THE TRIBUNE.

MONDAY MORNING, NOVEMBER 14.

FOR PRESIDENT,

HENRY CLAY,

OF KENTUCKY.

☞ The Editor of The Tribune is obliged to request those who wish to see him personally to call between the hours of 8 and 9 A. M. or 5 and 6 P. M. if they can conveniently do so. The absolute necessity of devoting some hours uninterruptedly to his duties constrains him to make this request.

☞ *The Memoir of McCoy* is for sale at this office.

☞ *A German Printer*, capable of conducting a German Whig Newspaper, may hear of an excellent opportunity of establishing himself in business by calling at this office between 9 and 10 o'clock. n14 2t

☞ The name of *Hart* appeared by mistake in a list of notables in "A Word to Gov. Bouck" on Friday. It did not belong in that category.

☞ The November number of the Southern Literary Messenger arrived last evening and is for sale at this office Price 50 cents. Agents supplied at the usual discount.

☞ The Whig Almanac and United States Register for 1843, for sale at this office. Single copies 12½ cents, $1 per dozen, $7 per 100.

The Election.

CHAUTAUQUE County, Heaven bless her! has given 1,900 majority for Bradish, and is of course the Whig Banner County for the next two years. Her hardy and intelligent Freemen are beyond the atmosphere of office-seeking, and of course are impregnable to the corruption of Tylerism.

CATTARAUGUS has given over 200 Whig majority, with a gain of two Assemblymen.

ALLEGANY has given 3 to 500 Whig majority; last year 50.

Chemung gives 800 Loco-Foco majority; Clinton 400; Essex 400 Whig; Franklin 50. St. Lawrence remains to be heard from. Bouck's majority will not vary much from 20,000.

THOMAS J. PATTERSON, Whig, is elected to Congress from Monroe, making 10 Whigs to 24 Locos. The Senate stands 10 Whigs to 22 Locos; the House 36 Whigs to 92 Locos. Gen. GEO. R. DAVIS of Troy, an able and popular Federalist so long as the Federal party existed, and now a patent Democrat, will doubtless be Speaker. He is an ex-Bank Commissioner, and one of the main pillars of the old Safety Fund Monopoly.

The 'Restoration of the Bourbons' is complete.

☞ Rumors fly thickly about town that *Hon. Edward Curtis* is about to be removed from the post of Collector of Customs for this Port, and *Wm. Paxton Hallet*, Esq., Clerk of the Supreme Court, be appointed in his stead. Hallet has been a Van Buren man ever since the dissolution of the Federal party, of which he was a prominent member, and his appointment is urged as essential to the union of the Loco-Foco party upon Mr. Tyler. Hon. *Aaron Ward* of Westchester is said to have conducted the negotiation. Maj. *M. M. Noah*, we believe, is to have the place of Mr. Taggart as Surveyor, and there will be a general sweep of the sometime Whigs remaining about the Custom House. One rumor runs that Mr. Curtis *is* removed. All this 'wants confirmation.'

The Effect of the Tariff.

COAL AND IRON.—If the Pennsylvanians expected to promote the interests of their two great minerals—Coal and Iron—by the new Tariff, they have so far been disappointed. The Tariff has put an end to the importation of Goods generally from England, and the consequence is, that vessels which have gone out with cargoes, find no freights back, and are compelled to ballast with whatever is heavy and cheap. Salt, Coal and Iron possess these qualities, and have been brought in such abundance as to overload the market. Coal is cheaper than before the Tariff bill passed, and Iron but little dearer, and quite unsaleable.

☞ The above appears in the *Journal of Commerce* of Saturday. Nothing can equal the audacity of that paper. All summer we have been proving that *an increase of the duties on Foreign Products consumed in this Country would by no means increase correspondingly the cost of those articles to the consumer.* The Free Trade economists have all along asserted the contrary, or more commonly assumed it as a fact undeniable. Well, the 'Black Tariff' has been passed, laying heavy duties on 'Salt, Coal and Iron,' and which theory stands the test of experience? Was Coal *ever* before so cheap at this season? Are not Iron and Salt low enough for any man of conscience? Are not all sorts of Manufactures nearly as cheap as, and many of them cheaper than, they were before the Tariff? Most certainly. The Tammany Hall lies about this or that manufacturer making $50,000 to $100,000 by the rise of his goods consequent on the increase of duties on the rival Foreign fabrics have had their day and done their office. Here are nearly all things as cheap as ever, and many cheaper, while many of our factories, mines and forges have been put in operation, and two hundred thousand of our own people restored to Employment and Wages of which the reduction of Duties had deprived them. In other words, our Producers receive more, while our Consumers pay *no* more, than they did under comparative 'Free Trade.' How does the Journal of Commerce meet this staggering fact? Why it has hunted up the explanation that, because we buy less European Manufactures, therefore the ruder staples are coming over to us as *ballast*, and at such reduced freight that the price to the American consumer is no greater than before. Well, Sirs, have it so if you will. So long as you admit the essential fact, you are welcome to rack your inventions for a plausible apology.

But you must not misstate the expectations of the friends of American Industry merely that you may declare them 'disappointed.' Our side has all along held that an increase of the duty on Foreign Coal, &c. *would not* increase the average price of those articles to the American consumer; they are your expectations, not ours, that are 'disappointed.' We say that Coal, Iron, and other staples will ultimatey be *lower* under an efficient Protective Tariff than under Free Trade; while the Representatives of Tammany Hall in Congress and its demagogues out of Congress have been whimpering over the *taxation* and *robbery* of the Poor of our City by the duty on Coal in order to swell the profits of the miners. Do not the present prices of Coal, &c. strikingly expose the flimsiness of their statesmanship or the hypocrisy of their lamentations?

We have the most undoubting conviction that a duty even of $50 per ton on Iron and $5 on Coal, so far from increasing the cost of those articles to the American consumer, would *diminish* it essentially. This might not be the immediate effect of so large an increase; but the moment the Home production had adjusted itself to the demands of the increased consumption—which it very soon would do—the price would begin to decrease, from the effect of eager competition, improved processes of manufacture, and the comparative steadiness of the market. An Iron Company which should be sure of a demand for 5,000 tons of the metal annually could make it much cheaper than with a precarious market for 1,000 tons this year and perhaps 100 next. Does any practical man need evidence in support of so plain a proposition?

