his mental condition?

Ans.—It would not change it either to remember or not remember.

Ques.—Supposing he not only remembered, but justified the act immediately after the commission of the homicide, what would you say then in regard to the act?

Ans.—I think it would bear upon the same condition. I think the man under the insane impulse would be the most likely to justify it. He may have a knowledge of the influence about him and may not; but in respect to right and wrong, I don't think he would have any judgment. His perceptions might still be retained, but his reflections would be in abeyance.

Ques.—Does this case, in your judgment, come within the general class of cases known as moral insanity?

Ans.—No, sir; I don't think it does exactly.

Ques.—Do you think there is any disease of the brain under such circumstances?

Ans.—Temporary congestion at the time.

Ques.—Then you regard the immediate cause of this condition of the mind—that is, the immediate cause upon the brain to be congestion?

Ans.—Yes, sir.

Ques.—Are you among that class of thinkers who regard all criminals insane?

Ans.—No, sir; I am not.

Ques.—All persons who commit an act which would be a crime, who were previously of good character?

Ans.—They must have the peculiar idiocrasy; they must have the necessary qualifications for insanity. It would not lower the standard of morals in any way.

Ques.—Do you think Pierce is now in that condition, where he is liable to have his reason dethroned in any manner?

Ans.—I am afraid so.

Ques.—Where insanity broke out in this manner, wouldn't it be liable to be precursive?

Ans.—No, sir; I think not.

Ques.—Then he is no more liable to have it again than if it never occurred?

Ans.—Yes, sir; I think there is. I think there is more likelihood of its recurring, having once occurred.

Ques.—In what way would that be brought about?

Ans.—I don't know as I am prepared to state what the pathological conditions would be.

Ques.—Why do you come to that conclusion?

Ans.—In all cases like hysteria: if a woman has one hysteric fit she is likely to have more, and so if there is one in the neighborhood they are likely to have more, or a succession of them, in a neighborhood.

Ques.—Take the Pierce case, having been in jail, if that was the case, wouldn't it have been likely to have occurred again?

Ans.—Not so soon after so great a shock.

Ques.—Do you think in the condition he was in, another excitement on another occasion would have thrown him into the same condition?

Ans.—I don't think it would have been possible to have excited him about anything else at that time.

Ques.—Supposing any other great excitement had arisen, do you think that, too, would have thrown him into that condition?

Ans.—Yes, sir.

Ques.—You have taken a great deal of interest in this case?

Ans.—It is an interesting question.

Ques.—Have you taken a great deal of interest in it?

Ans.—Yes, sir.

Ques.—Have you had the preparation of the medical part of the case?

Ans.—No, sir; I have not.

Ques.—You have had nothing to do with it, or offered any advice on the subject?

Ans.—No, sir.

Ques.—Of course, you have given such information as you could?

Ans.—Yes, sir, of course; everything I could do, I have done.

Ques.—Taking into consideration the prisoner's temperament and age, and the belief entertained by him for three or four days prior to the homicide, that the deceased had seduced his sister, to whom he was warmly attached, and had refused to marry her, that the prisoner had been, during these three or four days, much troubled in his mind about the condition of his sister, the disgrace that was likely to come to his family by an illegitimate child, that within five minutes before he was sane, and when the deceased left him he offered to shake hands, and upon which the prisoner forthwith shot the deceased in the abdomen, the ball entering about the ninth rib, and the deceased turned and ran, the prisoner following him, firing, about eighteen rods, the last at the end of the eighteen rods, the prisoner being sane immediately before and immediately afterwards, what is your judgment, whether he was laboring under a state of mania transitoria?

Ans.—I think he was.

Ques.—I offer the same question with the change, that instead of offering to shake hands he asked him to marry his sister, and Bullock said he would see him damned first?

Ans.—I would have the same opinion.

Re-direct-examination:—[Mr. Lanning read from *Blanford*, pages 316 and 317.]—Ques.—What do you say to that doctrine of *Blanford's*, the authorities he has cited?

Ans.—It is from that doctrine largely that I have been able to make up my mind in this case.

[Mr. Lanning also read from section 149, of *Ray's Medical Jurisprudence*.]

Ques.—What do you say to that?

Ans.—That is an edition of *Ray* that I never read, but I have no doubt it is perfectly correct.

Ques.—It accords with your opinion on the subject?

Ans.—Yes, sir.

Counsel for defendant here rested their case.

REBUTTING TESTIMONY OF THE PROSECUTION.

The prosecution then called rebutting testimony, as follows:

Charles L. Burgess, re-called and examined by Mr. Southworth:—After the arrest of *Pierce* I inquired of him how many shots he fired; it was on Sunday, about noon, in the jail; he told me the chambers were all loaded, or all full; I went in the jail with Mr. McDonough, a reporter of the *JOURNAL*, on that occasion; *Pierce* told me the chambers were all loaded; after *Pierce* was brought to the police station he wanted I should go with him to jail; that he would like to have me go

with him because, as he said, I was the only one who had his senses ; it was about half or three-quarters of an hour after he was brought into the station that he told me this ; I brought him to the jail and back again to the station that night ; he was arraigned according to the warrant issued before the magistrate ; Pierce told me after he was arraigned that he wanted counsel ; this was in the police office.

Cross-examined by Mr. Farnell :—Mr. McDonough was with me in the jail ; can't tell whether the turnkey was there ; Mr. Pierce was in the cell ; can't tell whether Mr. McDonough and I were in the cell.

Patrick Donnelly, re-called and examined by Mr. Southworth :—After I took Pierce into the station, I observed him until he went to the jail, and also when he was brought back ; his appearance did not indicate much excitement ; he looked pale ; his appearance was somewhat paler than he looks now ; on the way to the jail he said to me that he supposed I was mad at him, and that as soon as I was acquainted with the circumstances of the case I would not be mad at him ; I told him I was not mad at him ; that it was none of an officer's business to be mad at a prisoner.

Cross-examined by Mr. Farnell :—Had not acted mad at him ; used him as well as I could under the circumstances of the case.

Dr. John Foot, sworn and examined by Mr. Southworth :—Am a physician and surgeon in this city ; attend at the County House ; know Pierce ; knew him before he was committed to jail ; have been in attendance at the jail and saw him there ; his appearance while in jail was perfectly sane so far as I observed ; his health is very good, so he told me.

Cross-examined by Mr. Laning :—Have talked with Mr. Pierce, while in jail, about Chicago and other things of a general nature.

Francis Mooney, re-called and examined by Mr. Southworth :—After Pierce was brought to the police headquarters I observed him ; he did not look any different from he does now ; Bullock was lying about four or five feet from the door ; persons coming in the door of office would pass close to Bullock ; Saw Pierce taken to the jail ; he looked at Bullock as he passed out ; Pierce said he did the act when arraigned before the Police Magistrate.

MANIA TRANSITORIA.

Dr. George Cook, sworn and examined by Mr. Andrews :—Ques.—Where do you reside ?

Ans.—Canandaigua.

Ques.—What is your business ?

Ans.—I am a physician.

Ques.—Are you connected with an insane asylum there ?

Ans.—I am, sir.

Ques.—What is your relation to it ?

Ans.—I am superintending physician.

Ques.—How long have you occupied that position ?

Ans.—Sixteen years, sir.

Ques.—Have you been connected with any other insane asylum ?

Ans.—I was connected with the State Lunatic Asylum at Utica eight years.

Ques.—What relation did you have with that?

Ans.—I was part of the time second assistant and part of the time first assistant, and for a short time had charge of the institution.

Ques.—During all this time have you made the mental condition of the patients of these institutions your study?

Ans.—I have, sir.

Ques.—Have you made a study there on this subject of what is known as transitoria mania, insane impulse, and consider that in connection with your duties?

Ans.—I have, sir.

Ques.—In respect to this book of Blanford's upon the subject of insanity, are you acquainted with that book, sir?

Ans.—I have seen the book.

Ques.—What do you say in regard to this statement that is made here, as read by the counsel on the other side, from page 49; is that sound doctrine?

Ans.—It may be, but I should think it would apply to a small number of cases. A sudden shock might be followed by such consequences.

[Mr. Andrews reads from Blanford, page 50.]

Ques.—What do you say in regard to that doctrine?

Ans.—These manifestations may follow a shock, but I am of the opinion they are not pathological, but simply physiological in a great many cases; that condition is not a condition of insanity; that condition alluded to by that writer, and I do not understand him, as considering it a condition of insanity.

Ques.—Are you acquainted with the American Journal of Insanity?

Ans.—I am, sir.

Ques.—Have you read this article by Dr. Jarvis, in the July number, 1869?

Ans.—I have not read it recently; I cannot recall all the positions taken by Jarvis.

Ques.—That is an article contributed by him to the Journal?

Ans.—Yes, sir.

Ques.—He states on page 13 that the impulse is so sudden that the patient is hardly conscious of his act; what do you say about that question of insane impulse?

Ans.—I suppose it is applied to insane impulse in insane persons, and in such cases they act consciously and sometimes without recollection of the event.

[Mr. Andrews read from page 13; case of a man 60 years old.]

Ans.—In the case spoken of I think the man was insane before he committed the act, and might have been afterwards, though the statement does not cover it.

[Mr. Andrews read from page 14.]

Ques.—What application do you give to that doctrine?

Ans.—Esquirol was speaking of the act of insane persons, done violently, come quickly and pass away quickly, and there is an insane condition preceding and following the act for a longer or shorter period.

[Mr. Andrews read from pages 316 and 317.]

Ques.—What do you say to that doctrine?

Ans.—By the general fact stated by that quotation, I concur, as applied to the effects of insane persons. That there are many insane persons not conscious of insanity at the time, are driven on by some power which they cannot resist to acts of violence and disorder. My experience leads me to but one conclusion that there are such cases, but with the latter part of that quotation I could not concur; the act of violence alone, without any preceding or without any following it, and resting upon that alone, and leaving the case at least in a good deal of obscurity, if not throw it out of the class of cases known as insanity. As an illustration, I might give you a case of a patient that came under my observation some years ago at his own request; had been observed by his friends as avoiding his children; suddenly approaching his wife he told her she must send him away from home or he should kill his child. She was astonished. He said every time this child came near me, I feel an impulse that drives me away from the child. He insisted on it, and came under my observation. As the disease

progressed, the impulse became rather changed, and became rather a suicidal one ; and running through all this time, was one of mental impairment, depression, perhaps not wholly delusive, but had an idea it was not worth while to live ; that this world was full of trouble, and under that delusive idea would have performed much violence on the public. That is a duplicate case of one of so-called, "impulsive insanity."

Ques.—Taking into consideration the fact that there was no insanity known among the ancestors of the prisoner, that his mother is nervous and excitable, that one of her sisters and one of her brothers out of a large family have been insane, that a cousin of the prisoner, on the mother's side, has been insane, and that the parent of the cousin was not related to the prisoner on the mother's side, he had been insane and committed suicide ; taking into consideration that the prisoner is twenty-nine years of age, committed homicide on March 11th, 1871 ; that he had had previously two attacks of pneumonia, lasting from one to three weeks' duration, during the last three years, before from which he recovered and had been a usually active, intelligent man ; taking into consideration the man's temperament, and the belief entertained by the prisoner for three days that the deceased had seduced his sister, to whom he was warmly attached, and although often requested by the prisoner, during these three or four days, to marry her, had declined to do so, or not consented to do so, that the prisoner had, during these three or four days, been much troubled in mind about the pregnancy of his sister, and the disgrace that was likely to come upon himself and his sister from the probable birth of an illegitimate child to his sister ; that five minutes previous to the homicide he had asked the deceased to marry his sister, and which he declined to do ; and the fact that he had always been of mild character and disposition, had served in the war two or three years, was in possession of the pistol with which he shot the deceased, and was sane up to the time when the deceased was going to leave him, offered to shake hands at parting, and upon which the prisoner shot the deceased in the abdomen, the ball entering about the ninth rib, the deceased turning and running, the prisoner following him about eighteen rods, firing four shots more, the last at or near the eighteen rods, being sane after the time before, what was the condition of the prisoner, supposing these to be the facts in the case ?

Objected to, on the ground that they assume them as a state of facts.

Ques.—Supposing the facts given in the question are the only facts presented ?

Ans.—In my mind, there are only two points which have an important bearing ; the one is hereditary disposition and the act itself. The mere fact of predisposition, although it may be in the direct line, proves nothing more than a predisposition, and without some other evidence, that it had shown itself in the case, could not have very great weight. Then coming to the act itself, supposing the person as you do to be sane immediately before and immediately after the act, I should conclude from these statements as you give them, that the prisoner committed the act—under the supposed circumstances in the question, he was a person of sound mind.

Ques.—Supposing the same state of facts, except that instead of the deceased offering to shake hands at parting, upon which the prisoner shot him, suppose the prisoner had again solicited the deceased to marry his sister, or asked him why he would not, the deceased replied, "you go to hell," how would that vary the condition of the prisoner ?

Ans.—It would not change my opinion as I have expressed it.

Ques.—What is your opinion, Dr. Cook, in regard to the question, whether or not the prisoner can be entirely sane immediately prior to the homicide, and entirely sane immediately afterwards, during an action lasting but a few minutes, and insane during the commission of the homicide ?

Ans.—Your question assumes that the person never had been insane before, and was sane up to the time and not insane afterwards. In my experience of twenty-three years, and never having met such a case, it would not be my opinion that a person could be sane one moment and then just afterwards be insane, and then again be sane. I do not believe a person can be sane all his life and then insane five minutes, and then sane immediately after it and continue.

