

LIFE
OF
MICHAEL POWERS,
NOW UNDER
SENTENCE OF DEATH,
FOR THE
MURDER
OF
TIMOTHY KENNEDY.

==
DICTATED BY HIMSELF.
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BOSTON :
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.....
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DISTRICT OF MASSACHUSETTS: TO WIT:

District Clerk's Office.

BE IT REMEMBERED, That on the twenty eighth day of April, A. D. 1820, in the Forty Fourth Year of the Independence of the United States of America, RUSSELL and GARDNER, of the said District, have deposited in this Office the Title of a Book, the right whereof they claim as Proprietors, in the words following to wit :.....Life of Michael Powers, now under Sentence of Death, for the Murder of Timothy Kennedy. Dictated by Himself.

In conformity to the Act of the Congress of the United States, entitled, "An Act for the Encouragement of Learning, by securing the Copies of Maps, Charts and Books, to the Authors and Proprietors of such Copies, during the times therein mentioned;" and also to an Act entitled, "An Act supplementary to an Act, entitled, "An Act for the Encouragement of Learning, by securing the Copies of Maps, Charts and Books, to the Authors and Proprietors of such Copies during the times therein mentioned; and extending the benefits thereof to the arts of Designing, Engraving and Etching Historical and other Prints.

JNO. W. DAVIS, Clerk of the District of Massachusetts.

ADVERTISEMENT.

THE following short account of MICHAEL POWERS, was taken at his request, and given as received from him, omitting only some minute circumstances, and altering the language as far as was necessary to make it plain as possible. This narrative was read to him, in presence of the worthy clergyman who attends him, the Rev. PHILIP LARRISEY, and acknowledged by POWERS, before that gentleman, to be correct, and to be precisely what he wished printed, as coming from himself.

LIFE

OF

MICHAEL POWERS.

MICHAEL POWERS intended to die without making any observations on his fate, or giving any particulars of his life ; but there were so many idle and cruel reports in circulation, and each one ornamented with so many horrors, all told with such assurance of the truth, that he was constrained, if not on his own account, yet in consideration of his friends, for friends he has, and those dear to him, to give the public some sketch of his humble walk through life.

He was born in the County of Wexford, in Ireland, in the year 1769, and was brought up a farmer, as was several of his brothers, and he followed this honest occupation until he was twenty eight years of age, and never thought of leaving his business, his country, or his friends, until after this period. In the years 1797 and 1798 a strong excitement was felt in the Counties of Wexford and Wicklow, and in fact, in other parts of Ireland at the same time. The poorer classes of people had long felt themselves oppressed, and wretched from

numerous causes ; and while smarting under these accumulated ills, they vowed vengeance on the heads of their oppressors. To aid, assist, and sometimes direct these suffering classes, there were men of intelligence, and of high standing in the community ; but their encouragement and influence was, for a long time, given in silence and secrecy ; but they promised to join fully and heartily, when circumstances should imperiously demand their presence. At the time we are now mentioning, the standard of opposition was raised, and confusion and tumult ensued, and plunder, havoc and bloodshed followed in the train. Powers lived in the midst of them, in the County of Wexford, and of course, was among them who stiled themselves patriots, and set about avenging their wrongs, and to carry fire and sword among their oppressors. The basis of patriotism, is the same in every age and country ; its honest indignation at tyranny and oppression, which proceeds to gain justice by force, when gentle methods fail. Among the enlightened, it is marked by system and prudence, and uses the best methods to gain its ends ; but among the ignorant, it bursts into violence and rage ; and it frequently produces greater evils than it sets out to remedy. Those who are oppressed and injured, feel alike ; but all cannot alike govern their passions. Powers was among the uneducated classes of the people, who rose in defiance of the existing laws, in hopes, by a struggle, to gain something on the score of liberty, and probably partook of their violence, and shared in their excesses, but he was more fortunate than