☞ Election in Massachusetts to-day.

What Loco-Focoism considers Honest.

It will be recollected that the Legislature of Pennsylvania last summer held an Extra Session for the purpose of Districting the State for the choice of Members of Congress. That Legislature (two to one Loco-Foco) made a very tolerable Apportionment, giving the Whigs ten against fourteen of the Districts on a usual poll. This bill Gov. Porter refused to sign, after the Legislature had adjourned, so that the Session came to nothing. Now Loco-Focoism, having secured a new and firmer grasp of power, is about to District the State for State Senators and Representatives as well as Members of Congress, and the Harrisburg 'Keystone,' Gov. Porter's official organ, speaks of the matter as follows:

"The Democracy of Pennsylvania is so strong that it stands in no possible need of a resort to the disgraceful process of *Gerrymandering*. Its prosperity and ascendancy are dependent upon no such mean contingency. The Republican party desires justice and fair dealing, and beyond that it will never consent to go for the advancement of any purpose whatever. Upon a fair and rational assumption, the Whig party will be entitled to about FOUR of the Congressional Districts in Pennsylvania, and of these the Republican members will manifest no disposition to deprive them. That a commendable care will be taken to secure the ascendancy of the Democratic party in the State Senate and House of Representatives for the next seven years, no reasonable man will feel disposed to question. This precaution is eminently consonant with the true and lasting interests of the State, it having been long since unanswerably demonstrated that the Whigs, as a party, are *totally unfit to administer the affairs of Government.* It is therefore the DUTY of the Democrats *to keep power out of their hands whenever and* FOR AS LONG A PERIOD as they possibly can. But in arriving at this end, no dishonest or fraudulent means will be resorted to. Nor is this necessary, We have an abundance of material to construct a strong and efficient Apportionment, without any departure from the plain and palpable precepts of honesty. Whilst, therefore, the Democratic party at the next session will take good care of its interests for the present and the *future*, it will resort to nothing that could call a blush to the cheek of the most fastidious."

Can this be beaten? The party that carried the State on the highest vote ever polled is "entitled" to *four* or one-sixth of the twenty-four Members of Congress, and as to the Legislature, why the party that has the power should District so as to secure their power as firmly and for as long a period as possible! In other words, they should take all they can, and render it impossible that the Whigs should ever regain their sway, however strong the majority of the People who may desire it! And this deliberate conspiracy to stifle the voice of the People—to bind them to the car of a party, however strong their repugnance—is called, what do you think, reader? *Democracy* to be sure! A queer name for it, is n't it?

Corruption of the Press.

We trust the early and earnest attention of Congress will be turned to the shameful profligacy now displayed by the Federal Executive in the subsidizing of the Public Press in this City and elsewhere. Here, three or four dailies of the very feeblest circulation and character, beside one or two that *have* some circulation, are constantly filled with Government Advertisements, many of which ought not to be published here at all, and the rest ought to be published where somebody will be likely to see them. Thousands of dollars of the People's money have already been squandered in advertising Public Land Sales, &c., in papers like the Standard, Union, and Morning Post, which money, for all public purposes, might just as well have been thrown in the fire. Then the Lists of Letters, which ought to be published only in papers having the largest circulation, are put in one paper which *has* a circulation, and then shuffled round between three or four others which are of no possible account. All this costs money, which is wantonly wrested from the People to keep the breath of life in three or four journals which could not possibly subsist on all the patronage legitimately afforded them. Before the next Election we shall have these same papers parading a statement of the Public Expenditures as an evidence of "*Whig Extravagance*," after they themselves shall have received a portion of these Expenditures from a treacherous Executive to sustain them in preaching Loco-Focoism! And all the while that he is thus cheating, he is still more signally cheated. He thinks he is buying them; they know it is *he* that he is 'sold.' Will not Congress put a stop to this disgraceful profligacy?

Annexation of Texas to the Union.

We have received communications on *both* sides of the question of consenting to the Annexation of Texas to our Federal Union. We cannot make room for them, deeming it incredible that any sane man should favor such Annexation, and having no room to waste on fighting shadows. Whenever the question shall be brought before the country by the *advocates* of Annexation, we shall be found among the most determined, untiring opposers of any such measure. Our country is quite large enough now; Texas is burthened with War and Debt; her people are too generally improvident and idle, and we would far sooner spare many more such than take them back again. Besides, any attempt to annex Texas to the Union would excite the bitterest jealousy and hostility in England, France, and throughout the civilized world. Why not let well enough alone? If the Texans prefer to live in the United States, they can easily come back here—far more easily than they can maintain themselves where they are.

We have reports that the Southern States favor the Annexation, but do not yet find evidence to confirm them. Why should the South seek needlessly to renew the perils of the Missouri controversy?—to throw the whole subject of Slavery into the arena of party politics and bar-room altercation? No, no: the old and safe rule of our International Policy—'Equal Justice to all; entangling alliances with none,'—must be adhered to, or we shall be afloat on a fathomless, shoreless sea of troubles. Let us be wise *now*.

THE SENTENCE OF COLT.—The opinion of Governor SEWARD, which we publish this day, refusing to commute or in any way disturb the sentence of Colt, was communicated to the wretched prisoner yesterday morning. He received it at first with apparent coolness and unconcern: but when he saw his fate was sealed beyond all possibility of change, all the audacious boldness which has marked his bearing since the day of the commission of his crime, gave way, and he seemed overcome with grief and dejection. He sent for his brother who remained with him through the afternoon; he also desired the attendance of a clergyman. During the first few hours he wept much, but this emotion afterward gave way, we learn, to an appearance of wildness bordering on insanity. To prevent his self-destruction he will be kept shackled until the day of his execution; and no one will be admitted to see him except in presence of the Keeper of the Prison.