Ques.—Please to state what insanity is ?

Ans.—I regard insanity as a disease affecting the brain, and nervous centres usually startling in its character, by which the manner and acting and feeling is changed and power of will is destroyed, and the person has not responsible control of his actions. In other words, I regard it as a disease, and not simply a mental condition, or simply a psychological condition, that may change from one moment to another.

Ques.—Is that the result of your observation ?

Ans.—Yes, sir ; that is the result of my experience and reading.

[Mr. Andrews reads from Ray on insanity, 5th edition, section 149.]

Ques.—What do say in regard to that doctrine ?

Ans.—I don't understand Dr. Ray, speaking of cases of few moments duration and of comparative short duration, without having other symptoms before and after. There are such recorded cases.

Ques.—In respect to how far this duration continues, are rules settled and established by authority, recognized among the profession by those who treat this kind of disease ?

Ans.—As it is well known, there is widely different opinions in the medical profession as well as the legal. Dr. Ray is one of the best writers on medical jurisprudence, but I am not aware that he is recognized as authority in the legal profession. He is copied as others are, but I am not aware that courts have recognized them.

The Court :—Ques.—Are they regarded as authority among those who treat this disease ?

Ans.—Dr. Ray is regarded as a standard writer, but there are different opinions among standard writers.

Ques.—Are you acquainted with medical malpractice by Elwell ?

Ans.—I have glanced at it. It is one of those books quoted, the same as Esquirol and others.

Ques.—I will ask you, in the first place, whether this theory of transitory mania has been regarded as coming within the classification of moral insanity ?

Ans.—Yes ; generally.

[Mr. Andrews reads from page 400.]

Ques.—What do you say as to those views of the American Journal of Insanity ?

Ans.—I should not express my views in the language quoted. If I may be allowed to say, as an observer of cases of insanity for a great many years, I recognize in common with all other observers, certain stages of mental disease in which the disturbance of the moral or emotional nature are most prominent, but in my observation, universally without exception, as the disease progresses, other evidences become more prominent, and in a great measure can be detected in the earlier stages. Other things are to be seen to run through in the emotions, generally declining into dementia and death, the moral insanity being but a phase of the disease, and I think it an unfortunate term, and has led to great misconception. I think it is confusing ; while it may describe one phase of the disease, it does not convey a correct idea of the thing to be described.

Cross-examined by Mr. Lanning :—Ques.—Is the person who is of a delicate organization, or who has had insane relatives, more liable to commit an impulsive act suddenly than any other type of character ?

Ans.—The impulsive act being an insane act, in that sense ?

Mr. Lanning :—Yes, sir.

Ans.—A person predisposed to insanity is more liable to insanity than a person of other organization.

Ques.—Take a person of mature years, always known as a dutiful son, an unusually affectionate brother, and even more thoughtful than that of brothers generally, assuming a parental care over his sister, his moral character above reproach, firm religious convictions carried out in his daily life, honest, faithful, and competent, and always held in respect by those who had employed him, always maintained the character of the Christian—with such circumstances as these, do they not oppose the probability of his committing an act of violence under any condition voluntarily ?

Ans.—It may be true, sir, that such a person is not so liable to commit such a violent act, but, unfortunately, the history of our courts give too true an evidence that such persons do sometimes commit them ; in other words, the facts, as you state them to me, are not conclusive evidence of an insane state of mind.

Ques.—I do not ask that ; we will suppose a person of the character of the defendant, placed in this position, and controlled as ordinary men are, would he ordinarily be likely to commit a crime ?

Ans.—My impression is, he would not be so liable to commit a crime.

Ques.—Suppose still further, the knowledge of the shame of his sister come upon him suddenly on the seventh of March, yet he manifested no anger or spirit of revenge, made no threats, but the misfortune seemed to overwhelm him, yet he controlled himself, went to and reasoned with the seducer, went and performed his own engagement—if he had been induced to the act by the ordinary revengeful passions, would he not have committed the act on the first instance when he first met the deceased ?

Ans.—The human mind may act not from revenge alone, an upright man may act as he deems right, the more upright he is, he may act more indignant. They do not, in my opinion, prove insanity.

Ques.—Go still further, say he came as he described, and all this time felt the shame and blasted hopes weighing him down and clouding his whole future, what effect would such things have upon his nervous system and circulation, and laboring under the operation of these distressing emotions for several days, when some sudden and violent shock to his feelings met him, might that not produce a condition of insanity ?

Ans.—Not momentary insanity, and passing off ; not in my opinion.

Ques.—You don't think a person could become momentarily insane under the circumstances ?

Ans.—I don't think a sudden shock could produce insanity in a person not insane before, and insane but a few moments, and then passing off and being sane thereafter ; I have had no such experience.

Ques.—Isn't there a state of mind in which a man may commit an act contrary to what would be expected from his moral character and habits of life ?

Ans.—There are cases by which the mind has been overwhelmed by a sudden shock ; they are very rare, and are not momentary in their effects.

[Mr. Lanning reads from Mr. Hoffenberger.]

Ques.—What do you say of that ?

Ans.—I cannot recall from my recollection, but my own experience would lay down that as applied to many cases of insanity. There is a species of insanity which is called impulsive insanity.

Ques.—Devergie says they lead the mind to extreme results. What do you say to that ; is it an evidence in the case of a man in full possession of his reason—supposing you have the circumstances they give, this great grief, this nervous condition, the fact of insanity in the family, and in addition to that, show that he had been under a state of high excitement for days, when he was seen that night wringing his hands, walking about, failing to know people that spoke to him, that he went out on the invitation of this man, and up to the very moment had good intentions ?

Ans.—There is nothing sufficient in your question upon which to rest a case of insanity.

Ques.—In addition to this, if a man should for days brood over a subject and while in such state receive a violent shock, the moral power being temporarily lost by the strained condition of his nervous system ?

Ans.—Insanity might result from the cause supposed in your question.

[Mr. Lanning reads from a work on insanity.]

Ques.—Do you agree to that doctrine ?

Ans.—I agree that in a few cases shocks produce insanity ; not transient insanity, not insanity that continues for a few moments, but covering a few weeks or months.

Ques.—Then you don't think there is such a thing as transient insanity ?

Ans.—No, sir.

Ques.—Do you think if a man is insane he must always be insane ?

Ans.—No, sir.

Ques.—If he is once insane how long must it continue ?

Ans.—A few days, I think.

Ques.—Whether you call it delirium, insanity, or any other term, is the person, while laboring under that condition, susceptible of volition, or accountable for what he does ?

Ans.—Not while in a condition of insanity.

Ques.—Your attention was called by the counsel to the opinion of Dr. Bell, on page 13 in this article of Dr. Jarvis. In that case Dr. Bell says : "In case of an outbreak the impulse is so sudden the patient is hardly conscious of the act." What do I understand you to say Dr. Bell referred to ?

Ans.—He is speaking of cases marked by this impulsive character—not where there is only one act alone.

Ques.—Dr. Bell gives that opinion upon the trial of Rodgers ?

Ans.—I agree with Dr. Bell ; that was a case where he never had shown any evidence of insanity before the act.

Ques.—I understood you to say, in answer to the counsel, that Dr. Bell, in this case, was speaking of persons laboring under permanent insanity ?

Ans.—I was speaking of Dr. Bell's opinion, so far as I knew then. In that particular case I could not give an opinion.

Ques.—In this case Dr. Ray says that insane impulse comes on very suddenly and appears to be uncontrollable ?

Ans.—I agree with that as applied to insane persons and not to sane ones.

Ques.—Is there any particular rule of conduct that governs the actions of insane people ?

Ans.—There is not.

Ques.—Isn't it as various as the people themselves ?

Ans.—Yes, sir.

Ques.—Then you can lay down no special rule for the conduct of insane persons ?

Ans.—No, sir ; you have to measure each mind by its standard, and not by any arbitrary rule.

Ques.—Did I understand you to say this section 149, read to you by Dr. Ray, applies to cases of fixed insanity ?

Ans.—So far as I know of Dr. Ray there are other indications of insanity, other than the one act alone—that is, one act alone is hardly sufficient in any disease to form an opinion from.

[Mr. Lanning read from sections 147, 148 and 149.]

Ques.—Now, from what I have read, the context, and there are more cases of a similar character, do you say Dr. Ray was speaking of confirmed lunatics, or was he speaking of instantaneous attacks or insane impulse ?

Ans.—I don't understand him speaking of insane impulse. In my opinion, they are cases of temporary delirium.

Ques.—Now, sir, isn't that a distinction without a difference ?

Ans.—There are cases where the delirium shows itself ; then goes over a few hours and then shows itself again—not one act alone.

Ques.—Is it necessary that the patient should commit other acts ?

Ans.—It is necessary that he should commit other acts to prove that it is insanity.

Ques.—How long after must that act be perpetrated ?

Ans.—I speak of insanity as a condition or disease which, if exists, will show itself in more than one isolated case.

Ques.—Take the mother who commits the act of destroying the child—there are such cases ?

Ans.—Yes, sir.

Ques.—Suppose that act occurred and there should be no other act indicating an insane condition, what would you say of that ; can you give the state of her mind when she attempted to commit that act ?

Ans.—I should not be willing to pronounce it a case of insanity. I never have known such a case.

Ques.—Take the case of the mother in the third story of a building where the house was on fire. The cry of fire was made. She took her children and deliberately threw them out of the window, one after the other. Do you call that a rational act? she never was known to be insane before that or afterwards?

Ans.—I should not feel warranted in calling her an insane person.

Ques.—Wasn't that a condition in which the will could not control the act?

Ans.—I could not describe it as an insane act. It is a momentary act without thought or reflection; it is not an act of insanity.

Ques.—Do you suppose a person that does that act could do otherwise, in her mental condition, with the surrounding circumstances, had she the power or reason under these circumstances?

Ans.—She didn't exercise it, sir.

Ques.—I want to know, as a matter of opinion, suppose that woman was indicted and placed upon trial for the murder of her children, and you were called as an expert to say whether she was in her reason and judgment, and whether she should be accountable?

Ans.—I don't think I should be called upon to answer that question.

Ques.—I will repeat the question and add, she seizes her children and throws them out of the window, and both are killed. She is indicted for the murder of those children, and you are called upon as a professional expert, whether, in your opinion, that woman was guilty of any crime?

Ans.—I could not be called upon only as to the state of her mind. Upon that opinion, I could not pass the opinion she was insane.

Ques.—Could you say, as a medical man, her mind was in a condition that she was liable?

Ans.—If you ask me whether she was sane or insane, I should say she was sane.

Ques.—I did not ask that; I ask if her mind was in such a condition that she could do any other act?

Ans.—I should say that by reason of excitement and fright her mind was in a state of confusion, so she did not act in accordance with judgment.

Ques.—Do you think she was responsible?

Ans.—I have no idea the jury would hold her responsible. [Applause.]

Ques.—In all similar cases growing out of sudden fright, isn't the reason and judgment in abeyance?

Ans.—There very few cases produced by sudden fright.

Ques.—I don't care whether you call it insanity or anything else; I ask you if the reason and judgment are not in abeyance, growing out of the condition of the circumstance?

Ans.—You are asking me a question which, if the Court decides, I shall answer.

The Court:—Ques.—You must answer whether, in your opinion, the reason would be acting or not?

Ans.—In my opinion, a great many persons, under certain conditions of confusion, resulting from disorder, act without intelligent judgment.

Ques.—Does not fright often produce permanent insanity?

Ans.—It does not, sir; not often; it has in some cases.

[Mr. Lanning here read from reports of insane asylums, showing a number of cases caused by fright, &c.]

Ques.—Cannot a condition of insanity exist apparently latent, which may be made active momentarily, and subside again into a latent form immediately after?

Ans.—If, by the term latent, you mean a condition that would not be strikingly observable, I should say, yes.

Re-direct-examination:—Ques.—You may explain what you mean by the word latent?

Ans.—Quite a number of cases of insanity where ordinarily the conduct of the persons is reasonable, they discharge many of the ordinary acts of life, as ordinary persons would, but which to ordinary persons would not be observable, but under that would be ideas of delusion, that a violent cause might bring out, so the individual would show insanity.

Ques.—I wish to call the doctor's attention to the long question I put, and

ask whether, according to the facts which I stated, you think that the person in shooting, in doing the act of shooting, would know—would have the power or know that he was doing wrong, in the supposed case I gave?

Ans.—I said it would not be a case of insanity; I think he would know it was in violation of human right.

Re-cross-examination :—Ques.—Would he be any more liable to do it than the mother would?

Ans.—I think he would.

Ques.—Now, assume that the person that fired it, assume that as a truth in the case, what do you say then about it; that the person that fired that shot had no recollection whatever of his having fired it immediately after, as to whether it would be the act of an insane or a sane person?

Ans.—It might be the act of a sane person.

Ques.—You think a sane person might commit that act and not know it a minute afterwards?

Ans.—There are certain conditions of mind in which a person performs an act in a moment of excitement, it being a sane act of which he could not give you in detail the manner in which it was done. There is that condition of mind that I am bound to recognize as not a condition of insanity.

Ques.—In a case of a sudden outbreak, what is the condition—what is the thing that immediately precedes the insane impulse?

Ans.—It is a sudden impulsive act, being in the mind of the insane person, and some cause drives them on to do it.