many, for he escaped with life and limb, and lived in England for several years. From England he came to Boston, about the first of the year 1802, where he found sufficient employment as a laborer; he had been bred to this, and he did not shrink from the hardest kind of work, and made himself rather conspicuous for his willingness, punctuality and faithfulness in the discharge of his duties. He obtained the highest wages, laid up his earnings with such care, and lived with such frugality, that he soon had something in store for himself and friends, against a day of need. During the eighteen years he has been in this country, he never was sued, nor prosecuted for any quarrel or riot, or brought before a court, to answer to any matter or thing brought against him. He always kept clear of these misfortunes, which destroy the reputation, and consume the earnings of so many, situated in similar circumstances; his credit was good among those who gave him employment, for an honest, saving, hard laboring man. In the fall of the year 1817, business being dull, he determined to take his hard earnings, which had now accumulated to a considerable sum of money, and with it, visit his native country, and there remain for life, if he should find all things according to his wishes; but time had produced such changes, that after a few months, he came to the resolution to return to the United States, and continue his former course of life, and he returned by the way of Halifax. The accounts he gave of his success, and the proofs he exhibited of his earnings, excited the wish in several of his connec-

tions in Ireland, to accompany him to Boston ; to this, Powers readily consented, and advanced a considerable sum to his second cousins, Michael McDonald, John McDonald, and Timothy Kennedy ; Michael McDonald brought his wife, the other two were unmarried ; he believed that with industrious habits, they might do much better here than in Ireland, and gave them all the advice and assistance they required. For all monies advanced, they were to save their earliest earnings to repay him. To Michael McDonald and wife, he lent twenty-three pounds seven shillings sterling ; to John McDonald, over twenty pounds ; and to Timothy Kennedy, nine pounds five shillings ; and to Michael Huse and wife, twenty guineas, which latter, were promptly paid with gratitude and thanks. Powers was delayed sometime in Ireland and at Liverpool, for these friends ; but in this he was patient, for he was alone himself, and was ready to do any thing for those who had embarked their destinies with his. On coming to this country, he found great pleasure in the company of these friends, presuming that they would feel grateful for his kindness ; but in this he was sadly disappointed, for instead of attentions or payment, he was shunned by them, and when they did meet by accident, they were cool and reserved, and said nothing about paying him, although he reminded them of the debt, and complained of their treatment to him ; this they repelled with abuse, and he was then determined to use compulsory measures to get what was justly due him. He then procured writs against Michael

McDonald and Timothy Kennedy, and had them arrested, but they soon found bail ; Powers had taken no evidence of his demands against them, trusting to their honor for an acknowledgment of his just dues ; but they were not in a proper spirit to have any recollections of kindness or justice, and Powers was totally unable to prove the truth of his claims ; they agreed after much altercation, to submit their case to referees, and here the quarrel seemed to die as it regarded McDonald ; but Powers and Kennedy went to trial before the referees, and each was allowed to tell his own story, on his own oath, and the result was, that Powers was brought in debt, five dollars and nine cents ; this enraged him beyond measure, for he considered that the referees had believed Kennedy, and not him, and that he was virtually convicted of perjury, while Timothy Kennedy, who had cheated him out of his money, was held as a man of fair reputation ; this was Powers' course of reasoning on the subject, whether right or wrong ; Kennedy too, was wearing the apparel of a gentleman, and scarcely condescended to look on his relation, who had been the means of bringing him to this country, and laid the foundation of his success. The operation of real or supposed ingratitude on some minds, is to produce rancour and hatred, and turns benevolence to bitterness, and kindness to malevolence. This is as much as Powers would state, of his misunderstanding with Kennedy ; and here he leaves the world to make their own comments, and draw their own inferences.

On the subject of the various rumors of his murdering Hart, Campbell, Sullivan, and others, he has a word to say : Ought not men before they fix such charges on any one, to get something more than conjecture and surmise ? He solemnly denies every word of the charge, and declares his innocence in the face of Heaven ; and indeed, his innocence of the blood of all men, up to the first day of March last. He is charged with the murder of Kennedy since that time, and on that subject the world ought to be satisfied with his trial, for they imprison him, and are going to lead him to the gallows in pursuance of that trial, and he makes no complaints. What can they ask or wish for more ? The person by the name of Hart, who was murdered four or five years since, was, he understands, a confectioner, who accumulated considerable property, and was found dead in his shop, having, no doubt, lost his life for his property. The fate of this stranger, so mangled, caused great excitement, and every exertion was made to discover the perpetrators of this deed, but without success. In this uncertainty, every unfortunate wretch, who has since been condemned to die, has had this murder on his head. Hart was plundered and the booty was supposed to be considerable. Would a man still carry his hod, and labor sixteen hours a day, for his living, when he had learned to gain it by murder ? The world has never yet produced such a monster, as a man laboring with unceasing industry for bread, and yet committing murder for money. Williams, who was executed for murder and piracy, was in the

