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MISCELLANY:

From the *New York American*.
JOHN RANDOLPH OF ROANOKE, was too remarkable a man while living, not to be an object of great and general curiosity in the scene, of great and general curiosity in the scene. We consider ourselves fortunate, therefore, in being enabled by the friend of Mr. Randolph, to minister in a degree to the gratification of this interest by a series of numbers, in which some of the peculiarities, the quaint sayings, the characteristic letters, and the poetry, of Mr. Randolph are embodied.

The first number is published to-day, and contains numbers, which will extend to some time. It shall appear every other day. The authenticity and accuracy of these notices and extracts, our readers may fully persuade; for the gentleman who communicates them for publication is known as one of the strictest honour and truth—his friends he often delights could, were at liberty to name him, attest, a story teller.

JOHN RANDOLPH, OF ROANOKE.
It is to be hoped, that some one of the late Randolph's intimate friends, who possess the necessary qualifications, will undertake to give his biography to the world. It has been too remarkable a character, and filled too large a space in public estimation, to be passed over merely with a few paper sketches, which will soon be lost forgotten. Such an ardent and devoted admirer of his native state, who always exhibited his brightest talents in her defence, not surely long remain without a biographer in Virginia, which still abounds with distinguished men. In the meantime, those who can relate any characteristic anecdotes of Mr. Randolph may be excused for indulging in such reminiscences.

It was my good fortune to cross the Atlantic with him the first time he went to England, and to pass some time with him in London, and I can unhesitatingly declare, that I never travelled with so entertaining a companion, nor have I ever met with his equal diversity of knowledge. With my memory as good as his was, I could write a very good book of his sayings and anecdotes, historical, biographical, political, classical, theological, &c. but as it is not, I can only relate a few of the more striking circumstances which occurred whilst we were together.

The first time I ever saw Mr. Randolph was the morning on which we embarked in the packet ship *Amity*, for Liverpool, March 1822. I was introduced to him by a mutual friend, and casually mentioned, at the moment, that I was an Irishman. Shortly afterwards, Mr. Randolph came up and addressed me as follows:—
"A very happy, Sir, to meet with an Irishman, for I love your country, and admire her—my daughters too, Sir. Miss Edgeworth is my great favourite. I know her almost by heart. By the way, perhaps you can solve a difficulty which has often puzzled me in the geography of Ireland—where is it, Sir, that in every map of Ireland I have ever seen, the town of Ballinasloe is placed on the wrong side of the river?"

I could not forbear laughing at the singularity of the question, whilst I replied:—
"As you are to be fellow passengers, Mr. Randolph, I may as well confess my ignorance at once, by declaring that I not only cannot answer your query, but I really was not aware there was a river of that name in Ireland, never having visited Ballinasloe; and I asked—How came you to know the location of Ireland so minutely?" By books, conversation, and the blessings of a memory which never forgets anything," he replied. In it, we were not two days together, before I discovered that he was intimately acquainted with every part of England, Ireland, and Scotland—not only as to cities and towns, gentlemen's country seats; and he knew the history of every celebrated horse-race and every race-horse in England. He was void of displaying his knowledge of the most minute facts on these points, and it was agreeable to myself and the other passengers to listen to him.

Just before we sailed, the Washington papers were received announcing the defeat of a Bankrupt bill by a small majority. At that moment I forgot that Randolph had been one of its most determined opponents, and I said to him—
"Have you heard the very bad news from Washington this morning?"
"No," he replied with eagerness, "what is it?"
"Sir, I am sorry to tell you that the House of Representatives have thrown out the Bankrupt bill by a small majority." "So," he exclaimed, he, and then taking off his hat and looking upwards, he added most emphatically, "Thank God for all His mercies!"

After a short pause he continued—
"How do you think that I helped to give that fatal kick?"—yes, sir, this very

day week I spoke for three hours against it, and my friends, who forced me to make the effort, were good enough to say that I never had made a more successful speech; it must have had some merit, sir, for I assure you that whilst I was speaking, although the Northern mail was announced, not a single member left his seat to look for letters, a circumstance which had not occurred before during the session! I endeavoured to combat his objection to a Bankrupt bill subsequently, but of course without any success; he felt as a Planter, and was very jealous of the influence of Merchants as Legislators.

One of our company was an excellent chess player, and frequently challenged Randolph to a game, but for a long time he refused. "I have not played at chess, sir," said he "for seventeen years, and cannot recur to the last game I played but with unpleasant feelings, for it lost me a friend forever." "You have heard, I dare say, of my intimacy with Mr. Jefferson, but perhaps you don't know that he took more pride in his skill at chess than in anything else—very few indeed, sir, could beat him, and he could not endure defeat—I was aware of this, and had always declined playing with him, because I was his match, until one unfortunate evening, when he touched my Virginia pride in so pointed a way I could no longer refuse, and we sat down to the game. I soon cried 'check-mate,' and he never forgave me afterwards!"