Ques.—What condition is produced that caused this involuntary impulse?

Ans.—I think, in many cases, there is no great change in the physical condition of the brain. In some cases the face becomes flushed, and, I think, there is a congestion of the brain. In other cases the face becomes pale, and in such cases there is a condition of less blood to the brain—there are both of those conditions to that effect.

Ques.—Take the long question put by the counsel, if there was no premeditation, or without any premonition whatever in addition to what he has stated, add this further fact, that the person firing the shot in point of fact has no recollection of its occurrence, and that it was in a public place?

Ans.—Your assumption would be slightly contradictory with the facts as stated in the other.

Ques.—I will put the question, omitting that he was sane immediately before, and continue the proposition that he was under great excitement, showing sense of grief, and he commits the act under the circumstances, aside from whether he was sane or insane before, but in point of fact has no recollection of it and never had.

Ans.—The weight of evidence in my mind would be still upon the side that the person committing an act under such circumstances, with such a state of facts, preceding —.

Ques.—I wish you to assume that it is true?

Ans.—Taking all these facts, there would not be sufficient evidence to raise the opinion that the man was insane. There might be sufficient evidence to show that he was acting under great mental excitement, in which there was confusion of his mind, and he failed to remember what he did at that moment.

Ques.—Suppose he has no recollection of anything connected with it, the last recollection is when he asked him if he would marry his sister, and he tells him to go to hell?

Ans.—It would not, to my mind, indicate insanity, but only indicate that it was done in a moment of mental excitement, and he failed to remember just the act. That is a condition which occurs in certain mental manifestations when connected with insanity. There are such phases and such cases of mental action.

Ques.—Will you mention a case where a person was not considered irresponsible for the act?

Ans.—I don't recollect any case.

Ques.—Did any such case come under your observation?

Ans.—No, sir.

Ques.—Then why do you say it cannot exist, if you never read of it or saw it?

Ans.—If I never have observed such a case in twenty-three years, I can only say, I cannot endorse the idea.

Ques.—That is the most you can say, that you never have seen such a case. That is about all you can say, isn't it, intelligently, upon the subject; that there is no rule for insane actions?

Ans.—My reply as to there being any rule as to that, the indications of insanity vary in different cases, and each case of insanity is consistent with itself, and by that rule alone the physician of experience decides.

Ques.—These cases brought to the asylum are where the disorder is continued?

Ans.—A majority are.

Ques.—Has any case been brought under your observation where the patient was affected by what is termed mania transitoria, where there was no evidence of insane acts before or after—have you ever had occasion to treat a case of that character?

Ans.—No, sir; I have had occasion to see such cases as Dr. Ray describes, but never where there was just one insane act.

Here counsel for the People rested.

REBUTTING TESTIMONY OF THE DEFENDANT.

The counsel for the defendant called Mark McDonough, who testified as follows:—Am now and have been for several years last past a reporter on the Lockport JOURNAL; heard of the shooting of Bullock on the night of the 11th of March last; was at the jail the Sunday following, about 3 o'clock P. M.; went there with Chief of Police Burgess to interview Mr. Pierce; we went into the cell; Pierce said nothing on the subject of the shooting, nor as to how many of the chambers of the revolver had been discharged; Pierce told me his counsel had been there a few hours before I came, and advised him to say nothing on the subject to any one; he declined to say anything on the subject; was at the police office on the night of the shooting; Pierce did not say that night that he did it (meaning the shooting); the warrant of arrest was read to Pierce; Bullock made a statement which the Police Justice took down in writing; Pierce was asked if he had anything to say; he said he had nothing to say; I sat at a table and took down Bullock's statement.

Cross-examined by Mr. Andrews:—I sat about as close to the Police Magistrate as I am now to the Judge of this Court; sat at the same table with the Magistrate.

Here the defense rested their case, and the Court adjourned until 9 o'clock Tuesday morning.

SIXTH DAY.

THE SUMMING UP.

The interest in the case has reached the highest point. Long before the hour for the opening of the court, the hall leading to the court room, is densely crowded with men and women anxious to obtain eligible seats. As soon as the doors are open, a rush is made into the

court room, and in a few minutes every available space is occupied until there is not even standing room left. Mr. Lanning, at 9 o'clock, commenced the summing up. He spoke as follows :

If the Court Please and Gentlemen of the Jury—

After this very long and patient investigation in which you have been engaged, it becomes the duty of the counsel to discharge their last obligation to the defendant, in presenting to you such considerations as they think may aid you in coming to a just conclusion in the deliberations which you are about to take. For the last week we have been engaged in investigating the transaction which brought to a termination the life of a citizen, which has placed in the hands of the jury the life of another, who is charged as the agent in producing that result. Of course, it would be unnecessary for me to say, in view of the deep manifestations of interest that have been seen during the progress of this trial; in view of the great interest which the public seem to feel in regard to the final issue in this trial; in view of the care with which you were selected, I say it would be unnecessary for me to say a word of caution in regard to the performance of your duty. You are chosen from the great body of the people of this county, and chosen as in the language of your oath, to well and truly try, and true deliverance make, between the people of the State of New York and the defendant, of the highest crime known to the law. That you will discharge your duty faithfully, I have no doubt; and that you will be governed by those great principles of justice and mercy that should ever find their way into the jury-box, in determining a question involving the life of a citizen. This charge, of course, is the gravest charge which a jury can ever be called upon to investigate. In the ordinary trials which take place in courts of justice in civil actions, you decide upon the mere probabilities of the case, because nothing but mere pecuniary considerations are involved. You simply act upon these probabilities which, as reasoning men, with ordinary acquaintance with the affairs of life, you believe to be the truth. But when the liberties of the citizen are involved, when charges affecting his character, his position as a citizen, his life, the execution of the law, the maintenance of order in society and the preservation of the home rights are involved a higher degree of accuracy in the proof is required by the law. And it is but natural because the consequences are so much greater to the individual and to society which are to follow the result of your deliberations in the administration of justice. Therefore, it is in the prosecution of crime that evidence must come to the jury, clear and satisfactory, by which their minds are convinced beyond any reasonable well-founded doubt as to the truth of the allegations which are sought to be established by the prosecution. For such is the charity of the law, that unless every material fact necessary to constitute the offense charged is proved—not by mathematical demonstration, for that is not possible, but by evidence that shall convince the mind of its truth beyond question—the accused is entitled to the benefits of such doubt, which works his acquittal. Now, gentlemen, you are chosen from the great body of the people of this county by reason of your supposed intelligence, you supposed integrity and honesty to pass upon the most momentous question that has ever been presented to the consideration of a jury. It is not in the lifetime of many men that responsibilities of so grave a character are thrown upon a jury—responsibilities so important to the jurors themselves, to society, to the person whose life is placed in their hands. I say it is not often it falls to the lot of any twelve men to have a case of this character under their consideration. This responsibility is placed upon you. You have been chosen for your great experience in the common affairs of life; you have been chosen because of a lifetime of probity and upright character. You have become familiar with the acting and reasoning and thinking of the different members of society. You have been chosen because you are fathers, husbands and brothers. You have been chosen because you represent homes and firesides. You are chosen also because you represent the majesty of the law and the safety and security of the citizen. Whether it is the citizen to be protected against the assaults of others, or whether it is to protect him under a trial as serious as this, you have brought with you all that knowledge, all that experience, all that judgment into the jury-box, and you are to exercise it all

in determining upon the right in this case. I know from the very appearance of this jury, from the character of the men who compose it, that they will faithfully and honestly discharge that duty. Now, gentlemen, this case, in more respects than one, is an extraordinary case. In ordinary occasions the District-Attorney, the officer of your choice and recipient of your suffrages, for the honors of that office is entrusted with the prosecution on the part of the people; in most cases of a capital character that is the usual course; but this case seems to have invested itself with so much importance, either because the people of the State, in their majesty, thought it was due to them, or because this overpowering public judgment, which was in favor of the defendant, should be arrested, he has summoned to his aid not only an able lawyer and former Judge of this Court, who has honored this bench in the administration of justice, but he has brought to his aid the first officer of the State, (the Attorney-General) who has sent here a gentleman of great learning, of great experience and great wisdom to conduct this case on the part of the people. With this I find no fault; for this case is to be determined on the great principles of justice and mercy. I know the counsel for the people, and unless I mistake their character they will not pervert the cause of justice or use any argument that shall not be inferable from the evidence, in order to procure a conviction. You are not a jury of our selection. Formerly and until within a few years a person was permitted to select a jury of his peers, but the Legislature in its wisdom has given the people power to strike from the panel to the number of five men whom they thought were adverse to them, or whose feelings, in their opinion, might exercise an undue influence in regard to the accused. The people have seen fit, through their learned lawyers who stand here entirely devoid of feeling except to administer the law, to exercise this right and themselves to select a jury so far as they have the power to do so; and to that end one, two, three, four, five of the men who were summoned here, who were in every manner competent to serve, have been stricken from the jury. We have taken you as men entirely divested of sympathy, who are to take this case and decide it upon the evidence as it has been presented. With that we will be content. You are a jury of the peers of this defendant, into whose hands is placed his life, his liberty, his character, his reputation, and the reputation of his family, the protection of all the homes in this county and the State. I ask you to go with me, as we review the evidence in this case, and see whether it is a case where the defendant is guilty of the crime with which he stands charged in this indictment. If so, it will be your duty to convict; if not, it will be your pleasure to acquit him.

Now, gentlemen, who is this defendant? He is a young man who has been reared amongst you. He is a young man who, from his earliest childhood, has grown up under proper training and proper culture, and who up to the time when this fatal deed was committed, in all respects, lived an exemplary life. No person in this county has a fairer character, one every way more worthy to be emulated and patterned after than the defendant. He has been an obedient son. He revered his father and his mother. He was an only son, and he had only sister. They were about of an age. They were brought up together from their earliest childhood. They were educated and together employed in a common pursuit at the store, at the school, at the Sabbath school, at the church, obeying together all the duties and requirements which were placed upon them, and in every way doing what ought to be done generally by persons in their situation. His affection was great for his father, mother and sister. He had early exhibited these traits of character, and under the circumstances in which he was placed, made it necessary for him to assume the duties and care of the household which had reared him, and which, as a man, he was bound to honor and protect. He grew up an industrious, intelligent and exemplary young man of moral principles and energy, and when the call of his country required him to defend its honor on the field, he voluntarily relinquished all these dear associations of father, of mother, of sister, and hastened to the defence of his country and the honor of its flag. He was not only an honored child, an affectionate brother and exemplary youth, but a true patriot, and in all the positions in which he has been placed he has manifested this high character above reproach, because not the first man has been brought here, and in the vigilance of the counsel for the People they would have been brought here if the truth

existed, but not a person has appeared who has breathed a suspicion of anything that has lowered the high standard of character which he has always maintained. This young man is now upon trial for his life. He is charged in this indictment with the murder of a citizen of this county. Who was the deceased? He also was a young man who had, to a certain extent, been brought up among you. A man whom Mr. Pierce never knew until he knew him as a man who was making advances to his sister, and who was her affianced husband. He was looked upon as a man of honor. The defendant made the necessary inquiry, and you can imagine how such a man as Mr. Pierce would inquire, in reference to his moral worth, in regard to his standing in society. Although his means of information were limited, he learned from his father and his sister that the intentions of the deceased were honorable. He left the deceased here to prosecute his suit, considering him worthy to become the husband of his sister. Who was this man Bullock, and how did he fulfill his obligations to this family? You must remember that this family relation is the most sacred of all relations in the world. It is the fireside relation. It is the relation for which government is organized and society maintained. It is the corner stone of all civilization, of all refinement, of all advancement. Each family is a little world within itself. What occurs there is sacred and never goes outside the door. I have but to appeal to you who are yourselves little constellations revolving around the center of human society, and I know I do not appeal to you in vain. This man Bullock invaded this family, this little world of the defendant, and it was but a little world. There was but the father, the mother, the sister and brother. He came there, as the brother understood, to create a little world out of this world of his, to build up a family, the head of which was to be this sister of his, and for whom his affection was strong beyond expression. Such was the character of this man as the defendant looked upon him; such the relation he held to his sister, his family, himself. Now he is charged with taking his life, and it becomes an important consideration to see what circumstances have occurred in regard to it. First is he guilty of the act at all, or rather than use the term guilty, has he been the agent, the instrument of producing this result at all. If so, was this act committed under any such circumstances as constitute the offence for which this young man is placed upon trial. In the investigation of crime, character is always of the highest importance, not that it furnishes an immunity for crime, but it is an important circumstance in determining guilt. When you see a man of high moral character, of conscientious and religious feelings, you do not expect such a man to suddenly become a great criminal, and commit a great crime. There is a standard that has been reared through childhood to manhood and middle age. If that standard be just, you don't expect the individual to forget his practice, to forget his duty and belie his whole life and commit a crime. Such a man was this defendant. In all respects exemplary; in all respects without fault, so far as it is human to be without fault. Now he is charged with the commission of this offence; but bear in mind first that it is not every killing of a human being that is murder or crime. This defendant is indicted for murder in the first degree, and if he is to be convicted of any crime, he is to be convicted of that. The law presumes the defendant to be innocent. This presumption is to be overthrown by affirmative proof by the People. They must satisfy you not only of the homicide, not only that it was the act of the defendant, but that it was the result of his deliberate intent to murder. It is that, or it is no crime.