first moments of public indignation charged with the death of Hart ; but this he denied, and said, what was undoubtedly true, that he never was in Boston until brought here in chains. A man by the name of Campbell, was thrown from a window, or perhaps, fell from it without violence, in a fit of intoxication, and was found dead in the street, and his death is now charged to Powers. It is also said, that the woman he has long lived with, was Campbell's widow. Now, this man, Powers never knew, and the woman, who was Mrs. Campbell, was married a second time, and died in Philadelphia about five years since. This fact Powers has since learned, not even knowing the people himself. One fact was stated with great confidence, and many shrewd inferences were drawn from it : that is, that Powers left Boston for Ireland in three or four days after the death of Hart ; but, if any one will examine dates, he will find years elapsed from one event to the other. He, by inquiry, was informed, that Hart was found dead in June, 1815,* and he left this place for Ireland, in the fall of 1817, and returned in the spring of the following year. When these two fables were refuted by facts, in a few days

* From the Centinel of June 7, 1815. "On Monday, a Coroner's Inquest was held by John W. Folsom, Esq. on the body of F. Hart, a German Confectioner, who was found dead in his shop, in Kilby street, on the preceding evening. He had been stabbed in six or seven places, and from the state of the body when found, must have been dead several hours. The jury returned a verdict of "wilful murder," against persons unknown. The shop was not robbed. Some persons having knocked at the door on Saturday night, a light was extinguished, and the perpetrators of the deed were heard to make their escape from the back window, over some low buildings. Many years have elapsed since a crime of the above horrid nature has been committed in this town. We hope a hue and cry will be raised to bring the murderers to condign punishment."

another one was got up, for the pleasure of those, who love such idle tales : That he had murdered a man by the name of Sullivan, and this Susan Campbell was the wife of Sullivan ; but unluckily for the lovers of the marvelous and bloody, Sullivan died as other men die, without violence or poison. Michael Powers, not only denies all these stories, but all others which charge him with doing any injury to his fellow men. His life was humble, his days laborious, his dealings honest ; and although he claimed nothing but the character of honesty, no one ever suspected him with doing wrong. To those who charge him with murders he never committed, he sends them his forgiveness, and wishes that they may never be placed in a situation so unfortunate as to lead the world to imagine that they have committed crimes of which they never dreamed, and would even shudder to hear. Sufficient for one poor wretch, is the weight of his real offences, without heaping upon his head whatever credulity, gossiping, or falsehood chooses. Those, who believe that a man cannot grow bad all at once, he cautions to watch their own hearts, for evil overcomes us like a strong man, and a virtuous life may be tarnished by the temptations of a day.

As a humble, penitent, dying man, he asks all who read these scanty pages of his lowly life and sad fate, to believe him, when he publicly states, that he deplores, that he was ever so forgetful of his duty, and so obdurate and perverse in one particular offence,* as to have made it necessary, that he

* Powers alludes to living with Susan Campbell without being married.

should have been driven from the bosom of the church ; for he sincerely believes, that it is only by guarding ourselves by the ordinances of religion, and cheering ourselves by its promises, that we can be kept from dashing against those evils which surround all men, and overcome so many.

Powers made his will in prison, and disposed of what little property he had. To three of his relations or friends, in Ireland, he gave each several guineas as remembrances. He left fifty dollars or more for the use of the poor, to be distributed as his Executor should think proper. He had previously been very liberal to several of the poor prisoners ; and to three of the women who were witnesses against him in his trial, he gave a half eagle each, as proof that he bore no ill will to them.

Understanding that persons condemned to die, were frequently reprieved, in this country, without their own intercession, and sometimes, against their wishes, through the agency of well disposed people, who believe, that a long time should be given for repentance in such cases, he addressed a petition to the Governor and Council, stating his reasons for wishing, if he must die, his death should not be delayed.

Commonwealth of Massachusetts.