Mr. Randolph had a large box full of books with him which he was taking to England to get bound. I asked him why he had not sent them to Philadelphia or New York for that purpose. "What, sir," said he, "patronize such unskilful task-masters who have imposed such a duty upon foreign books! never, sir, never! I will neither wear what they make, nor eat what they raise as long as my purse can get supplies from old England, and until I can have my books properly bound south of Mason and Dixon's line. I shall employ John Bull!" One day at dinner the Captain said, "Mr. Randolph, will you allow me to help you to some codfish?" "No, sir, it comes from New England," was his laconic reply. Whenever he praised any northern man, it was always with this limitation—
"He is the cleverest man I know north of the Potomac."

On Sundays he used to read for us a chapter in the Bible, or part of the Church service, and once he made an extemporaneous prayer; and he never would permit any reflections to be cast upon religion without a very pointed rebuke. He told me that for many years he had been corrupted by the infidelity which prevailed amongst many of the leading politicians at Washington; but that in the year 1816, during a severe fit of illness he had a remarkable vision, which completely dispelled the delusions under which he had surrendered his faith, and since then he had been a firm believer in Christianity. He showed me a letter which he wrote immediately after this illness addressed to a bosom friend in Virginia, in which he gave a circumstantial detail of his conversion, as he always termed it, and he even gave the words which were uttered in his ears by his invincible inductor during the vision. "This letter," said he to me, "contains nothing but the truth, strange as it may appear to you, and it would make me miserable to doubt it!" Whilst conversing on the subject, he told me that the late Mr. Pinkney of Baltimore had assured him, just previous to his death, of his unshaken belief in the truths of Christianity. Of Mr. Jefferson, however, he gave a very different account, which I can now readily believe after having read his letters, although at the time (1822) thought Randolph was too strongly prejudiced against him.

On the conclusion of the testimony and pleadings in the case of Clough, at Morristown, New Jersey, on Friday last, the Chief Justice delivered the following charge:
CHARGE TO THE JURY.

Gentlemen—After a severe, close, and painful investigation of this cause, for several days, we have reached the point where the labours and responsibilities of council have terminated, and where it becomes my duty to explain to you the rules and principles of the law, so far as the guilt or innocence of the prisoner is connected with, or dependent upon those rules and principles.

Soon the fate of the prisoner, will be committed to your hands; and upon your verdict hangs the issue of life and death. His mortal, and so far as human actions can influence our future condition, it may be his immortal and eternal destinies are to be irrevocably fixed by your decision. Not, gentlemen, that either you or the court have any power, except accidentally, over the life or death of the prisoner. You and we are delegated with no such authority. We have been selected to perform another and a specific, though I admit, a solemn duty, namely: to ascertain the guilt or innocence of the prisoners; and there our duties and our power terminates, so far as we are responsible. The law makes no appeal to our judgment, on the expediency of the punishment it annexes to crime; nor to our religious views or feelings on the moral fitness or legality of that punishment. What follows our decision, whether it be innocent or guilty, is the act and judgment of the law and not ours.

The privations and confinement you have so long and so patiently endured—the fixed and untiring attention you have paid to the

evidence and the arguments of counsel, are I am sure, a sufficient pledge to the country and the prisoner, that your verdict whatever it may be, will be the result of your cool and deliberate judgments—the honest convictions of your mind; the true answer of your consciences in the sight of God, and not the expression of prejudice or excitement on the one hand, or of the unrestrained and controlling influence of sympathy and compassion, on the other.

There is danger, gentlemen, that the claims of justice may be overlooked and left to suffer, amidst the conflict of contending passions, alike honourable to our natures, and yet alike dangerous to our reason. The cry of murder—the death struggles of the expiring victim—the reeking dirk and the garments rolled in blood, are well calculated to rouse our feelings and fill our souls with a holy indignation against the perpetrator. Instinctively, almost we wish to see the glittering sword of justice strike the avenging blow, and vindicate her cause. "Tis right we thus should feel, and men we should not be, if we could look, unmoved, on crime like that with which the prisoner stands charged. But we must guard against these emotions when we enter the sanctuary of justice, whether in character of judges or jurors. We are not, indeed, to banish them from our bosoms; but we must take care that we do not transfer our righteous indignation of the crime, to the accused, and thus deny him the benefit of our sober reason and our powers of discrimination.