The learned counsel here called the attention of the jury to the law defining the various degrees of murder and manslaughter, and what constituted justifiable or excusable homicide, and then proceeded:

By the common law, murder is defined to be the killing of a human being in the King's place by a person of sound memory and discretion, with malice aforethought. All of these elements are incorporated in one statute, defining this offence. It is there defined to be the killing of a human being with a premeditated design to effect his death. You must be satisfied in the first place, that this man was rational, of sound memory and discretion, that he formed the premeditated design, that he had within him this malice aforethought, this premeditation which by its very nature must precede the act; this intent

formed within his bosom before he fired the fatal shot, if he did fire it. All this must be found to have existed, and must be proved to your satisfaction to the same extent as that anybody has been killed.

The counsel here reviewed the evidence in the case, particularly that produced tending to show the insanity of the defendant at the time of the shooting, the great grief and suffering under which he was laboring, and the final reply of Bullock at the time of parting at the corner of Main and Pine streets, which culminated in the dethronement of the reason and the firing of the fatal shot.

If you are satisfied that the deceased came to his death by the hand of the defendant, was it by his voluntary act, or was it the result of an insane impulse which he could not control? Now, what are the circumstances in this case? what could be the motive? what are the relations of these parties? This man was the affianced husband of his sister. Dearer than life was that sister. He had watched her from childhood. He had been her guardian angel; he had been her defender, her protector by day and by night. It is not necessary for me to invade the privacy of that household to tell this jury—who are fathers, who are husbands, and brothers—what that relation was. Have you a daughter, have you a sister? Do you remember with what solicitude, with what care, you protected her from all the assaults of a base, bad and wicked world. There was this infirm father, who, to a certain extent, was prevented from associations with the family as a father. This young man was brought up in the place of a father, so to speak, and naturally protected this sister of his. The deceased was her affianced husband. Pierce desired of all things that his sister should be happy with him in the future; should be as happy as she had been in the past. Do you believe that such a man could premeditate to take the life of the future husband of that sister. More than this, you see the circumstances under which this man came here; you see him leaving Chicago on this errand, to ask the consent of the parents of his future wife. His sister had already yielded her affections, and was about to become a wife and the head of a household. You see that the only remaining tie at home was about to leave that home. He done what was natural for him to do, and which he had deferred for years, and would have deferred longer if his sister had not been engaged to be married. When his sister, whose guardian he had ever been, was about to throw off his protecting care, for him who had won her confidence and love, and who, as both believed, was to be dearer to her than a brother, he felt that he, too, could go out into the world; that he, too, could erect his little altar, around which he could rear up a family of his own. Can you imagine the feelings of that brother as he opened the door of his house and was met by his weeping mother. Language is inadequate to portray his feelings, nor is it necessary. You, gentlemen, must see that it was like dividing the flesh from the bone. The keen anguish—enough to break the stoutest heart or stir up the most revengeful passions in our nature. This man, who had invaded his household, who had sought and won the affections of his sister, had vowed to love, cherish, honor and protect her as long as she should live. His sister, dishonored under the promise of marriage! This wily seducer had won her affections; had destroyed her, and then cast her off forever! Oh! gentlemen, and God help you if you are ever placed under such circumstances as these! All the manly feelings of our nature rise up at the bare recital that our only sister is disgraced, and is to be thrown upon the world an outcast under the ban of society, to be looked upon by women and by men; to be jeered and scoffed at by the multitude! Gentlemen of the jury, can you comprehend all that must have passed through this man's mind as he crossed that threshold. He came there with no premeditated design, for he had no knowledge of the great wrong that had been done his family by this man who was their trusted friend. He is a better balanced man than most men. His passions were not aroused. He exhibited no anger. He was overwhelmed with grief. The fine sensibilities of his nature gave vent in tears. He broke down under this pressing load that was thrown upon him. Did he upbraid his sister? Did he seek to cast her off forever? Not at all. He goes to her and consoles her. He does what few men would do. He seeks to make the best of the case under the circumstances. This man Bullock comes there. The defendant talks with him. And here you get the

character of Bullock. You are led a little into his private history. You see what sort of a man he was. The world is just as well off without him. In his conversation when this brother implored him for the honor of his sister, for the maintenance of his family, and of his good name in society, to perform his vows and marry his sister, he is met with excuses—most trifling excuses—which would have aroused in the breast of almost any man a desire to remove from sight the man who had produced this disgrace. He wants to postpone the marriage until after the child is born. Gentlemen, you know, and Pierce knew, what that meant. Suppose a man had obtained the confidence and affection of your sister or your daughter and promised to lead her to the altar, and there, under the sacred rites of the church, marry her, and under these circumstances had seduced her, and then, demon-like, had refused to perform his obligations and sought to disown his unborn child and bring disgrace upon your whole family and upon yourself, what would you think of such a man? As I said before, the world is better off without such men. If you would wish to protect your wives and daughters whom you desire to be an honor and a jewel in your family, you will say so by your verdict, and save the life of this defendant. To wait until the child was born! What does this mean? It meant to turn Hattie Pierce out into the world as an outcast! What man of honor would not seek to avoid this disgrace? He marry her after that! No, gentlemen, that is not what he intended! But Pierce did not give up under that. He asked what he (Bullock) intended to do; what was to be done with the child? His poor sister lay sick on the bed. Poor Pierce was broken down with grief, looking full in the face this great calamity, and comprehending it. What was to be done with the child? "Oh! I'll take care of that! I'll send a basket and get some clothes at my mill, and I'll take it away! If it is a bright-eyed little boy, when it gets to be a year old I will adopt it and bring it up in the family." Such was the language of this base seducer. That was an honorable proposition to make to a brother taking the place of a father! Why, gentlemen, that meant murder! This man meant to add to his damning crime of seduction, the still more damning crime of infanticide—the death of his offspring to be—born of the woman he had promised marry! Do you wonder? Do you say, was there any premeditation here? What does the brother say to that? He says, "that does not seem to me to be right; I don't think that ought to be done." After a long interview—and it is not necessary that I should here detail it—Bullock goes away. He offers these various trifling excuses. He talks of his business relations. He talks of his mother not liking it! He would not have her know it for the world! He ought to have thought of that before he promised to marry Hattie Pierce. He talks about some business relations with a man who would not approve of it. I would like to know that man's name. I am glad, for the credit of this county, he does not live here. He must be a man of very slight sense of honorable obligations and duty. Pierce had yet hopes, and went on the errand of his journey to Waterford, N. Y., and visited the parents of his own affianced, obtains the consent of her parents to their union, appoints the day of their marriage. On his return at Albany he telegraphs his employers that he will be in Chicago the next Monday. He buys his ticket to Suspension Bridge. He tells the hackman to call for him at noon Sunday. This does not look like premeditated design to murder! After his return to his father's, he met Bullock again on Saturday evening. This same conversation was gone over with, but without any result. He was imploring, he was begging, he was asking, he was beseeching. The frame of his mind and his condition you can well imagine. There was nothing of a revengeful character. There was no revengeful feeling to rise up and crush this demon from the earth. He still implored this man to marry his sister to save his family—father, mother, sister and himself—from ignomy and disgrace. But still this hard-hearted wretch declined. They came to no conclusion then. At about 11 o'clock Bullock got up to go away. He invited Pierce to walk down street with him. Pierce did not go on his own invitation. That is proved and not contradicted. He went to accompany him part way to his home. This defendant was bowed down with grief, heart-broken and unstrung. He had rode two nights. He had spent the afternoon in grief with his family. He had met this man and came to no satisfactory conclusion. On the way down the street they had a conversation with respect to this matter.

Pierce urges him to marry his sister. He is not satisfied with the proposition Bullock makes. The excuses about his family, about his friend, and this last excuse—that he would never have it said that he was forced to marry any one! Well, he was a brave man! I should think the women would all be proud of such a man! Pierce says, "Is there no other reason?" Bullock says his pecuniary circumstances were such that he could not support a family. Now, mark this brother, the great affection he had for his sister, and the honor of his family. He says to Bullock that he would do all that he could to help him. Whatever he had was at his disposal. He would give his own earnings to assist him. He would do all he could to make his sister happy with him. He would even curtail his own expenses to produce that result. Still Bullock evades him and says I must leave you now. Pierce says, I cannot go back in the condition I am now in. I shall be unfit for business. I wish it arranged before I return? Will you marry her? Bullock says, "I will see you in hell first!" "Vengeance is mine! I will repay," saith the Almighty, and then it was, that reason, memory, judgment—all power of volition ceased, and without its guidance the arm that had so protected this sister became the unconscious, yet swift avenger of her wrongs.

Here the counsel detailed the manner in which Pierce came to have the pistol in his possession, as shown in the evidence, the frenzy with which he was overwhelmed by the final answer of the deceased, the shooting, the circumstances attending the same, the arrest and his final incarceration in jail, urging that there could have been no premeditation in arming himself before he left Chicago, and only at the solicitation of his sister put on the overcoat containing the pistol. The counsel also reviewed the testimony of Drs. McCollum and Clark, of this city, as to the state of defendant's mind when this act was committed, urging its careful consideration upon the jury. He then proceeded:

On the part of the prosecution they bring on one Dr. Cook, a sort of second Daniel come to judgment, who has got up some kind of a private asylum on his own account at Canandaigua, and he says he don't know of any such case of temporary insanity. Well, I guess he don't, because he has only under his charge a set of confirmed lunatics. But is he to swear down all the medical testimony of the last fifty years? He was brought upon the stand here with a great flourish of trumpets, and gave his testimony as though he was delivering a Fourth of July oration. He got up here and wiped out all the medical writers that have existed for the last century. He went so far even as to undertake to tell the Court what the law was; that he (the Judge) might have the benefit of his great learning and experience! The jury will have no difficulty in disposing of the testimony of this pretender.

Counsel urged upon the jury that it has been satisfactorily shown that the defendant had no recollection of what took place after Bullock's final answer—telling him to go hell!—until he found himself under arrest on Pine street. He also alluded to the fact that insanity was proved to have existed in the family of the defendant. That cases of mania transitoria were well authenticated, and cited numerous instances and authorities, and then proceeded:

But the people have attempted to prove by this Chief of Police Burgess, that Pierce admitted to him, in an interview at the jail on the Sunday following the shooting, that the five chambers of the revolver were loaded. Pierce never said any such thing. Now, here was Mr. McDonough, a reporter of the JOURNAL, and these reporters are a pretty indefatigable set of men, for they will scent news as the horse snuffs the battle from afar. He was there for the purpose of interviewing the defendant, and, of course, he was listening for every word that was dropped. He says Pierce said nothing whatever on the subject.

Now, gentlemen, I have come back from where I started in the outset. From your own knowledge of the world, your knowledge of human character, you are to consider the knowledge of your life and experience and bring them to bear and within the law and the authorities which have been produced here and the medical testimony which has been given and in the light of the conduct

of this defendant in connection with this transaction and in connection with his family and with his whole former life. Why, gentlemen of the jury, was there ever a more satisfactory exhibition? Was there ever a stronger piece of evidence of what might be the condition, or probable condition, of this man than was exhibited on Friday or Saturday last, when we put the father and the mother of this defendant on the stand to testify. You saw how to the very verge of insanity she was driven in giving her testimony. Gentlemen, that cannot be acted. I think if even Dr. Cook had seen that, we should have converted him to our theory. With all the appearance of an insane person in this great trial of hers, weighed down with this great affliction, only buoyed up with the hope of the life of her son, she could tell her simple story, but she could not restrain her feelings, showing you the temperament which this defendant has inherited from his mother.

Gentlemen of the jury, take this case. Into your hands I commit this defendant with what has been adduced. With the deep wrongs that he has suffered. With the circumstances that have surrounded him as he has been but the agent in the hands of an overruling Providence, to take this man's life. Into your hands I commit that father and that aged mother and that broken-hearted sister, dearer to him than life itself, and I ask you as sensible men—as fathers, as brothers, as men who have sons and daughters—as you value the virtue and purity of woman, as you value the good order of society, as you value the peace and happiness of your homes and firesides, I ask you to deliver this man from thralldom, and I pray God Almighty that he may have a safe deliverance at your hands.

At the close of Mr. Lanning's address, Mr. Andrews summed up the case on the part of the prosecution. He spoke as follows :

If the Court Please and Gentlemen of the Jury—

My own position in this case is that of one sent here, as the counsel has stated, by the Attorney-General to aid the District-Attorney in the prosecution of this indictment, the Attorney-General being prevented by official duties from being present in person. I am not here for the purpose of using any exertions which I might bring into use for the purpose of convicting an innocent man, but carefully and as well as I can to aid the District-Attorney in developing all the facts and circumstances which surround the case, and then decide upon such course of action and such requests to the jury as I shall deem it my duty to make to them. The circumstances surrounding this case have caused it to be regarded as one of great moment and importance. It was known, probably, that the person charged was an individual who occupied a respectable position in society, and that an attempt would be made to interpose the defense, which has, within a few years, been interposed in cases of this description—I mean the defense of insanity. That defense was to be expected, and, of course, as there was no other defense that could be anticipated in this case, great exertions would be made to secure an acquittal upon that ground. The facts in this case have taken several days to develop, and I think they are not enveloped in any particular confusion or difficulty that will prevent you from having a clear idea of the whole surroundings, and the whole situation of this case.