*To His Excellency the Governor,
And the Honorable the Council.*

The petition and representation of Michael Powers, now confined in Boston gaol, under sentence of death, humbly sheweth, that he would not be insensible to the mercy of the Executive, in extending to him a pardon. If this could be done, he trusts his future conduct would evince his gratitude ; but, if this cannot consistently be granted, he entreats, that he may not be long continued in confinement and chains, by which his body and mind may be weakened, and his fortitude diminished. He feels, that it is an awful event to die by a public execution, and that it requires corporal strength and firmness of mind, as well as lively hopes of future forgiveness, to leave this world under such circumstances, with composure. He is taught by the religion he professes and believes, that on repentance alone, forgiveness is founded, and that this repentance should be felt and expressed when the penitent suppliant is in full possession of all his faculties : He has felt intensely the burden of his sins, and he hopes, has repented of them sincerely ; but such is the state of his feelings, that he does not wish, if he must die, to have the time protracted until his health is lost, and his courage gone. Fortitude, like all other possessions, is of uncertain tenure. If his life is forfeited to the country, and a pardon cannot be extended, let that forfeiture be paid without delay : He has made this

representation to the Executive of the Commonwealth, because he understands, that a distant day is often fixed for the execution of the unfortunate sufferer, from a principle of kindness and mercy, that sufficient time may be had for a preparation for eternity : But he is persuaded in his belief, that God, who marks the fall of a sparrow, and numbers the hairs of our heads, can forgive at one moment as well as another, when that forgiveness is implored through repentance and the merits of a Redeemer.

(Signed,) MICHAEL POWERS.

Powers expressed his gratitude in the fullest terms, for the kindnesses he had received from the several Officers of the Gaol ; and had not words to declare his happiness, in having such a man as he had for his spiritual guide, to assist him in these moments of distress and dismay.

REMARKS.

It may be asked, why does not Powers come out with a full disclosure of the murder of Kennedy ? What possible advantage could be derived from such a confession ? It is always bad policy, to urge men to confess what is plainly proved. It is surely sufficient, that they do not attempt to hold out to the world their innocence. Powers has not done this since he was brought to Boston. The most that he has said, was, that "no one could say *I saw him do it.*"

To give the reader a fair view of the whole of this unfortunate man's case, we subjoin a brief relation of the facts which come out in the trial.

On the 31st March, 1820, Michael Powers was arraigned at the bar of the Supreme Judicial Court, at Boston, on a charge of murdering Timothy Kennedy. Chief Justice Parker and Justices Thatcher and Jackson were present. The Indictment consisted of only one count, alleging the murder to have been committed by a blow, with a broad axe, on the back part of the head of the deceased. The prisoner pleaded not guilty. Daniel Webster and William Simmons, Esquires, were, at his request, assigned to be his Counsel. Tuesday, the 11th of April, was appointed for the trial: On that day, the Court opened at 9 o'clock, A. M. and the same honorable Justices, as before, were on the bench. Perez Morton, Esquire, Attorney General, conducted the prosecution. The Court Room was crowded, and a great multitude at the doors without, were eager to press forward to gratify their curiosity. This occasioned much noise and disturbance through the day. The prisoner challenged eighteen jurors peremptorily. The trial afterwards proceeded.

The Attorney General, in opening the cause, after some general observations, stated, that he understood an impression had gone abroad, that though Powers was guilty, there was no legal evidence to convict him. He observed, that all evidence, whether circumstantial or direct, was *legal*, which would be admitted by the court; and if such as to

induce a belief of the prisoner's guilt, would authorize and require a verdict against him. He then stated the principal facts of the case as he expected to prove them, and as they afterwards appeared by the testimony. He said if the prisoner was guilty at all, he was guilty of the most atrocious murder, and not of any less criminal homicide.

The case proved by the witnesses was as follows:

Michael Powers was considered, by those who best knew him, an industrious, temperate, and peaceable man. He made a voyage to Ireland, in 1817, and returned the next year with three young men, one of whom was Kennedy. K's. mother was his first cousin. He constantly declared, that all of them were indebted to him, for money advanced for their passage. In October, 1818, Samuel D. Parker, Esquire, commenced three actions in favor of Powers, against the three persons, including K. of whom he made these claims. The sum demanded of K. was twenty dollars. Powers had no evidence to maintain his suit against K. which, therefore, ultimately failed. Powers was chagrined at the failure of his law suit; and, though naturally cautious and silent, he declared to several persons, long before the perpetration of the murder, his determination to have satisfaction and revenge, that he would kill K. &c. These expressions were testified to on the trial, and assisted in forming the chain of conclusive proof against him.