☞ A correspondent desires us to say, in reference to the 'proud boast' of Mr. Preston, that South Carolina had never been the theatre of popular violence, that several years since the Post Office at Charleston was rifled by a 'large and respectable' mob of a lot of Abolition newspapers and documents, directed to other Cities, which were taken to the street and *burnt*.—This accords with our own recollection.

John C. Colt's Case.

The following is a copy of Governor SEWARD'S OPINION in the case of JOHN C. COLT, who was sentenced to be executed on the 18th November, instant, for the murder of Samuel Adams:

ALBANY, November 11th, 1842.

John C. Colt was convicted on the 27th day of September last, at a Court of Oyer and Terminer in the city of New York, on an indictment for murder, and was sentenced to suffer death on the eighteenth day of the present month.—The trial was humanely conducted. Peculiar advantages of defence were allowed. Every objection raised by the counsel was deliberately considered; the charge of the court manifested unusual tenderness towards the accused; and the jury examined the evidence with extraordinary patience and attention.

When the verdict had been rendered, an application for a new trial on the grounds of alleged prejudice by a juror, improper conduct by the jury, and other supposed irregularities, was considered by the court of Oyer and Terminer and justly denied. The presiding judge then allowed a writ of error, by which the cause was removed to the Supreme Court, and in the mean time the sentence consequent on the verdict was delayed. That tribunal reviewed and affirmed all the decisions of the Court of Oyer and Terminer, which court then performed its remaining duty by rendering final judgement. The accused then again demanded a writ of error, with a view to obtain a reconsideration by the Supreme Court, and in the event of an adverse adjudication, then to remove the record for revision to the Court for the Correction of Errors. Such a writ could only be allowed by a Circuit Judge, a Justice of the Supreme Court or the Chancellor. The Circuit Judge who tried the cause, the Chancellor, and one of the Justices of the Supreme Court, with the concurrence of his associates, have severally refused to allow a writ of error, and the accused now appeals to the Executive authority for its interposition.

The application is urged with a degree of earnestness and sustained by an array of influence, unusual even on such occasions, which never fail to awaken the apprehensions of the conscientious and the sympathies of the humane.

The subject is supposed to involve the following inquiries:

1st. Whether any error in law has occurred in the trial and conviction.

2dly. Whether the conviction was contrary to evidence.

3dly. Whether the prisoner is a proper subject for clemency.

In regard to the first of these questions, the Governor is by no means prepared to say that he is not bound to abide by the decision of the Supreme Court. It is the right of that tribunal to expound the laws, and their expositions are conclusive upon every other department of Government until overruled by higher judicial authority. The Governor does not constitute an appellate tribunal to review the proceedings, correct the errors, and reverse or modify the judgements of courts of either civil or criminal jurisdiction. Nevertheless, the pardoning power might properly be exercised to save a convicted person from the consequences of a privation of any legal right or form of defence resulting either from accident or neglect, prejudice or misconduct from judicial officers. The accused complains that a writ of error has been unjustly denied, and it therefore becomes necessary to examine the grounds on which it was demanded.

When proceeding to the trial, the Court of Oyer and Terminer discovered that there was a deficiency of unbiased jurors, and thereupon ordered that three hundred persons should be summoned. After the order had been executed, the accused applied for a list of the three hundred persons, and also to be allowed two or three days to make inquiries concerning them. The request was denied. The Governor is not aware that any statute, rule or custom of courts of justice was violated by the decision.

The accused then challenged the panel of three hundred persons on several grounds, all of which were overruled by the Court, to wit: First—*Because the number was too large.* But it was within the discretion of the Court to determine how many should be summoned, and the result showed that the number selected was not large enough. Secondly—*Because only two days were allowed the Sheriff to execute the order.* It was nevertheless executed. Thirdly—*Because the Sheriff had not furnished the counsel for the accused with a copy of the list.* No such duty was enjoined on that officer. Fourthly—*Because the Sheriff selected the three hundred persons by taking their names from the roll of grand and petit jurors of the city and county of New-York.* But the Sheriff was not forbidden by law to choose the three hundred persons in that manner, and there would have been just ground of complaint if he had summoned persons not legally ascertained to be jurors.

The accused next insists that the ballots for the 45 persons on the original panel should be drawn and exhausted before those containing the names of the 300, subsequently summoned, should be put into the box. But the Court directed otherwise. After drawing all the ballots there was a deficiency of one juror; and when a further person was summoned, the accused required that a ballot containing that person's name should be put into the box with those of the 45 first summoned who had not appeared when called. The Court overruled the request. The person so last summoned was found not impartial and was set aside. The accused then insisted that those among the 45 first summoned who had not appeared should be again called, but the Court awarded an order to summon another person, and the individual then summoned, being found impartial, was received as a juror. No irregularity occurred in these proceedings.

A trunk, proved to have been found in the dwelling of the pisoner, and in which a watch belonging to the deceased had been discovered, was produced. The Court overruled an objection, and admitted testimony to prove the contents of the trunk. The decision seems to have been reasonable, and in harmony with the rules of evidence.

It was proved that all the wounds on the person of the deceased, except one, might have been made with a hatchet. The Court admitted testimony designed to show that the one wound might have been effected by the discharge of a pistol. One count in the indictment charged that death was produced with a hatchet; another charged that it was inflicted with some unknown instrument. The evidence, even if inadmissible under the first count, was unquestionably proper under the last count.

The remains of the deceased having been exhumed during the trial, the head was produced in Court with a view to enable the jury to apply the testimony with greater certainty. The proceeding, although deemed erroneous by the accused, was necessary and proper, and sanctioned by the law of evidence.

Caroline M. Henshaw, a witness for the accused, during her direct examination testified that she cohabited with him, and he thereupon offered to prove her good character for veracity, so as to rebut an adverse presumption supposed to result from the fact thus disclosed. The District Attorney objected, but at the same time admitted that the witness had given her evidence with an intention to testify only the truth. The Court, thereupon, very properly declined to receive unnecessary evidence of the veracity of a witness who had not been impeached by the prosecution, and whose truthfulness had been conceded.

The 4th Section of Article 1, Title 2, Chapter 1, Part 4 of the Revised Statutes, is in the following words:

"Such homicide is excusable when committed,

"1. By accident and misfortune, in lawfully correcting a "child or servant; or in doing any other lawful act by law-"ful means, with usual and ordinary caution, and without "any unlawful intent; or

"2. 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."