On the 11th day of March, in this year, on a public street in the city of Lockport, a man was shot. He was taken after a little time to the place of his residence, where he lingered and languished until the 20th of April following when he died. At a subsequent meeting of the Court of Oyer and Terminer, or Court of Sessions, in this county, an indictment was found against the prisoner, in which it was charged that he had been guilty of the crime of taking the life of Wm. Bullock, with a premeditated design to kill him. That indictment being presented, it became the duty of the District-Attorney to bring the charges in that indictment to trial, and we are here now for the purpose of determining the question whether or not that is a true bill of indictment. Our duties here are well marked and well understood. We have a Court, we have a jury, we have counsel for the prosecution and counsel for the defense, and we

have witnesses. The department that the jury occupy in the administration of justice in this case, as in all other cases, is the department of simply determining how the fact is in respect to the question whether or not Aratus F. Pierce killed Wm. Bullock, with a premeditated design to cause his death. That is the only question, and there does not arise any question of sympathy either one way or the other, gentlemen of the jury, for your consideration. You have no right—it is no part of your duty—to exercise any clemency whatever towards the prisoner at the bar, any more than it is to exercise any harshness or severity towards him which is not warranted by the evidence. You have nothing to do but simply find the fact whether the prisoner killed Mr. Bullock, and whether he did it with a premeditated design to effect his death. You have no more right to give way to your feelings in view of the consequences that may follow to Pierce, or his family, as to the verdict you shall render under your oaths than has this Court, after your verdict has been announced, to refuse to exercise the functions of the law under the statute. To give way to your sympathies would be a violation of the great trust that has been imposed upon you, in entering upon which you have sworn that you will true deliverance make between the people of the State of New York and the prisoner at the bar. I say it would be moral perjury in you if you should allow your feelings to be swerved and your judgment to be blinded in the consideration of the true question that exists in this case in reference to the guilt or innocence of the prisoner.

So far as any question of excuse or extenuation or kindness is concerned towards this prisoner, if you find your verdict against him there is still another department of the government (the Executive of the State) who has in his charge what neither you nor this Court possess—the power of extending clemency towards any prisoner who has been convicted. We live in a country which is regulated by law. We depend for our protection in regard to our persons, in regard to our property, and in regard to our reputation upon the due execution of the law by the established tribunals of our country, and it is the duty of all of us by every means in our power, where we have any part in the administration of justice, to endeavor to uphold the law and see that it is faithfully and properly administered; for, by that means alone, have we any protection against violence to our persons or against injury to our property or reputation. We all rebel instinctively against acts of lawlessness. We complain of the suspension of the writ of *habeas corpus* that enables men to be brought before a tribunal for the purpose of having their detention inquired into. Our love of law and order rebel against the exercise of martial law or any irresponsible power. It is a principle laid down in the statute that no person shall act as Judge in a case in which he is interested, or in which he is a party, or in which he would be prevented from being a juror by reason of any relationship. Above all things, in respect to the safety of the person of the citizen, it is necessary for courts and juries to stand up against any persons taking the law into their own hands and undertaking to inflict upon or to seek vengeance upon any party towards whom they may have any malice, ill-will, or feelings of resentment. Justice to this dead man, justice to the family which, by this act of the defendant, has been bereft of the assistance and the comfort and support he had afforded to them, and justice to the community require that the cause of his death, the circumstances at the time it occurred, and all the surroundings, should be patiently investigated, in order that the responsibility shall be placed where it belongs. Having done that, having ascertained whether or not the prisoner has committed this crime, you have discharged your duty, whatever the consequences may be to him. I do not understand that it is seriously controverted that Wm. Bullock came to his death by the hand of the prisoner, although his counsel, in the remarks which he has made to you in closing the case on the part of the defense, has submitted that question of fact to be by you determined. No doubt it must be found by you that the killing of the deceased was done by the defendant, and that it was in consequence of the shooting of the defendant that the deceased died. You have heard detailed the circumstances under which this death occurred. The officers who were present at the time of the homicide, although none of them saw the firing of the pistol, some two or three who heard the report of the pistol testify that they saw the flash, and that, at the same time, they saw two persons standing

facing each other. These two persons were subsequently ascertained to be the prisoner at the bar and the deceased, and the person who stood farthest towards the north proved to be the prisoner at the bar. You have heard the testimony of these officers and another young gentleman by the name of Lane, who testified to the pursuit and subsequent shots that were fired; to the pursuit of 18 or 19 rods; that at about the end of this distance the person who subsequently proved to be the defendant in this case—and while the deceased was laying on his back in the street—fired off his pistol again, making the fifth discharge of the pistol from the time of the commencement until the close. It is very apparent from what these witnesses state, that there was no other person about there who could have committed this act. No other person was seen, and the pursuit of the larger of these persons, as seen by the light of the flash of the pistol, and the final arrest of the defendant under the circumstances, and at the close of this pursuit, and after the firing of the last shot, makes it seem to me certain that no other person fired these shots except the defendant. It turned out on examination, although it was not known at the time, that the deceased was wounded by two of the shots which took effect—the one entered the abdomen passed entirely through his body, through the kidneys and liver, and lodged in the skin—the other making a flesh wound in his back. The consequences of these wounds were immediately visible upon the deceased, for he not only fell, but was found in that condition when the officers came up to him. After being taken to the police headquarters, he fainted. While in the room of the police headquarters, the wounds were partially examined and were found to be bleeding. He was subsequently the next morning, the 12th of March, taken home, and was treated by Drs. Kittinger and Tryon and other physicians. These physicians state that all the symptoms attending his sickness were such as naturally would follow the infliction of those wounds, and finally on the 28th day of April, after enduring great pain and anguish and suffering continually, he died. A post mortem examination was made and we have had the examination detailed by the physicians who made that examination. They have testified that the proximate cause of the death of this man was the bullet passing through the abdomen, through the liver and kidney, and lodging in the twelfth rib; that the immediate cause of his death was the bleeding which was produced by this pistol ball thus inflicted, so that the death of Mr. Bullock was caused by the pistol ball shot by the defendant, it seems to me is fully established. There is no evidence on the part of the defendant tending to controvert this in any manner. None of the other physicians who attended upon the deceased have been called by them, so it stands established upon this case as well as any fact can be that this pistol shot by the prisoner, entering the abdomen, caused the death of the deceased. Now, by the statute which has been read to you by my associate, who opened the case on the part of the prosecution, and made a very clear statement of the rules of law in relation to the crime of murder and manslaughter, and what constitutes excusable or justifiable homicide, it is established that the killing of the deceased was either murder or manslaughter, or excusable or justifiable homicide, or else it comes within none of those definitions on account of the insanity of the prisoner. Murder (and we shall not differ at all upon what constitutes murder,) is the premeditated killing of one person by another with a premeditated design to effect his death. The question so far as the allegation of murder is concerned in this case, is whether the prisoner at the bar killed the deceased with a premeditated design. There is no pretense here, as I understand that there is any justification for this homicide, it does not come within the meaning of the statute defining excusable homicide, and it comes down to the last and sole question, whether the prisoner at the bar at the time he did kill the deceased was insane, and for that reason was not responsible for the act. Now, my associates and myself, in view of our duty in this case, and the evidence that has been given, have thought it our duty to insist and claim before this jury that the prisoner at the bar, in committing this act of killing the deceased, was guilty of murder in the first degree. It must appear affirmatively, that I concede. That the killing was effected with the premeditated design to produce the death of the person killed. Every person who kills another is presumed to intend the consequences of his own act. If the evidence stops at the killing, and there is no further evidence in the given case of homicide than the fact

that one man has killed another, that evidence alone establishes the fact of premeditated design to effect the death of the person killed. Upon that question it is competent for either party to introduce such evidence as they may have bearing upon the question of premeditation, and in this case, as is usual in similar cases, the people have connected with this killing such circumstance surrounding the act as seemed to be likely to throw light upon the question. They have shown the surroundings, shown the circumstances under which it has occurred so far as they have felt it their duty to do, to put the jury in possession of all the facts necessary to arrive at an intelligent judgment in the case. This killing of a man is not only evidence of an intention to kill, but is of itself evidence of a premeditated design to kill. For to constitute premeditated killing, it is only necessary, as it was stated by the counsel for the prisoner, that it should be premeditated for an instant. It is not necessary it should be for a day, an hour, or any particular time. But from the presumptions of this case the jury are bound to find a premeditated design as a legal consequence of the killing, unless it is shown in some manner, either on the part of the prosecution or of the defense, that death was not premeditated. Something has been said here about motive, and there is no doubt but that ordinarily there is some motive for the perpetration of the crime of murder, but it is not a necessary element of this crime. It does not enter into the definition of murder in any respect whatever. The language of that statute is when perpetrated with the premeditated design to effect the death of the person killed. In the case of McKee against the people, 36 N. Y., 115, the Court held: "The laws presume that a person taking the life of another with a deadly weapon intends to do it, and if a sane man so intends, it makes no difference whether he had a motive or not, for it is not necessary to look for a motive when a person has been so killed with a deadly weapon or with poison." We shall consider whether there was a motive on the part of Pierce to slay this man. I think the jury, from their own knowledge of the world, and their own common sense, have long before this time discovered that the satisfaction of the feeling of wounded pride or honor was one of the very strongest motives—the strongest reason why the prisoner might have desired to have taken the life of this man in the manner he did. The counsel has recognized the fact that it would be quite natural, that it would be almost impulsive for any man, under similar circumstances, to commit an act of violence towards this deceased. In portraying the mildness of the character of Pierce, and his forbearance "in not killing Bullock on the spot, as most of us would have done."

Mr. Lanning interrupting—On the first evening.

Mr. Andrews—Very well, counsel avows that on the evening Pierce first returned, most of us would have killed Bullock. Why? Without motive, without malice! Does he mean justifiably? Is there any law, human or divine, that would justify the act? If we live in a country where the law is intended to be executed—if this defendant intended to take the law into his own hands, ought he not to have the law executed upon him. In my view of this case it is of no moment whether the deceased did right or wrong, in refusing, or declining, or hesitating, or delaying, or whatever you call it, at first or afterwards, to marry the sister of the prisoner. It is not a matter to be considered by you at all, except so far as any communications made to Pierce may have affected his mind and produced this alleged condition of insanity. The real merits as to whether Bullock did right or wrong do not enter into the case at all. You can not try that question here, and testimony upon that subject has only been allowed to be received for the purpose of showing that Pierce was laboring under an excited state of mind that might possibly lead to a derangement of his faculties. If it had been a falsehood it would have just the same bearing as if it had all the elements of truth. What do we find in respect to this question of premeditation? Of course, I agree with the counsel that the question of premeditation is to some extent mingled with the question of mental capacity or alleged insanity. But I have not found enough proof upon the alleged insanity in this case to disturb me in attempting to consider it in respect to the premeditated design in the first instance. Let us see what the facts are in regard to Pierce's premeditated design. The evidence in the case shows that he returned from Chicago on the 7th or the 8th day of March, 1871, in consequence of a letter which he received from some member of his family,

requesting him to return; that on his arrival here he had disclosed to him the condition of affairs between his sister and the deceased. It does not appear that in any part of that interview there was any incoherency in the conversation of Pierce, anything to show that Pierce did not fully appreciate that transaction and realize the relation of his sister and Bullock in all its bearings. It is not necessary, for the purposes of the prosecution, to show that at that time Pierce had formed the design of taking the life of Bullock. A great deal of evidence has been introduced on the part of the defence—and I make no complaint of it—for the purpose of removing the idea that he came down here for the purpose of committing violence on the deceased. I do not myself find that there was any such premeditation at that time. It seems there had been a failure on the part of Pierce and his sister and Bullock to agree. Pierce asked Bullock to marry his sister; very naturally he urged it and very zealously, but failed to attain his object. Here was a space of time that embraced three or four days in which Pierce had been considering the consequences of Bullock refusing to marry his sister. It is said that Pierce has sustained a good character. I have nothing to say about that. I am very glad that there is an element so favorable to his case. If it does not aid him here, I hope it will aid him hereafter. It only shows the advantage of a good character under all circumstances. I do not think this defendant is different from other men. I do not think he would feel his injury more keenly, or exercise his hate more strongly than other men. I do not think we have any evidence in the case that he became so thoroughly Christianized that he was not human. I think that he not only felt, on the evening when Bullock refused to do what he wished him to do, but that he kept feeling just as my friend (Lanning) thinks that most any of us would have felt on Wednesday evening, that he would like to kill Bullock. He felt that Bullock was disgracing him. It was a great blow to his pride, a great mortification, and if a man's bitterness and revenge would not rise up under such circumstances, I should think he would be pretty nearly perfect. Although Pierce did not exhibit any great outburst of passion there on Wednesday or Saturday evening, we are not to infer that the feeling of bitterness was not rankling there, and a determination fixed in his heart that if this man did not do what he regarded as justice to his sister, some act of vengeance might not be done. The fact that many men, under similar circumstances, have committed crime, does not extenuate his crime. He failed to have the deceased do as he wished. Does that make men crazy? Is that the way men act? Is that the way men ordinarily do when they have received a personal injury? Do we call it insanity, insane impulse? Not ordinarily. It is stated in some portions of the evidence that just about as Bullock was leaving he asked Pierce to walk out with him. This evidence is a little different from what we expected. We were informed by the opening of counsel (Farnell) that Pierce went out for the purpose of offering all that he had to induce Bullock to marry his sister. They got up to go out. And now what is the subject of their conversation after they are out. It is the same thing. He had been earnest in his appeals, but Bullock comes no nearer than before, giving one reason and another, which were entirely insufficient in the estimation of Pierce, and counsel says of course these refusals meant but one thing—that he never would marry his sister. Quite likely Pierce believed just that, and that is just the reason why his bitterness would be all the greater. They pass along up Main street. Except in one particular there is no important difference between the dying declarations of Bullock and the testimony of Pierce, and that is in regard to the scene which occurred precisely at the point of parting. Now, this point of parting would seem quite likely to be about at the end of the negotiations, and both would naturally regard it so. Unquestionably the feeling of resentment and indignation of Pierce would be quite likely to culminate at that point. His feelings would not grow more quiet, because he was troubled and in earnest. He could not forget it. It was a matter that he could not get over in any manner. And what then? All hope is lost. Every effort has been made. "This man knows," thought Pierce to himself, "that I am to go away to-morrow; all hope that I can induce him to marry my sister is gone." This desperation seized him. That, I think, is fairly disclosed in the case. The feeling of revenge for this deep injury seizes him, and regardless of consequences—willing to be a martyr, if necessary—he fires the fatal shot. He acts just as the determined man that