Some importance was attached on the trial, to the

efforts which P. had made to board in the same house with K. and to conciliate him after the law suit was terminated. Mrs. Kelly testified, that about five weeks before the murder, P. came to her house, where K. then boarded, and wished to be taken as a boarder. She remarked, that K. and P. were not on good terms when they met. P. preferred lodging with K. and the other boarders, to having a room by himself. He lodged at the house one night. Powers came again, about a week before the murder, to engage board again at Mrs. Kelley's, but was much surprised to hear, in the course of conversation, that K. had left. He inquired, where he had gone, if he had paid his board, and whether he had any money, observing, that K. was a singular character: Powers appeared thoughtful for some minutes, went away, and did not return there to board. Another circumstance took place a week or ten days before the murder: Susan Campbell, the inmate of P. returned from abroad, and found the door fastened. It was soon observed, that the key was inside, and Powers was several times called to open the door. A little girl looked through the key-hole, and after a short time saw Powers ascend from the cellar, through the scuttle, and set the light on the floor. It was proved, that P. had borrowed a pick axe, on the 23d February, which was not returned at the time of the murder. Kennedy was seen by one witness, Mr. Dobson, walking with Powers, and going into his house, on Thursday, the 2d March, between two and three o'clock. Kennedy was never seen to

come out of the house, but was missing from that time. This occasioned alarm among those who knew him, and P. was soon suspected of murdering him. A warrant was obtained on Saturday, but P. was gone, and the house was not searched. On Sunday Mr. Reed went again, and found blood near the scuttle, and down cellar, on the ground, and on a chip. The cellar was about six feet clear of two tiers of wood piled in it : On removing the wood, the earth seemed loose, and there was the appearance of a grave : On digging, a body was found, and recognized to be that of Timothy Kennedy. The hands, face, and clothes were very much burnt : On the head appeared marks of a very violent blow, certainly sufficient to kill a man ; and the skull was very much broken.

Dr. Shurtleff stated that he examined the body ; the back part of the skull was fractured two inches each way ; the wound appeared to have been made by a blunt instrument, such as the head or eye of an axe ; the fracture was made on the upper part of the parietal bone, near the coronal suture. A broad axe, found in the closet, was shewn to the jury, and had specks of blood on it ; when found in the house, it appeared to have been newly washed, and there seemed to be hair on the head of the axe ; when it was produced in court, one hair could be perceived on it, which resembled the color of Kennedy's hair, said to be sandy. Susan Campbell was gone from home on Thursday, from eleven o'clock, in the morning, until late in the afternoon, and must therefore, have been absent at the time the murder was

perpetrated ; when she returned, she did not observe any remarkable appearance about the house. The ashes were scattered a little, about the fire place, and she did not find some scouring cloths, which she had left in the house. The house in which P. lived, was ten feet high, and the windows were low, toward the street ; they had curtains belonging to them, which covered the lower part, and were up on Thursday afternoon. There was a good partition between the cellar which P. occupied, and that which was used by the tenant of the other part of the house. The door was locked when Mrs. Campbell returned on Thursday, and Powers let her in. Powers slept as usual on Thursday night ; Mrs. Fowle, who sustains an excellent character, lived with her five young children, in the other apartment ; there is an entry between it and that part which P. occupied ; she heard no noise on Thursday, in P's. apartment, and did not recollect seeing him go in or out, on that day. Powers was seen by Mrs. Dobson, coming out of his house, about five o'clock, in the afternoon of Thursday, with a trunk under his arm. He went about that time, to the house of Mrs. Hewes, and engaged board ; he was shewn into a lower room, at his request, for a place to dress in, but said he would rather go up stairs ; he was then shewn into the room occupied by Kennedy ; he said he would lock the room, and give her the key. She saw no more of him. Powers was seen leaving the house of Mrs. Hewes, with a trunk in his possession. He went away from Boston on Friday, at day light, as

he said for Mobile. He carried a pack of clothes with him, which he had prepared the day before.