The accused objected to the charge of the Court because the Judge did not instruct the Jury that the words "*By accident and misfortune,*" in the second subdivision of the section, were to be rejected as surplusage. But no authority is found for rejecting the words thus alledged to be necessary.

The Court also charged that if the Jury believed under the evidence that the homicide was effected in a cruel and unusual manner, the case would not fall within the last subdivision of the section. This portion of the charge was considered erroneous by the accused, but it seems to have been in harmony with the spirit as well as the letter of the law.

The Court also charged the Jury that a homicide, to be *excusable*, must be committed without a design to effect death. The counsel for the accused questioned this position. But the law declares that homicide can only be excusable when it happens *by accident and misfortune*, and it cannot so happen if it proceed from *design*.

The ground upon which the accused demanded a writ of error was that several decisions of the Court of Oyer and Terminer which have been noticed were erroneous. But he was allowed to present them for the consideration of the Supreme Court, and they were solemnly considered and affirmed by that tribunal before the judgement was rendered against the prisoner by the Court of Oyer and Terminer. The Governor not only concurs with the Court of Oyer and Terminer and with the Supreme Court in the opinion that the objections raised by the accused were untenable, but he sees no reason to distrust the absolute confidence in the correctness of that decision manifested by the Circuit Judge, the Chancellor and the Justices of the Supreme Court in their refusal to allow a second writ of error. Therefore the denial of this writ thus demanded does not seem such a hardship toward the accused as would call for redress by the exercise of executive power.

After the cause had been adjudicated by the Supreme Court and sentence had been pronounced in the Court of Oyer and Terminer, the accused for the first time assumed the ground that the two Aldermen who were associated with the Circuit Judge on the trial were not Judges, because the laws by virtue of which they acted in that capacity conflicted with the Constitution. That instrument contains a provision declaring that all judicial officers (with an exception which has no application to the present question) shall be appointed by the Governor and Senate. Aldermen are not so appointed, but are elected by the People. But Aldermen in the city of New-York have always been recognized by law as Judges. They were acting as such when the Constitution came into existence, and since that period their judicial powers have been confirmed by many statutes.—The Supreme Court has heretofore decided that those statutes were constitutional; that the Aldermen were Judges *de jure*, and that even if they were not Judges *de jure*, they were Judges *de facto*; that their proceedings were valid until the Aldermen should be removed from the bench by the judgement of a competent tribunal, and that their judicial powers could not be questioned in collateral prosecutions in which they were not parties. Whatever opinion the Governor might entertain concerning this decision, he is bound to acquiesce. He has no power either to oblige the Supreme Court to reconsider the question or to submit it for the examination of the Court for the Correction of Errors. Under such circumstances, to grant a pardon to the prisoner on the ground of the incompetency of his Judges would be an acknowledgement that every judgement rendered by any Court of Oyer and Terminer in the city of New Yorksince the constitution was established with one exception, was not merely erroneous, but void, and would draw after it an obligation to pardon all persons who have been, as well as all who may hereafter be, convicted of crimes in those courts—the chief tribunals of criminal jurisdiction in the metropolis. In adopting such a course, the Governor would necessarily appear in an attitude of resistance to the laws and defiance of the courts instead of performing his proper office of executing the laws as expounded by the Judiciary; and the pardoning power, granted only for occasional purposes of justice and humanity, would thus be perverted and made an agent of disorder and revolution.

Was the conviction contrary to the evidence? This important question has not been and could not be in any form submitted to the Supreme Court or to the Court for the Correction of Errors, because in every criminal case, the Jury have an exclusive right to pass upon the facts submitted to them. Their verdict cannot be reviewed by any legal tribunal, and the right of the Governor to examine it is only incidental to the pardoning power.

Samuel Adams resided in New-York: was of about the age of thirty years, in active business as a printer of books, and extensively known. He disappeared on Friday the 17th of September, 1841. Inquiries concerning him were published on the next Wednesday, and on Sunday the 26th, his remains were found in a rude box, such as is used for transporting merchandize, in the hold of a vessel about to sail for New Orleans. The proof on the trial left no doubt that he suffered death at about 3 o'clock in the afternoon on the 17th of September, by the hands of the accused, in his apartment in the second story of a spacious granite edifice on the corner of Broadway and Chambers-street, no other person being then present. It was rendered quite certain that the meeting of the parties on that occasion was neither preconcerted by them, nor anticipated by the accused. It was equally clear he had made no preparation for so dreadful a deed, and that until that time the parties had maintained amicable relations, and the accused had manifested no malice nor even unkindness towards the deceased. These circumstances bore strongly in favor of the accused. But on the contrary, the deceased was a meek and inoffensive man. He was unarmed, and had visited the prisoner, although under some excitement, yet without any hostile purpose, and when the remains of the deceased were found, the head fractured, with five and probably more wounds, no longer retained the human form. There was a fracture large enough to admit the finger of the surgeon through the skull into the brain above and behind the left ear. A piece of the skull had been cut out on a line above the ear and a little to the right of a line drawn from the top of the head towards the spine. Again there was a fracture over the right ear. These wounds were manifestly the result of blows inflicted with the edge of a hatchet. In front, parts of the skull, commencing far above the left eye, reaching into the hair, extending across two-thirds of the space from ear to ear and descending on the right side so as to include the eye and a large portion of the cheek, were broken in and pressed deeply on the brain. This fracture was made by several blows with the hammer end of the same instrument. The hatchet which was one of the usual form, and in weight exceeded seventeen ounces, was found in the apartment and identified as belonging to the accused Each of the wounds would have been mortal, and which ever of them was first inflicted, must have instantly deprived the deceased of consciousness and of all power of resistance.