he is would be likely to act. Slow to anger, but with deep feelings that could not be put down, he was determined to make sure of the work that was to be done. You have heard the evidence of the pursuit, the fatal aim, the fatal shot. You have in addition to that, immediately after this occurrence, officer Donnelly coming up and presenting his pistol to the head of Pierce, telling him he would kill him if he did not surrender, or words to that effect. Pierce, showing a full consciousness, hands over his pistol to Donnelly, and says he will go with him, Donnelly having said you are my prisoner. Pierce is immediately taken to the police headquarters. Pierce says, in his testimony, that from the point of time, which he says was the close of the interview at the Exchange Bank, he is entirely unconscious of anything that occurred until he found himself in charge of some person. Everything that occurred from the time that Bullock used the words, "I will see you in hell, first," until he was in the hands of Donnelly, is an entire blank, and it is urged that this proof is evidence that Pierce was insane, and as a necessary consequence that this killing was not with a premeditated design to effect death.

Now, what occurred at the precise point of parting, I don't think—whether the version of Pierce be the correct one, or the dying declaration of the deceased—I don't think those words, after all that had occurred between them during the past three days—words which do not reflect at all upon the previous chastity of the sister of Pierce—that in no way would make the matter any worse, Pierce himself having understood that Bullock would not marry this woman at any rate, until after the child was born. I don't think you can conclude that there is anything in this language, ("I will see you in hell first,") uttered in a voice so low that persons very near could not hear a word of it—I do not think there was anything in language of that character that would cause anyone to be thrown into any particular rage or fury. I don't think that this was sufficient provocation. I do not think there is any case on record where mere provocation of words of that kind, ("I will see you in hell first,") in answer to a request that had been repeatedly refused, has advanced the crime from murder in the first degree to manslaughter. The law must be administered upon general principles. We all wish to be protected in our rights. It will not do to say that a mere expression of that kind is to be any excuse for reducing the crime from murder in the first degree to any of the degrees of manslaughter. In respect to what did actually occur at the time of parting we have the dying declaration of Bullock. Bullock, on three several occasions, made these dying declarations. It was apprehended by some of the physicians on the day after the shooting, that he would not live. The District-Attorney doubtless thought it to be his duty to take what was supposed to be the dying declarations of the deceased. On the 9th of April another crisis arose. The District-Attorney having some fears, as the deceased had, to some extent, recovered, that there might be some question raised as to these dying declarations—and the evidence was pretty slight that Bullock himself thought he would die on that occasion—and, therefore, on the 29th of April, another statement was made. Pierce can find no fault whatever with the introduction of these dying declarations. He has sent Bullock to his long home, closed his mouth, and he cannot now make complaint that these dying declarations are introduced here. They are the only testimony that Bullock can give. As to Pierce's testimony of what occurred, I have these considerations to submit: That it was not until quite recently—within, I think, two or three years—that prisoners have been allowed, in this State, to be sworn as witnesses in their own favor in criminal cases. But humane men, thinking there might be cases where the testimony of the prisoner would clear up some obscure question, and might tend to promote the administration of justice, the Legislature was induced to pass a law permitting persons charged with crime to testify in their own behalf, and therefore his statement is received. It does not necessarily follow that you are bound to believe the testimony of the prisoner. Where intent is concerned, if such should generally be the case, it would defeat the administration of justice. For a man when he commits crime would come upon the stand and swear it through—would swear that he did not intend to commit any crime. Therefore, you are not to place the same weight upon the testimony of Pierce that you would upon the other witnesses which have been introduced upon the trial of this case. It is for you to consider what weight you will give to it. Pierce

has made one statement which tends to throw some discredit upon his whole testimony. One thing I wish to say, that between Bullock's dying declarations and Pierce's testimony, I don't think you will have any hesitancy which to believe. This testimony of Bullock was given in full view of the expectation of death. His dying declarations bear upon themselves no evidence of any feeling of revenge, and should be taken, in my opinion, as a true statement of the facts. There was a statement made by Pierce in the testimony to which I wish to call your attention. That is the statement which he makes that Bullock had told him in the walk from Pierce's house to the place where the shooting occurred, that Harriet told him of her situation before she went to Chicago, in the month of August, 1870. I submit to you, gentlemen, in contradiction of that, the testimony of Harriet. She has been called upon the stand, and she failed to state the very important circumstance that she had disclosed to Bullock previous to her leaving here in August, 1870, the fact of her condition. It has an important bearing upon the questions involved in this case. I impute to Pierce an object to vary from the truth. The object was to show a greater strain upon his mind—a greater reason why his mind should be dethroned—because, if Harriet had not disclosed her condition to Bullock before leaving here, and had gone off to Chicago and remained there until the month of February, which must be within two or three months of the birth of the child, she had hardly a right, after treating Bullock in that way, to call upon him to marry her. It was enough to raise a question in the mind of Bullock as to her virtue—as to the paternity of her expected offspring. That, with the right to state the fact upon the stand, and with full liberty to open her mouth, she has failed to say anything about it. There is another suspicious circumstance, which is, that when she was upon the stand, although she stated her great familiarity with Bullock, it does not appear that during the whole time she was in the city of Chicago there was any correspondence passed between her and him. I tell you these are suspicious circumstances, and it is due to Mr. Bullock, who lies cold in death, as this imputation has been made upon him, and he has been called a heartless man, to bring these facts to your consideration. I do not know how the matter is—as to the right or wrong between the deceased and the prisoner's sister—but it is not disputed that Mr. Bullock agreed, so far as professions are concerned, and was willing to marry this lady. This case does not stand in a position where, if Pierce had the right to be his own avenger, if there was no law, and he had the right to inflict punishment himself, there were circumstances and surroundings about it that would have justified him in undertaking to inflict this punishment, and make himself a judge in his own case. We have Pierce contradicted, in fact, by the testimony of his sister Harriet. For no one will suppose that Bullock knew this before she left here for Chicago. This man stands here charged with the crime of murder in the first degree, the penalty of which is death, and I submit to you that you have not, under these circumstances—no matter what has been his previous character—a right to place credit upon his statement in regard to his position, or his intent at the time of this shooting, or to any of the transactions that occurred during this final interview. He is in that unfortunate condition of being indicted for a crime as high as any known to the law; and where there is such a terrible temptation as exists here, it is asking too much of his virtue, too much of all the good qualities he possessed, under the circumstances, to require us to believe that he may not conveniently forget the firing of the pistol, and what occurred during the interim. After the firing they came down to the police office. The deceased was taken down there and laid upon a mattress, and Pierce is brought down afterwards by the officers. When he got there, in the presence of the deceased, lying there wounded, the testimony in the case is that he passed by the deceased several times. He, of course, found out down there, that he had been the cause of the shooting of Bullock. He knew from what was passing around him that he was the cause of it. He was then sane. I want to ask you, if Pierce having come to himself down there, assuming he had been in a condition of mental aberration—having come to himself, having found out what he had done—I want to know if he had been unconscious when he had fired the fatal shot—I want to know if you would not have heard him, full of expressions of regret and sorrow for the act he had committed? How is it possible to conclude that Pierce, if he had been

in a state of unconsciousness, no matter how debased he was, the very moment he had found out that by a visitation of Providence, by his mind being swung from its moorings, he had inflicted these pistol wounds upon Bullock, he would not have apologized and expressed his regret for the act he had done? No. He prepares to put himself upon his legal rights. He speaks of wanting counsel. That is an important consideration. You are to think about it and you are to give it such weight as you think it is entitled to. You will recollect that in going down to the police station, Pierce replied to Burgess, when asked his name, I am "A. F. Pierce, of Chicago, and I will give you my card;" and the counsel (Lanning) urges that as a circumstance, to show that he was not then restored to consciousness. Pierce swears that he was restored to consciousness, and it is pretty marked consciousness when Officer Donnelly put this pistol to his head, for he remembers that, even before Burgess got up, when he was in the hands of but one man. It shows that he did not wish to give up the bold position he had taken. He had read of Cole having killed Hiscock—for he is an intelligent man—had read of McFarland and Miss Harris and Sickles; and had read how the sympathies of the jurors had been aroused, and in a fit of personal desperation, he took the life of this man. You will recollect that he came up when Bullock fainted. The chief of police says to him, "My God! you have killed that man! What is that for?" Pierce said, "You will find out—time will tell!" Where do you find anything in his conduct that indicates that he was not entirely self-possessed? On his way to jail Burgess says, "This is some woman scrape?" Pierce says again, "Time will tell!" Pierce does not feel disposed to tell these officers anything about it. Burgess states that he heard Pierce say that all the chambers of the pistol were loaded, and Burgess must be a respectable man or he would not be holding the position that he does. He says it without any hesitation. The testimony of Burgess is in conflict with the testimony of Pierce given on the stand. He swore here that when he took that pistol from the office at Chicago he did not examine it at all, and had not examined it from the time he took it; and now he informs Burgess—if Burgess is to be believed—that the chambers were loaded. Now, Mr. McDonough, I am aware, a very respectable gentleman, occupying a position as a reporter on the Lockport JOURNAL, testifies that nothing of the kind was said. We are aware how this apparent conflict happens. How conversations take place in the presence of two individuals. The attention of one individual for the moment is liable to be attracted to some other subject. A few words may be said by one person in a low tone of voice, and another person may not hear it. Nothing is more common than such circumstances. It does not show an intention upon the part of either to deviate from the truth. I say that the testimony of the man testifying in the affirmatives carries greater weight than the person testifying in the negative, for the latter testifies only so far as he remembers. Hence, the strength of his statement never can be as great as that of a person swearing in the affirmative. Of course, no one would impute any intentional wrong to either of these witnesses. Another thing is the expression of Pierce to Donnelly, made in the course of conversation on the way to the jail on this very night. As Donnelly says, he went up in a very rough way. There was shooting being done, and if there was any more of it to be done, he proposed to do the first. He puts his pistol to the head of Pierce, he said he would kill him, or shoot his head off, or something of that kind. It must have been a little out of the usual course of things with Pierce. It was natural that he should say to Donnelly that as soon as he found out about the matter he would not have any hard feelings towards him. These are circumstances throwing light upon the question of his insanity. It shows that Pierce was acting in this matter with a full consciousness of all that had been done. He had seen this man who had been wounded lying there bleeding. That scene had been before his eyes some time. He knew that he was charged with having committing the act. His very language shows that. All the expressions made on this occasion by the defendant show that he knew just what he had been about, and they are utterly inconsistent and you cannot make them consistent at all with this state of unconsciousness that has been got up for the defence in this case. I do not wonder that Pierce was able to swear that until he heard the opening of his very able and zealous counsel (Farnell) he never had heard upon what theory this defense was to be

conducted. It required all the zeal and devotion and ability of the counsel who represent him to present a state of facts here which would stand for a single moment, I submit, as being worthy of any sort of consideration upon that question. Leaving out the question of insanity, I think this is a clear case of murder. Exercising your own common sense, considering the weight of the evidence that has been given in all its bearings. I don't think you can find a plainer case of premeditated design to produce the death of the person killed, than is shown by the testimony in this case. No matter how respectable may be this defendant, that is a matter some other power will take care of. A man has a right to make himself a martyr, but he must not ask to be excused from the consequences. The court will undoubtedly charge you that if there is a reasonable doubt, you will give the prisoner the benefit of that doubt. Unless you abandon the manner in which you come to ordinary conclusions, you cannot come to the conclusion that there is any doubt but that within the spirit and meaning of the law of this State, this man killed Bullock with a premeditated design to cause his death, and his good character is of no avail on that question. If this was a case of larceny, and there was some doubt whether he took the property with an intention to steal, or whether he supposed he had a right to it, character would be a circumstance. But it is of no account when you establish that the killing was done with a premeditated design to inflict death. His character is nothing under those circumstances. Now, I say Pierce reasoned all the way through—I do not say he reasoned well—for if he had acted from right reason, he would not have been here on trial now for the murder of William Bullock. All criminals reason badly in committing the crimes which they commit. The esteem with which Pierce was regarded in the city of Lockport, his sense of wounded pride, and all the circumstances surrounding a transaction of that description came to a culmination in the shooting of Bullock. The counsel has instanced the Sickles' case, where without the aid of medical testimony, the jury acquitted the accused, for killing Key, the seducer of his wife. Also, the Cole and McFarland cases, where the prisoners were acquitted. I have no doubt but that every one of the Judges in the Sickles, Cole, McFarland and Harris cases, have blushed over and over again that such verdicts were rendered in their courts. They never are spoken of by the profession as cases of real insanity. The results in these cases bring out, when spoken of by intelligent men, but a smile of contempt for the juries through which they were obtained. I wish to add that Bullock, among his dying declarations, stated that this was a brutal act of Pierce; that he shot him in front. I submit that in the very face of the evidence, it appears that the killing was premeditated; that it was a violation of the law, and that all the facts in the case clearly prove that the prisoner is guilty of murder in the first degree. I wish to say a few words about insanity. I hold that no insanity has been shown. We start off in this case with the legal presumption that this person was sane at the time he committed the act. So far as your duty is concerned, you are to treat that as a fact in the case. That he was sane at the time of the commission of this act, unless the prisoner produces satisfactory evidence of his insanity. He is sane now. If he is not, he ought not to be here on trial. We have no right to try a man not sane. It is their duty to establish and overcome the legal presumption in regard to his having been sane at the time of the commission of the act. The courts have laid down the rule that the burden of proof is on him. He must establish that he is insane. It is necessary for the protection of society that we must act upon these legal presumptions. We are bound to believe that he was sane until they have proved that he was insane, as much as any other fact that is established. I submit that the law requires more proof in criminal cases than in civil cases. That is to say, a man may be held liable for a criminal act where a commission of lunacy would lay.