When apprehended, and examined before the Magistrate, at Philadelphia, on the 15th March, he confessed that his name was Michael Powers, that he lived in South Russell Street ; said that he left Boston, *24th February*, walked to Providence, and took passage in a sloop for Philadelphia ; that he was acquainted with K. and had a law suit with him ; that the last time he saw K. was about a fortnight before he left Boston, and positively denied seeing him the day before. On being charged with the murder of K. he declared several times, *he was not guilty, no person living could prove it.* On being told that Susan Campbell was in gaol, he answered with animation, "She has no right to be in gaol." On being told that she had probably disclosed all the circumstances about the murder, he said she could not, for she knew nothing about it. Mr. Fowle, a lawyer, of Philadelphia, who displayed a laudable public spirit in securing Powers in that city, and whose sagacity in the examination before the magistrate, drew forth the preceding declarations and confessions, afterwards paid a visit to him, in prison, and opened P's. chest, in his presence. In it were found the hat and coat, the pantaloons and memorandum book, and a ten dollar bill, of the Keene, (N. H.) Bank, which were brought into court, on the trial. Powers seemed embarrassed when they were taken out of his trunk, and endeavoured to conceal or secrete them. He said K. had given him the memorandum book, the fall before,

whereas the entries in K's. own hand, came to the 19th February last, a few days before the murder. He said the clothes were bought at auction, and that K. had paid him the Keene money, some time before. The memorandum book was sworn to, in court, by several who had seen it in K's. possession, and stated that he generally, or always carried it about his person. The clothes were identified by Mr. Dobson, the tailor, who had made them ; and Mr. Appleton, in whose employ K. was, testified that he had made his last payment to him, in bills of the Keene Bank. Powers said in Philadelphia, and repeated it several times, speaking of the murder of K. " If he got an unlucky blow, it was not for his money, for I knew he was poor."

The learned counsel for the prisoner, contended, that the time and place of the commission of the crime, were uncertain ; that K. might have been killed elsewhere, his body buried in P's. cellar, by some other person, between Friday, when P. left Boston, and Sunday, when it was found ; that the crime would not, probably, be committed by a man of such regular and industrious habits as Powers ; that the place, and time of day, on which the murder was said to have been committed, were unlikely to be chosen for that purpose ; that on other accounts, it was improbable Powers had committed the murder, and that the previous menaces did not necessarily indicate deadly malice ; that as to the clothes and memorandum book, found on P. and said to belong to K. the witnesses might mistake similarity for identity ; that his departure from town,

was not a flight, for he had often declared his intention to leave the country, and that the coincidence of the journey, with the time of the murder, ought to be regarded as an accident, and not to be imputed to a consciousness of guilt.

This is a bare outline of the able arguments urged by the learned gentlemen engaged in the defence.

The Attorney General, in conclusion, recapitulated all the circumstances against the prisoner, with great clearness and force, and said, if this man were acquitted he should despair ever after of seeing the conviction of any criminal on circumstantial or presumptive evidence. He said that positive and direct testimony was seldom so demonstrative of the guilt of the prisoner, as the circumstantial evidence in the present case.

The Chief Justice in his charge, observed, that the issue of the cause was confined to a single question of fact, and not entangled with any question of law. If the witnesses were believed by the Jurors, and the circumstances in evidence produced a belief of the guilt of the prisoner, they should not hesitate from the want of more direct proof to bring in a verdict of guilty. That the cases of erroneous convictions on presumptive evidence, stated at the bar, differed from the present, in one very material point, that the death, the *corpus delicti* was not satisfactorily proved in either of them.

Here the fact of the murder of K. was unquestionably proved, and the only inquiry was, who committed it. He also commented very fully, on all the facts of the case.

The Jury retired at half past 8, and returned in about twenty minutes, with a verdict of **GUILTY**.

On the next day, Wednesday, April 12th, on the motion of the Attorney General, sentence of death was passed on the prisoner. The Chief Justice previously made a very solemn and impressive address to him, stating that he had been ably defended, that the evidence was irresistibly strong, and that the trial had been in every respect fair, and according to the humane laws of the Commonwealth; that his guilt was undoubted, and his crime attended with the most awful aggravations, and that he should endeavour, in the short space of life yet remaining, to feel that hearty and sincere repentance, which would obtain the mercy of Heaven, when he should be called to his great account.

The prisoner was then remanded.