Such a homicide could not have been accidental or necessary for self-defence. It was committed with a deadly weapon, in a cruel and inhuman manner, upon a defenceless, powerless man. Reason and law agree that the homicide could not have been innocent, justifiable or excusable. Society could never exist if human life could be destroyed in such a manner with impunity. It was then a felonious homicide, and the jury had only to ascertain the degree of crime which had been perpetrated. By a presumption of law, which is the established deduction of reason, that crime was murder, and it remained for the manslayer to show that the deed would bear a milder designation. The accused could show this only by proving that Adams was perpetrating or attempting to perpetrate a crime or misdemeanor, and that the accused did not design to effect death, or that the wounds were given to aid Adams in committing self-murder, or that they were inflicted without a design to effect death, in a heat of passion, in an attempt to resist murder, or self-defence against some great personal injury of which the accused was in imminent danger. No such proof was given or offered. But since no other human eye witnessed the deed nor human ear heard any thing but a confused sound and a heavy fall, the jury were required to suppose it possible that Adams had assailed the accused and the crime was committed in self-defence. Even if this could have been assumed, it must also have been assumed not only that there was an assault and an affray, but that the accused was in imminent danger and in the heat of passion, suddenly excited, intense, uncontrolable and allowing no time for reflection, and that he did not design to produce death and was unconscious that such a consequence might follow his violence. But Adams was unarmed. He had never been known to menace the accused or assail any other person.—In strength Adams at most did not excel the accused. If there was an affray, there would probably have been an outcry by one of the parties, unless the first blow terminated the strife by rendering one of them speechless as well as defenceless. If the accused had been in imminent danger he could probably have shown wounds or marks of an assault. But he exhibited none. On the contrary, he carefully concealed a small and unimportant discoloration of the skin accidentally discovered by Caroline M. Henshaw on his neck on the morning after the deed was committed. And even if an affray had been proved, could it be supposed that the passion of the accused had no time to abate, nor his mind time to relent when the first blow had relieved him from the assailant, and each subsequent blow fell upon an unconscious and unresisting victim.

Murder is defined in law to be, first, the killing of a person, (not under the peculiar circumstances which render homicide excusable or justifiable) from a premeditated design to effect the death of the person killed or of any human being. 2d. The killing of another (not under the same circumstances before mentioned,) by any act imminently 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. It has been seen that this case presents none of these circumstances which render homicide justifiable or excusable—Even if the accused did not design death, the act he perpetrated was imminently dangerous, and the repeated blows inflicted in so inhuman a manner certainly evinced a depraved mind, regardless of human life. Whatever was the degree of crime it was complete when life was extinguished, and could not be changed by the subsequent conduct of the accused. Yet his subsequent conduct was legitimately opened to the jury for the light it might reflect on the deed he had consummated. The house was filled with tenants from the base to the roof. The narrow room of the accused was separated only by thin folding doors from an occupied apartment, and looked out on the corner of the streets. Even without leaving the presence of the dying or dead man the accused could have instantly summoned a multitude.

But he invoked no witnesses. On the contrary, according to his own acknowledgement, he closed the only aperture through which he might be observed, stripped the deceased of the clothing by which the person might be identified, and without aid, and almost with superhuman effort, wrapped in canvass the body; contracted it with a rope, and deposited it in a box three and a half feet in length, and standing upon the protruding knees pressed them down by dislocating the limbs, until the box could be closed. After this was done and night had come, the accused, with hands unaccustomed to such labor, washed the floor and carefully stained it with oil and ink and tobacco to conceal the blood which had been shed. He clandestinely cast the clothing and articles of property found on the person of the deceased, except his watch, into a sink, repaired to a bathing house and washed the stains from his own dress, and then retired to his lodgings. Early the next morning, before the usual hour for going abroad, he returned to the apartment and resumed his efforts to remove the evidences of the fatal transaction. He carefully fastened the box, labelled it with the address of an imaginary person in St. Louis, to the care of imaginary persons in New-Orleans, and carefully removed it from his apartment and caused it to be conveyed to the ship which was expected to depart immediately to that port, and delivered it to the master and took a receipt for it as for a parcel of merchandize. He had many associates in the city; a brother, and a mistress who seems to have been every way worthy of his affection and confidence and whom he says he intended soon to admit to the rights of a wife. To none of these persons did he reveal what had happened or what he had done. On the contrary, upon mature reflection, as he says, he avoided his brother and took counsel only with himself.

He gave Caroline M. Henshaw a false explanation of the reasons of his late return on the night succeeding the crime, and of his early absence on the next morning. To the person who occupied the adjoining rooms he at first denied and afterwards falsely explained circumstances which had excited suspicion, and day after day, while the friends of the deceased and his fellow-citizens were engaged in anxious inquiries concerning his fate, the accused visited the place where the deceased was accustomed to transact business and remarked on his mysterious absence like a sympathising friend. Nature suggests a mode of proceeding in every exigency, but not the same mode in exigencies so entirely dissimilar as those of guilt of murder and consciousness of having committed other forms of homicide. Guilt seeks concealment, misfortune sympathy, and innocence vindication. If the homicide had not been felonious the first impulse of the accused, when he discovered the fatal consequences of his violence, would have been to invoke aid to the sufferer if living, or at least advice or sympathy for himself If the blood which had been spilled did not accuse the prisoner, he would not have endeavored to remove the stains it left. If Adams fell by the hand of the accused through accident or misfortune, or even suddenly excited passion, the friends of the unfortunate man would not have been denied the melancholy privilege of giving his remains a becoming burial. Much less would the accused have mutilated those remains and disposed of them in a manner, the very account of which produces a revolt of all the sympathies of the human heart. But it is urged that consciousness of the crime of manslaughter and fear of its punishment, would induce concealment.