In support of his position, counsel here quoted at length from the charge of Chief Justice Chapman in the case of the People vs. Deacon Andrews, convicted in Massachusetts of manslaughter, in which the plea of insanity was interposed. He then proceeded:

It is upon this question, of reasonable doubt, where jurors have so often failed in their duty. Counsel raise a question of mental capacity and discuss it

at length, lay down certain abstract principles upon which they claim it bears, and introduce a large amount of authority, and succeed sometimes in cutting jurors off from the benefit of their former experience and causing them to act contrary to common sense. I think it is contrary to their own good sense that some jurors have acted. Taking the fact that this man had this provocation, in respect to Bullock, taking into consideration the fact that he was sane up to the time he fired this fatal shot, and was sane immediately afterwards, if you would rely upon it in business transactions, then you must apply it in this case. Laws are not made for the purpose of screening the guilty. They are made to be executed and carried out, and administered according to the ordinary rules of common sense. There is no pretence that the prisoner was insane before or after this shot. There has been no movement to take him away to any asylum. You cannot infer that he was insane from the act itself; leaving that out then, what are you to infer? Supposing, instead of shooting this man during these two minutes, he had borrowed \$50 and had given his promissory note, it would not have required any more skill than the act of shooting, and suppose he should subsequently swear that he did not know anything about the act whatever, I don't think you would listen to such proof very long.

I believe I have said all that I wish to say in this case. I believe I have covered all the points of the defense. I wish to say that the public expect you will see that justice in this case is carried out properly, and you are not to be swayed or influenced by any considerations of what you may or may not suppose to be the inclinations of public sentiment. I ask no conviction of this man on the ground that public sentiment is against him, if such is the fact, and the defendant's counsel have no right to ask that any supposed public sympathy for the prisoner should have any influence on your verdict. I don't think it was proper that the counsel (Lanning) should have dropped the remark that public sympathy was with the prisoner.

Mr. Lanning—It was unintentional, but sometimes a man unconsciously speaks what he believes.

Mr. Andrews—That calls upon me to state, that from what I can understand from what has occurred on this trial, the counsel is mistaken. But it is not in this way that I arrive at these conclusions. It is conceded that there was no defense but insanity, and Pierce has not known that such was to be his defense until this trial began. How, then, could the people believe and expect his acquittal, knowing as they did that he had taken the law into his own hands? Undoubtedly the public may have a great sympathy for him, as all should have; but the question of his guilt or innocence is an entirely different question. I wish finally to say that I have discharged, as well as I could, my duty in this case. I only ask of you that you discharge your duty conscientiously and faithfully, and find the facts in this case, which is submitted to you, without being blinded or turned aside from your duty by any consideration whatever; and I ask you, in this case, in view of all its surroundings, to summon to your aid your common sense and your manhood, and stand up straight in the performance of your duty, regardless of all consequences and all considerations, and render a true verdict according to the evidence.

JUDGE DANIELS' CHARGE TO THE JURY.

Gentlemen of the Jury—

The defendant in this case is charged by the indictment presented against him, and to which he has pleaded not guilty, with the crime of murder in the first degree. It is alleged in the indictment, and claimed to have been established on the part of the prosecution, that on the 11th of March, 1871, at the city of Lockport, with the design of effecting the death of William Bullock, he inflicted a mortal wound upon his body, which subsequently and on the 29th day of April following produced his death. This is the substance of the charge as set forth in the indictment, stripped of all its legal verbiage. And it presents the case that you are to determine, after passing through the various considerations suggested by the evidence, whether the public prosecution has satisfied your minds, beyond

a reasonable doubt, of the truth of this allegation. It is necessary, as has been claimed on the part of the defense, and is conceded on the part of the prosecution, that the proof shall show that this wound was inflicted by the hand of the defendant, with the design or intention alleged, and that it resulted in the death of the person receiving it.

It is claimed on the part of the defendant, that the evidence produced during the progress of the trial, is not of so satisfactory a character as to be deemed sufficient to establish the truth of the first of these propositions, and it will therefore become necessary to examine the substance of the evidence upon this subject, for the purpose of ascertaining whether that fact has been proved as the law requires it to be done, before a conviction of the accused can be properly insisted upon. The evidence given to establish this part of the case against the defendant is confined more particularly to that given by the police officers—four of them in number—two citizens who were near the spot when this wound was inflicted, and the statement made by Bullock at the time when he was impressed with the conviction that the period of his dissolution had arrived and made under the solemnity of the circumstances surrounding him at that time. Now, gentlemen, for the purpose of determining whether this fact has been proved, and, of course, it is for the prosecution to make it out beyond all reasonable doubt, you will recur to the evidence given by these persons. The first witness was Donnelly, whom you will remember stood with Carr near the opposite corner of Pine street, and near the place where the weapon was discharged, by means of which, it is claimed, the mortal wound was inflicted on the person of the deceased. He testified that as they stood there, between the hours of eleven and twelve o'clock in the evening, his attention was arrested by the flash and report of the pistol, discharged at no great distance from where he and Mr. Carr were standing. His testimony in substance is, that two individuals were shown by the flash to be standing in the street near together, and within from two to four feet of each other, and the pistol appeared to have been discharged by one of these persons. And, thereupon, one of the two started and ran from that point in a southerly direction, up Pine street, the other following him at an equal pace, and both running as fast as they were able. That the person who was the pursuer was seen by him to discharge his pistol, as they were running, at the person of the man he pursued, until they reached the Continental Hotel, a distance of about eighteen rods from the point they started from where the pistol was first discharged, and there the person in advance fell in the street, and the last shot was fired by the person who pursued him. This officer, at that point, reached the man who had discharged the pistol while he was in pursuit of the deceased, and at once arrested him; and that man proved, upon his arrest, to be the defendant in this indictment. Upon the same subject you also have the evidence given by Carr, Mooney and Burgess, the chief of the police. The latter two were approaching the point when the pistol was first discharged, and observed that it was discharged by one of the two persons standing at no great distance in the street from these two witnesses. They saw by the flash proceeding from the pistol that it was discharged by one of the two persons standing in the street, and that these two persons stood near together; and these witnesses, including Carr, describe the pursuit up Pine street substantially as Donnelly had previously done, and the discharges made from the pistol while that pursuit continued until the last shot was fired; the only difference in their statements being that while Donnelly and Burgess state that the pistol was discharged five different times, the others remember but four discharges. In addition to this evidence you have that given by Lane, who was crossing the street when the pistol was first discharged, and who observed the two persons in the street at that time; and of Joyce, who met two persons just before that time near Mack's store, upon one of the corners. Joyce states that as he passed these two persons he recognized one of them to be Bullock, the deceased, the other he did not at that time recognize. These two persons, when met by him, were walking side by side, and shortly after he passed them his attention was again drawn to them by the discharge of the first shot from the pistol. These two witnesses after that observed the two persons running, and that the one in the rear discharged a pistol at the one who was in the advance. And they concur with Donnelly and Burgess in saying that the pistol was discharged five different times. Besides this, the declarations made by

Bullock a few moments preceding his death, and in view of that event, present the same general statement of what occurred at that time between himself and the defendant. And in addition to that, he said that the wounds received by him were inflicted by the defendant with the pistol he had in his hands. This evidence is further corroborated by the evidence given by the defendant in the course of his examination as a witness. For he says that he received this pistol at the office of the store in which he was employed, at the city of Chicago, just as he was about to leave that city for this place, and then observed that the pistol was capped, inferring from that circumstance that it was loaded. And Donnelly swears that he took the pistol from the defendant when he made his arrest, just as the last shot was discharged; and it appears to have been taken from there to the police headquarters, where it was examined, and all the chambers, five in number, found to be empty. Beyond that, an officer was dispatched about one o'clock to search the ground over, and in doing so failed to find any weapon in that portion of the street over which these two persons passed, and Bullock, in his dying statement, says he had no weapon, and the search made of his person when he was taken to the police headquarters failed to discover any. This is substantially the evidence given upon this portion of the case, and it is for you to determine under it, whether you are convinced beyond a reasonable doubt, that the deceased man received the wound found to have been inflicted upon the abdomen from the hands of the defendant. If you are not so convinced, then that circumstance would necessarily lead to a verdict of not guilty, and it will be unnecessary for you to prosecute your inquiries farther. But if you are so convinced, then the next inquiry will be whether the death of the deceased was caused by that wound. The evidence of Drs. Tryon and Kittinger, who made a post mortem examination of the body of Bullock after his decease, describing the course taken by the ball after it entered the body, shows, that in their judgment, this wound was the cause of his death—that he died from its effects. If this evidence, in like manner, satisfies your minds of the truth of that fact, then you pass on to the next, and perhaps the most important inquiry arising in this case. And that is, whether at the time the defendant inflicted this wound upon the body of the deceased, he designed to produce his death. If he did he was guilty of the crime of murder, as it is charged in the indictment. The statute on this subject has been read in your hearing by the counsel for the prosecution and the defense. And that makes the crime of murder in the first degree to consist in the taking of human life with a premeditated design to effect the death of the person killed. That is the provision so far as it is necessary to consider it for the purposes of this case. Now, although the term premeditated is made use of, this statute has been so construed as not to require that the premeditated design should exist for any measurable period of time before the mortal blow may be given, or the mortal wound inflicted. For that purpose it is sufficient that the design or intent shall precede the act by which the life of the deceased may be taken. It is sufficient to bring this case within the statute, if the defendant intended to kill Bullock at the time when he discharged the pistol and the mortal wound was inflicted, if you are satisfied he inflicted that wound.

By the prosecution it is claimed that such has been shown to have been the intention or design of the defendant; while upon his part it is contended that the bulk of the evidence given during the trial warrants no such conclusion. Upon this subject it has become a settled principle of law that a man must be presumed to intend the necessary or natural result of the act he may be shown to have performed. And this presumption accords with the conclusion reached by mankind as the result of experience. It is ordinarily sensible, accurate and safe. If one person, therefore, discharges a deadly weapon at the head, heart, or other vital portion of another's body, in such a manner as would be likely to produce the death of such person, and death actually results from the act, the law presumes that death was intended by the person performing the act. And that would necessarily constitute the crime of murder in the first degree, as charged in this indictment. But there is a mere presumption arising out of the circumstances referred to. It is not conclusive, but is to be followed where nothing appears in the case having a tendency to remove or overthrow it. The prisoner is always at liberty, by any evidence which may be fairly or properly attended with that result, to show that in the particular case in hand it should not be ap