Flight from false accusation sometimes occurs, but the records of crime present scarcely an authentic case where a person guilty of only manslaughter has concealed the body and increased his peril by any of the acts which distinguish the conscious murderer. Manslaughter, although for reasons of conservative policy declared to be a felony and punished as such, is regarded by the offender, as well as by society, as a misfortune rather than a crime, or at most, as a crime mingled with misfortune. He who has committed it, if he possess the common tenderness of our nature, deplores the injury he has done, but conscience vindicates him against accusations of a higher crime. Society exacts his punishment with reluctance, and, notwithstanding the law adjudges him a felon, he suffers no ignominy. Imprisonment seems to him an inconsiderable punishment compared with the extreme penalty of human laws, and his subdued and broken spirit is almost willing to endure it to solace the regret he feels for having, even without design, deprived a fellow man of life. It seems impossible to suppose that an individual guilty of only such a crime, and exposed to only such hazards, would go on for hours and days, accumulating for his own destruction such a mass of the peculiar evidences of murder. From the legal presumption of guilt, the relation of the parties, the circumstances under which they met, the instrument of death, the number and violence of the blows, the mutilation of the deceased, the prevarication and falsehoods of the accused, and his studied, laborious and persevering efforts for concealment, the jury, under a full sense of their responsibility and aware of their duty to give their verdict in favor of the accused if they entertained a reasonable doubt, pronounced him guilty of deliberate and wilful murder.

By a humane provision of law, a full report of every conviction of a capital case is required to be made to the Governor, who, in considering the same, is entitled to the advice of the Chancellor, the Justices of the Supreme Court, and the Attorney General. The Justices of the Supreme Court have carefully reviewed the report in the present case, and unanimously certified their opinion that the verdict was just. If the Governor entertained doubts of its correctness, he might, perhaps, rightfully relinquish them, and confide in the opinions of his learned judicial advisers. But justice to the jury, and a proper regard for the security of society, as well as a desire to temper the administration of the laws with mercy, have induced an examination of the testimony independently of the opinions of the jury and the legal tribunals, and the result is a conviction, undisturbed by any doubt, that the accused was guilty of the murder of Samuel Adams.

It remains to be considered whether any circumstances, extraneous or appearing on the record, require executive interposition or recommend the prisoner to clemency. The attention of the Governor has been directed to an account of the Homicide, favorable to the prisoner, which was submitted by him to the Jury, after the testimony had closed, and to proofs and arguments designed to show the probable truth of that statement. Whatever the paper contained adverse to the prisoner became legal proof, while such portions of it as were favorable to himself were entitled to no weight or consideration. Nor is there any hardship in this rule, since the prisoner voluntarily submitted his statement, to the surprise and without the consent of the District Attorney. The paper can have no more weight in this review than it had with the Jury, for the rule that requires Courts and Juries to receive impartial evidence is equally obligatory on the Executive Department. Nevertheless the statement has been carefully examined, and the result is that its account of the transaction is unworthy of any confidence. It was prepared for the confidential use of the prisoner's counsel within ten or twelve days after the crime, under their instructions to set down the whole truth. Yet while it purports to give an account of an affray following reproachful words, it does not state which of the parties used the words. It states that mutual blows were given before the prisoner seized the hatchet, but does not inform us how many blows, nor describe any of them, except one received by himself more severe than the others, and which he returned with violence. It states that the parties grappled and he was pushed against the wall while the deceased was twisting the prisoner's neckloth, and then the prisoner seized the hatchet and inflicted one blow—then lost all power of reason by strangulation, and remembered nothing farther distinctly or coherently until afterward, when he was roused by a knocking at the door. Since his conviction the prisoner has submitted a series of letters written by himself to various friends during his imprisonment. In one of the letters written after the trial, he says that he did but defend himself against a wanton, vile and unpardonable attack. That he asked the deceased to be just, who thereupon accused him of injustice. For calm words, the deceased gave him insulting language. His peremptory denial was returned by the deceased with blows. In a subsequent letter he excused himself by haste and want of consideration for having set down in the statement produced on the trial, that "he was obliged to stand on the knees of Adams, to crowd him into the box;" says that the first part of the statement was quite imperfect, and did not convey the whole truth: admits that he retorted language of unmeasured reproach, and gives farther details, so important, if true, that they could not have been forgotten when preparing his previous statement; and which cannot now be admitted as true, because they were not made known by him until that statement had proved insufficient for his defence.*

The letters of the prisoner furnish other reasons to distrust his veracity.† To receive such an ex parte statement, and permit speculation based upon it to overthrow a verdict, would be subversive of the administration of justice.

The laws are always to be executed except where their penalties can be waived without prejudice to the public welfare and for reasons consistent with their general policy. Society has been deeply shocked and justly alarmed for the security of life in the metropolis. The deliverance of the prisoner by Executive clemency would be an encouragement to atrocious crime. Nor does the prisoner's character or conduct recommend him to the favor which can be only sparingly yielded. He dwells with just satisfaction upon extraordinary respectability of birth; he possesses talents, and has enjoyed more than ordinary advantages of education, and has given instruction in various modes to his fellow citizens. But he has contracted habits and relations inconsistent with an inoffensive and virtuous life. His conduct in relation to the crime and its consequences has been insincere, inhuman, relentless and remorseless. He is vain, self-confident and irreverent; imbued with false sentiments of honor, morality, justice and virtue; and seems incapable of compunction for crime committed or sorrow for injuries inflicted. Penitence and resolutions to amend are indispensable, among other conditions, of pardon. No such conditions are offered in the present case. The prisoner has forgotten his victim, heaped insult upon his humbled and bereaved family, defied the Court, denounced the Jury and presented himself before the Executive as an injured, not as a penitent man.

In making known to the prisoner that the expectation of pardon, the last hope of life, must be relinquished, the Governor cannot forbear from expressing an earnest wish that the few days which yet remain to the prisoner may be spent in preparing to appear before that dread tribunal appointed for all men, before which none can offer any other justification than sincere repentance for every error and humble yet confiding faith in the REDEEMER OF MANKIND.

WILLIAM H. SEWARD.

*Extract from John C. Colt's letter dated February 15th, 1842: "He almost instantly seized hold of my neckcloth, which placed me in his power—pressing me to the table and wall, he struck me three or four times in the breast, and seized me *per privas partes*. Every thing seemed to turn black. I was in agony, and exerting myself for relief, how I know not. The last distinct recollection I have, before I was relieved by his fall, was, that of trying to press him off with my left hand, as I held on his collar, endeavoring with my right hand, at the same time to raise myself from the table, as he had me pressed ever backwards upon it. It was in this painful position that I seized that accursed hatchet and gave him the unfortunate blows that I did.—When relieved from his horrid grasp, I beheld for the first time my awful defence. Heaven only knows the number of blows I struck him. There may have been four or five. And when I reflect upon the instrument most unfortunately seized and instantaneously used, it is only to be wondered that his head was not dashed into a thousand pieces.