plied ; and the prosecution is also at liberty to fortify this presumption by any further evidence it may be able to produce. And to this end the prosecution rely upon the evidence, showing how these two persons were situated at the time when the first discharge was made from the pistol ; the manner in which the defendant followed the deceased and fired after him as they passed up Pine street to the point where the deceased fell, and then the defendant, after he had fallen, fired the last shot at him. These circumstances are relied upon as confirming the conclusion arising out of the infliction of the mortal wound, that the defendant did, at that time, intend to take the life of the deceased. In addition to that, it appears from the evidence of one of the witnesses that the prisoner drew up his hand and pointed the pistol at the person of the deceased when the third shot was discharged, and from that given by Officer Donnelly, that he stopped a few feet from the body of the deceased, and did the same thing in discharging the fifth shot, after the deceased had fallen upon the street. It is for you to say how far these circumstances tend to confirm the conclusion that the defendant did, on that occasion, intend to kill the deceased. Besides that, it is claimed that what transpired when these two persons were together in the street, just immediately preceding the discharge of the pistol, as that has been detailed by the defendant himself, supplied a motive for the existence of such a design. This intention, gentlemen—and the terms of the statute, can be satisfied with nothing less than an actual intention to take life at the time—is the very soul of the crime of murder in the first degree. If its existence is not proved by the prosecution beyond a reasonable doubt, the defendant is necessarily entitled to an acquittal, so far as the charge of premeditated murder is made against him in the indictment. But if its existence shall be found to be proved, then the crime committed is murder in the first degree, notwithstanding the motive or provocation, the defendant had for taking this man's life, or for inflicting some other bodily injury upon him by way of avenging the wrong done by him to the defendant's sister, and the disgrace he had brought upon the defendant in common with the other members of the defendant's family. For although this wrong might, and ordinarily would excite feelings of exasperation and revenge, that would not of itself excuse the defendant for taking the life of the deceased by way of punishing him for what he had previously done. For, in order to excuse the taking of human life upon a provocation, the statute of the State requires that the act should immediately follow the provocation. It is only upon a sudden and sufficient provocation that the law will excuse the act of homicide. Where time and deliberation have intervened between the provocation and the fatal act, the law does not excuse the latter. In the present case the defendant learned on Wednesday that the deceased had dishonored the defendant's sister, and for the time declined to perform his promise of marriage he had made to her, and which she had accepted ; and it was not until the following Saturday night that the mortal wound was received by the deceased. Without intimating that the provocation would have proved sufficient if it had been avenged at the time of its discovery, this intervening period was so great as clearly to deprive it of that effect. For it afforded ample time for reason to resume its power, reflection to take place, and the blood in a great measure to recover from its excitement, and the business transacted by the defendant during this time, showed that it must have been attended with that result. The words which the defendant testified were uttered by the deceased immediately preceding the discharge of the pistol, were not sufficient to constitute the provocation required by the statute to reduce the taking of human life to excusable homicide ; for mere words have never been allowed to have that effect where they have been unaccompanied with any threatening menace or act, importing present danger of bodily injury. Even if the defendant has correctly stated what transpired just before the mortal wound was given between himself and the deceased, it cannot have the effect of excusing him for taking the life of the latter. But the defense of the defendant has been extended beyond this proposition, for it is insisted in his behalf that he has overthrown or removed the presumption arising out of the infliction of the mortal wound and the circumstances attending it, that he actually intended to take the life of the deceased. The first evidence in support of this position is that given for the purpose of showing his former good character and conduct. This extends back to his boyhood, and includes that period of his life spent in this city, in the army, and since then in the

city of Chicago. And this evidence undoubtedly shows his character previous to this occurrence to have been unblemished and unexceptionable. And as such it is worthy of your careful consideration as bearing upon the point whether such a person would be likely upon a considerable provocation to form the design of taking another person's life. It is not conclusive, of course, in that respect, but it bears upon the point as affecting the probability of the existence of such a design. It is to be considered in view of all the other evidence tending to establish the existence of such a design, and if, after all, the conviction is still forced upon your minds that he did design to take the life of the deceased when the mortal wound was inflicted, his former good character cannot secure his acquittal. Persons of good character do sometimes fall into the commission of the gravest of crimes; and when they are found to have done so, the law requires their punishment precisely the same as though they had no such character to resort to. Upon this position of the case you will also consider all the other facts shown in behalf of the defendant, inconsistent with the existence of this intention, giving him their full benefit. Upon this same subject the defendant himself was placed as a witness upon the stand, and he expressly says that he had no design or intent either to kill or injure the deceased. His account of what occurred as he was about to part with the deceased is, that he said to the deceased that he did not feel willing to leave the matter of the marriage of his sister as the deceased proposed to leave it. As a final proposal he says that he asked him why he could not marry his sister before her confinement? and that the deceased replied, "I will see you in hell first!" Upon that, the defendant says he became entirely unconscious, and remained so afterwards, until he found himself in the hands of a man having him in custody. This evidence includes the entire period when this pistol was discharged, while the five shots were fired, and it is for you to determine whether, in view of all the other facts and circumstances of the case, you are convinced of its truth; for if you are, and the defendant, by means of what occurred, was deprived of the use of his reason, his understanding and his will, then he was not in such a mental condition as to be capable of forming or entertaining the intent or design required by the statute to constitute the crime of murder in the first degree, or, indeed, of any other offense. In determining the effect of this evidence, however, if you are prepared to believe the statement made by the defendant, you must, before you can acquit the defendant on this ground, be satisfied that he was deprived of the use of his reason. For if the reply made by the deceased had merely the effect of exasperating and enraging the defendant to such a degree that it created or produced the design to take the life of the deceased, and he inflicted the mortal wound in the execution of such a design, the defendant would be guilty of murder, even though he failed to remember what had been done after his passion and excitement had subsided. What the precise state of his mind was at that time is for you to determine under the evidence given by himself, and the other evidence tending to corroborate and sustain this statement. In the consideration of the defendant's own evidence, all proper allowances must be made for the circumstances under which it was given, tending to throw discredit upon his statement. You must remember that he is charged with a crime, the consequence of which involves his own life, and that the pressure of his position is such as to supply him with very strong motives for endeavoring by his own evidence to exculpate himself. No person can be placed in a position where the inducements would be greater to give untruthful evidence to excuse himself than that which the defendant occupied as a witness in this case. Still it is for you to say, considering the defendant's appearance and manner upon the stand, the probabilities in favor of the truth of his statement, its general consistency with the other evidence in the case, whether you can rely upon it as the truth. On his part, it is claimed to have been so far sustained by the other evidence given in the course of the trial, as to render its truth sufficiently probable to justify his acquittal. For this purpose the evidence relating to the defendant's conduct and the state of his mind preceding the time when he left the house with the deceased on the evening in question, and the manner in which he was induced to accompany the deceased are proper as well as important subjects for your consideration. Dr. Fassett says that he called on him about eight o'clock in the evening, and found him pale and uneasy, with his mind disturbed concerning the condition of his sister, to whom

it appears he was always very warmly attached. He says that he was continually sitting down and then rising up and asking and repeating the question whether the doctor believed or thought his sister would get well, and upon the question being answered, repeating it at once again. The doctor said he was so struck with his appearance that he inquired of him if he was not sick, and the defendant replied he was not, that he was going to Chicago the next day. Following that is the evidence of Mrs. Bennett, that she saw him in the basement near nine o'clock, when he was walking backward and forwards, wringing his hands, breathing heavily, and placing his head by the side of the room, and apparently not noticing her presence. As she was about to leave she says that she extended her hand to shake hands with him and he took her hand, making no reply to what she said, and she added that his hand was as cold as ice. After that the deceased arrived at the house, and the conversation took place between him and the defendant and his sister, which the mother and sister and the defendant have in substance detailed. During that time the defendant appears to have endeavored to induce the deceased to marry his sister before her confinement, which the deceased declined to do for the reasons which have been repeated in your hearing, and he insisted that Harriet, the defendant's sister, was satisfied to have the marriage deferred. She was thereupon inquired of as to the truth of that statement, and responded that she was not satisfied. This contradicts the statement proved to have been made by the deceased just preceding the time of his decease. But it is testified to by these three persons, and it is for you to say which, in your judgment, is the truth. During this interview, the sister and mother of the defendant testify, that he was agitated and uneasy, and frequently shed tears, and when the deceased was about to leave the house the defendant, his sister and mother testify, that he invited him to walk with him, which he signified his willingness to do; and thereupon his sister says that she told him to put on his overcoat, for it had then commenced to rain. In this statement the defendant's evidence concurs with that given by his sister, and they both state that he then put on his overcoat. In this connection it must be borne in mind that the defendant testifies that he put the pistol in his overcoat pocket when he left Chicago, and that it had ever since remained there, for if that be true, it is a circumstance tending to support the conclusion that up to the time he was asked by his sister to put on his overcoat no design on the part of the defendant to take the life of the deceased had previously been formed. After these two persons left the house up to the time when Joyce met them near Mack's store, we have no other evidence as to what transpired than that of the defendant and the brief statement of the deceased, who said the interview was not unfriendly. The defendant, however, testifies that he tried to induce the deceased to marry his sister before her confinement, and that he continued to decline to do so for reasons mentioned by him; that during the interview he shed tears and cried for most of the time. Now, in view of this evidence you will consider that given by Drs. McCollum and Clark. They testify that as insanity had been shown to have existed in some of the collateral members of his mother's family, though not in either of his ancestors, and that he was of a nervous temperament himself, and had been agitated and troubled during the preceding portion of the evening as the witnesses had described him; that such a state of mind as himself has mentioned might be expected to have been produced in him when the deceased told him he would see him in hell before he would marry his sister prior to her confinement. And they further state that the mental alienation so produced would be likely to exhaust itself in such acts as were afterwards committed by the defendant, and that it would probably terminate with the consummation of these acts. That the greater the shock, the sooner it would be expected to be over, without afterwards leaving any farther traces of its existence than the want of consciousness, or want of recollection of what had taken place. On the other hand, Doctor Cook, who, for many years has had charge of the Insane Asylum, situated at Canandaigua, and has had great experience with the disease of insanity, testifies that insanity is a bodily disease; and although it might be suddenly produced, yet it would not leave the person affected by it so readily as to leave him sane and conscious at once, after the occurrence of such acts as were shown to have been committed by the defendant. That if his mind had been so affected, it would continue to show some indications of the

disturbance for some time afterwards. His judgment, therefore, is that, as the defendant was sane and conscious immediately before and after the infliction of the mortal wound, he must have been so at that time. In addition to that and bearing upon the probable condition of the defendant's mind at the time Donnelly swears that when he arrested the defendant, the latter informed him that he would go with him. And a few hours afterwards, on the way to the jail, remarked to this officer he need not be mad at him, for when he came to know the truth of the case he would not be mad at him. And Burgess says that on the way from the place of the arrest to the police headquarters he asked the defendant his name, and he replied giving his name. When they arrived at the headquarters this witness also states that he said to the defendant, "you have killed this man, what's this for?" and he replied, "you will find out, time will tell;" and shortly afterwards he says he remarked, "there is some woman mixed up in this affair, isn't there?" and the defendant replied in substance as before. He further states that in the jail, about noon the next day, he asked how many times he fired, and the defendant replied that the chambers of the pistol were all full before the shooting. Mark McDonough was present at the time last referred to, and says that no such statement was made. Which of these persons is right as to this subject it is for you to determine, and you will also determine what effect is due to these statements, if you are satisfied they were made. Which of these witnesses who have given their opinions as to the defendant's mental condition is most probably correct, is for you to determine in view of all the other evidence given in the case, having a bearing upon this point, and in reaching a conclusion upon it you will also consider what has been read in your hearing from the books quoted by counsel on the subject of temporary insanity. It has been claimed that the mind may be so far affected by what is called moral insanity, as to render the person irresponsible while in that condition, for the acts he may commit, and which would be otherwise criminal. This arises from the moral feelings losing their repugnancy to acts criminally wrong, or from an uncontrollable inclination to commit such acts. This case does not depend upon the existence of such a derangement; but when persons are attempted to be shielded from the criminal consequences of their acts by the affirmation that by the indisposition to submit to salutary restraints, or the licenses they may have been permitted to assume, their passions have become ungovernable, or the moral feelings so deranged, as to lead them to an indiscriminate course of crime, either in the wanton destruction of life or property, the safeguards provided for the security of society will require that the courts shall overrule the attempt and hold persons so depraved to be, as they certainly are, criminals of a deeper dye than those ordinarily required to be dealt with by the public authorities.

The defense in this case rests upon no such grounds as that, but it proceeds upon the idea that the defendant was so far deprived of sense and reason as not only not to entertain, but to be incapable of entertaining, the criminal design required to constitute the offense charged in the indictment, or any other offense whatsoever. If this evidence leads your mind to that conclusion, then you must acquit the defendant; but if you are not satisfied that such was the state of his mind, but are satisfied he had no design to kill the deceased, but assailed him in the heat of passion, on the provocation he received, and without intending to do so produced his death, then the defendant is guilty of manslaughter in the third degree, and that should be your verdict. As to his guilt, the prosecution must satisfy you, beyond a reasonable doubt, before you can convict of either offense. This doubt is not a mere possibility that he may be innocent, but it is such a state of the mind as after fully examining the entire mass of the evidence, and giving its proper weight to each portion of it—after all, it fails to leave an abiding conviction of guilt. If that be the state of your minds, the defendant is entitled to its benefit; and, by giving it to him, it must lead to his acquittal. If, however, you are satisfied of his guilt to the extent that you have no reasonable doubt on the subject, then your duty to society, as well as the oaths you have taken, require you to convict him.

THE VERDICT.

The jury in the case, after receiving the charge of the Court, retired at 6 o'clock in the evening. They were out but a few minutes when the verdict was agreed upon. The Court having taken a recess until half-past seven, they could not, of course, return with the verdict until that time. Immediately on the re-assembling of the Court the jury came in and took their seats, and answered to their names as called. The clerk then put the usual question—if they had agreed upon their verdict? Amid breathless silence the foreman answered that they had. They were then called upon to look on the prisoner, who arose in his place and fixed his eyes intently upon them. The clerk then, in a clear, ringing tone, said :

Gentlemen of the jury, how do you find? Do you find the prisoner at the bar guilty of the offense whereof he stands charged, or not guilty?

Foreman of the Jury—We find the prisoner NOT GUILTY!

Upon the announcement of this verdict the scene that followed beggars description. Men and women wept for joy. Men shouted and cheered. Women rushed forward over railings and chairs and embraced and shook hands with the prisoner. The verdict, upon becoming known upon the streets, created the wildest enthusiasm among the friends of Pierce. The prisoner was then discharged and passed through the crowded court-room and took a position at the foot of the stairs in the hall below, and here, as the immense audience passed out, he received the congratulations of his many friends. Thus ended one of the most remarkable cases ever tried in Niagara County.