†Extract of John C. Colt's letter dated March 8, 1842:—"My counsel considered my case a perfectly clear one and believed that I should be acquitted. To produce this result they conceived that the evidence of Adams' coming to my office in bad blood, and the evidence of the scuffle, and the evidence of his account being wrong, was quite sufficient when taking into consideration the fact that this unfortunate man had before, in several instances, shown himself a kind of dare-dog and had been consequently turned from the houses of several citizens for abusive and insulting language. Had this not have been the conclusion I could easily have slipped through the fingers of the law. The body of that unfortunate, foolish man was never identified, and the only positive evidence connecting me with the box containing it, was the drayman's. He swore that I was the man that delivered it to him, consequently it was alone necessary to prove that I was not about the granite building that morning, to have been acquitted. But I should forever despise myself for slipping through the fingers of the law by such means."

NEW-HAMPSHIRE.—In the Loco-Foco Legislative Caucus at Concord on the 8th, the vote for U. S. Senater on the first ballot stood

Charles G. Atherton	63	Ira A. Eastman	33
Leonard Wilcox	12	Moses Norris, Jr.	20
Scattering	7		

On the second ballot

Charles G. Atherton	98	Ira A Eastman	33
Moses Norris, Jr.	8		

So Atherton was duly nominated.

In the Legislature next day—

Senate	C. G. Atherton	11	D. M. Christie	1
House	C. G. Atherton	152	D. M. Christie	49
	Loco Scattering	11	Andrew Pierce	11
	Loco vote	174	Whig do	61

Atherton's clear majority............83

GEORGIA.—The Legislature of this State convened at Milledgeville on Monday, the 7th inst.—Gen. R. M. Echols of Walton was elected President of the Senate, having 50 votes to 31 for A. J. Miller, (Whig.) James Jackson was chosen Clerk. In the House, Wm. B. Wafford of Habersham was chosen Speakee on the fourth ballot, and John H. Dyson of Wilkes, Clerk, on the second ballot. The successful candidates are of course Loco-Focos of the Bank-suspension order.

The Governor has subscribed $200,000 to the stock of the Monroe Railroad.

FIRE IN BALTIMORE.—The building of the Baltimore 'Printing and Bleaching Works,' corner of Plowman and Front streets, was totally destroyed by fire on Saturday morning. Loss $30,000; $10,000 insured in Philadelphia. It was not occupied, and must have been set on fire.

THANKSGIVING IN NEW-JERSEY.—Gov. Pennington has appointed Thursday the 8th day of December for Thanksgiving in New-Jersey, being the same day as in this State.

☞ Rev. CHAS. G. FINNEY has arrived in this this City from Oberlin, and will probably pass the winter here. He preached yesterday morning and evening to audiences of 2,000 persons in the Theatrical Saloon of Niblo's, and intends to preach there every evening till Friday inclusive.

☞ CHARLES H. DELAVAN, Esq. U. S. Consul for Nova Scotia, leaves the city this day for Boston, whence he will proceed per the Calodonia on Wednesday the 16th inst. Mr. Delavan carries with him the good wishes of his fellow-citizens.

☞ Dr. LARDNER is lecturing at Richmond, Va.

☞ There was a fire up town yesterday afternoon, between 2 and 3, at a German dance-house near the corner of Sixth Avenue and Fifteenth-st. The contents were nearly destroyed.

☞ Fletcher Heath has been tried and convicted of murder, at Richmond, Va., for having killed a mulatto girl named Delia Harris early in April last. He was to have been sentenced on Saturday.

☞ On the 5th, the house and barn, with three tons of hay and one horse, were burned at Bangor, Me. A Mr. Crocker has been arrested and bound over on charge of having set fire to them.

☞ A bill authorizing a Geological Survey of the State of Vermont has passed the Senate of that State with great unanimity, only 5 voting against it.

☞ The *Post-office* building at Buffalo was the only one illuminated in that city on the news of the Tyler victory in the State.

☞ A child aged six years, daughter of Mr. Stephen Cornell, of this city, was crushed to death some time since, by getting entangled in the machinery of a bark mill. [Roch. D. Adv.

☞ On the 21st ult., says the Nashville Banner, an infant child of Mr. James Smith of Mooresville, Ten., was burned alive in his dwelling, which was consumed by fire. Mrs. S., after sweeping the hearth, had placed the broom near the bed in which the infant was sleeping, and left the house on some errand.

THE VERMILLION.—It has been ascertained that several persons were lost by the burning of the Vermillion on Lake Erie. The body of one man has been found, his name supposed to be (from his papers) Alexander Robinson, captain or mate of the schooner Ohio. He is supposed to have had a wife on board, who was also drowned. The body of Mrs. Charles Hoskins, of Kingston, Canada, has also been found. Her husband is among the living. He saved himself by swimming to the dock, after being separated from his wife by some one seizing him around the body and dragging him under. The cabin maid is known to be lost, probably burned to death. The clothing of a man is found, from the papers in the pockets, supposed to be Heman B. Ely, of Rochester, N.Y. The above are all that are known to have perished; it is to be feared that others have perished whose names will not be known until their places shall be found vacant among their friends.

QUESTIONABLE FOOD.—The blind traveler Holman stated that at Fernando Po, a couple of lambs, grown to no more than six inches long, were served up to him by order of the King. Galen reports of swine that their flesh possesses no less than fifty flavors, and is greatly assimilant in kind to human flesh. Du Chatelin relates that in his days, dogs and cats were eaten at Paris as they now are in China. Indeed, Sir Joseph Banks and Dr. Solander affirm that dog's flesh is the sweetest imaginable. At Rome, camel's heels were the choicest tit-bit for an epicure's tooth. Whales' tongues ranked among the delicacies feasted on in the middle century by Europeans. The Caffre eats his lion for food, and the traveler Bruce among them ate his lion steak with gusto. At Rio Janeiro, an ordinary dish is a monkey pie; and the head of the ape is left to appear above the crust for ornament, in the style of the feet in our pigeon pie.

LYNCHING.—The robbery of Mr. Robidoux's store led to the visitation, by a body of citizens, of the rendezvous of a gang of counterfeiters at Spence's, near Jamestown in Andrew County. Under the operation of Lynch Law two or three fellows confessed where the money was to be found. The thieves escaped, and Mr. Robidoux has offered $1,000 reward for them. Strange disclosures—the Platte Eagle says—are said to have been made to the Grand Jury of the County of Buchanan, about certain gentlemen counterfeiters, which, at the proper period, will be made public. [St. Louis New Era.

BURNING OF THE STEAMBOAT MAID OF ARKANSAS.—The steamer Maid of Arkansas, between Vicksburg and this city, was discovered to be on fire yesterday morning, some two or three miles above Carrollton. The boat was consumed to the water's edge, together with 1,150 bales of cotton. The crew and passengers had barely time to escape. [N. O. Bee, Nov. 4th.

MELANCHOLY.—Mr. Elijah Johnson, father of W. F. Johnson, the Comedian, while engaged in work on a building at Cambridgeport, on Monday last, fell from the scaffolding. Both of his arms were broken, and his scull badly fractured. He lingered until Wednesday afternoon, when he died, much regretted by a large circle of friends and relatives. [Boston Atlas.

STEAMBOAT ACCIDENT.—As the steamboat Moxahala, of Zanesville, was ascending the Ohio river on the 3d inst. a flue collapsed when the boat was about seven miles above Portsmouth. Green Jones (a negro man from Zanesville) and a deck hand from Cincinnati were missing, and it is supposed they were killed. No material injury was done to the boat, and none at all to the cargo.

DROWNED.—A. B. Rozwell, whose parents live near Centreville, on the road to Dayton, was accidentally drowned, this morning, in the Ohio river. He was in a small boat, and the fog was so dense that the Covington Ferry Boat was not seen till it struck the boat. Another gentleman was in the boat, but was saved. His trunk and effects are deposited at the house of Captain Boggs. [Cincinnati Chronicle.

A DUEL.—We have been informed by a friend that a duel took place this morning in the neighborhood of Wilmington, Del., between a Philadelphian and Baltimorian, the latter receiving a ball wound in his arm. The names of the parties were not ascertained. [Philadelphia Eve. Cour.

EXPLOSION.—A keg of powder, intended for blasting rocks, was exploded last evening, between 7 and 8 o'clock, somewhere near Minersville. The explosion was felt quite sensibly in this city, and a report was in circulation this morning that Mr. Watson's powder mill had blown up, which we are glad to learn is not the fact. [Pittsburg Gaz.

☞ The Editors of the National Intelligencer announce that they have received for publication, and shall place in their columns as early as space can be found for it, an interesting communication, of volume and scope sufficient to entitle it to the rank of a memoir, on the progress and condition of the Arts in the South of Germany—and especially in that eminent seat of the arts, the Bavarian capital—from the pen of our distinguished countryman HENRY WHEATON, Minister to the Court of Prussia, addressed to the National Institute.

☞ The Lexington (Mo.) Express states that a stage driver named John Webb stopped to water his horses, after which, in the act of regaining his seat, he fell on the road and was killed. The horses ran away with the stage, upsetting it, and slightly injuring a lady passenger. This gives another instance of the necessity of some strict regulations in regard to stage drivers.

☞ On the 6th inst. a little girl living in Eighth street fell into an old well near the ruins of R. C. Phillips's foundry, and before she could be taken out, life was extinct. [Cincinnati Messenger.

☞ We regret to learn that the recent earthquake was severely felt in the vicinity of Berthier; and we fear that its effects were more disastrous lower down the river. In this city the motion was distinctly perceptible. [Montreal Times.

SANDS'S SARSAPARILLA.—The discovery of the circulation of the blood by Harvey, and the laws that govern gravitation by Newton are two prominent facts which will remain forever as imperishable monuments to the enduring fame of these great men. But another, and to the mass of mankind, a much more valuable discovery has recently been made, having for its object the removal of suffering, disease and pain.

Diseases affecting the blood and fluids generally are very numerous, and comparatively but little understood. The blood is a fluid *sui generis*, and enters every organ through the circulation, affording nourishment to every texture and the source of each secretion. When, therefore, it is impure, disease is carried to the remotest fibres of the animal frame, in one instance causing ossification of the arteries or turning them into bone in other, white swelling or disease of the joints; also, scrofula, or swelling of the glands, in various parts of the body; rheumatism, attended with palpitation and disease of the heart; gouty affections and cutaneous eruptions, also result from the same cause, and a variety of other maladies which soon hurries the victim into the grave. Sands's Sarsaparilla, a vegetable medicine, which is the result of years of labor and chemical research, in bringing it to its present state of perfection, will arrest, and if timely administered, perfectly cure these diseases by purifying the vital fluid, regenerating the constitution, dispelling diseased action, giving tone to the general energies of the system, and enabling the blood to course on freely, and bringing with it health and renewed vigor. By its use the pallid cheek will lose its paleness, and the sunken eye regain its brighiness; the skin will resume its natural functions, and the limbs their accustomed elasticity.

Prepared and sold at wholesale and retail, and for exportation, by A. B. Sands & Co. No. 273 Broadway, (Granite Buildings,) corner of Chambers-street, New-York. Also sold by A. B. & D. Sands, Druggists, No. 79 and 100 Fulton-st.; David Sands & Co. No. 77 East Broadway. Price $1 per bottle, six bottles for $5.

☞ The real *Fudge* Mermaid is to be seen at the New-York Museum. It is formed of the head of a monkey and the tail of a fish, so admirably fitted together as to deceive the most experienced person. The Hughes family, the wonderful musical prodigies, comprising two brothers and a sister, are engaged. Master D. E. Hughes displays extraordinary powers on the Harp. The infant Violinist performs with a skill and science that cannot be surpassed. Master Diamond, Rosalie and Boyce appear.

☞ G. SAUNDERS, Inventor and Manufacturer of the Metalic Tablet Razor Strop, 163 Broadway. o25 1m