So, on the other hand, sympathy for the accused—tender and compassionate feelings towards a wretched, perhaps an innocent, or at least unfortunate man, standing in the attitude of the prisoner at the bar, is a laudable—nay, an honourable attribute of our nature. But here again we must take care, that we do not suffer our humanity to degenerate into weakness, and deny to justice and the majesty of the laws their just claims.

If, however, gentlemen, you err at all, let it, I pray you, be under the influence of the latter feelings; for it is the benignant spirit, as well as the language of our law, that many guilty had better escape than one innocent man be punished.

The prisoner stands before you charged with the crime of murder—murder committed on the person of Mrs. Mary W. Hamilton. The crime of murder is committed, when a reasonable being kills with malice aforethought another reasonable being, in the peace of God and of the State. Your inquiries, therefore, will be in the order and as follows:—

1. Was Mary Hamilton killed?

2. Was it done by the prisoner?

3. Was it done with malice aforethought?

The two first interrogatives involve nothing but pure and unmixt matters of fact, and to them the jury must respond; and that answer must, unapplied, in this case, be in the affirmative. Mrs. Hamilton was killed, and she was killed by the hand of the prisoner. I would, gentlemen, that you and we had room to doubt on this point. But we have all had exhibited to our view and to our ears, but too certain and too painful evidence of the fact. She was killed on the 6th day of April last, in the house of her mother, by the hands of the prisoner. It is not denied by him, or by his counsel.

Nothing then, remains to be answered but the third interrogatory—
"Did he do it with malice aforethought?" Upon your answer to this question must depend the fate of the prisoner; and God grant, that I may be enabled rightly to understand and so to explain the law to you, that is involved in or connected with this question, that I may not be instrumental in doing injustice to the prisoner.

What then is meant by malice aforethought? It is a wicked and unlawful design or intention to do a wrong or injury to another, and whether that design or intention has its origin in a spirit of hatred and revenge to the person, or in the gratification of any other passion of the human mind, it is malice aforethought. Nor is it necessary that it should have been a previous, deliberate and fixed purpose, to do the act; for malice is sometimes express or positively proved; and sometimes implied—that is, inferred or deduced from the circumstance; attending the transaction. Malice is express, where a previous and deadly quarrel existed, and hatred ensued between the parties; or where threats, were made, previous arrangements concerted, or the deceased waylaid. In the absence of such proof, it may be implied, from a variety of circumstances, and even from the deadly nature of the weapon made use of; and such was the instrument in this case. [Here he read 1. Russell on Crimes, 421, &c.] But then, the very fact, that malice aforethought must exist to constitute the crime, implies that the perpetrator must be a moral agent—a reasonable and accountable being.

Here probably lie the hopes of the prisoner and his counsel; and whether he was or was not such a moral agent, and such an accountable being, at the conception and execution of this dreadful tragedy, is for you to determine.

It would seem indeed, as if none but a man could have perpetrated such a deed as we have here exhibited in evidence. Who, we are ready to exclaim, but a maniac, an insane and deranged man could have inhaled his hands in the blood of such a victim—could have plunged the dagger into the bosom of virtue, the breast of love itself, and let out the life streams of her in whose life and happiness his

own was bound up in unconquerable affection? It is almost incredible. Gentlemen, it is strong evidence of insanity. It is entitled to your consideration—let it have its weight; but it is my duty to add, it is not conclusive evidence of that sort of insanity which excuses from accountability and guilt. Phrenzy and passion are nearly allied to—nay, they are a partial insanity; but it is sometimes such an insanity as increases rather than diminishes moral turpitude—as proves its existence rather than its absence. Such, unhappily, is the depravity of human nature, that disappointed love, as well as disappointed avarice or ambition sometimes urges on its victim to crimes of the deepest dye, to murder, and even to suicide, itself. But such aberration may be only the actings out of a selfish, depraved, and wicked heart; the gratification of a malignant and vindictive spirit, that has not moral courage or virtuous sensibility enough to survive or overcome a defeat, of the humiliating refusal of proffered love; it may be malice in its deepest, darkest colours, and its most resentful, malignant deadliest form.—Such is the strange and mysterious composition of our nature; so closely allied are our virtues and our vices; so easily does the former degenerate into the latter, or the latter assimilate themselves to, and assume the garb of the former, it is often difficult to determine where the one terminates or the other commences. Such is the passion of love; it may be pure and virtuous, chaste in conception, holy in its motives, honourable and disinterested in its objects; it may seek exclusively and supremely the happiness of the person on whom it is fixed, regardless, in a measure, of its own welfare, except so far as its stands connected with the welfare of that person; it is then a noble and ennobling passion. But it is sometimes a vicious love; it is rather the burning lust of unhalloved and undisciplined passion, than the ardent flame of virtuous and sentimental affection, and when such is its character, it is not surprising, if unrequited and ungratified, it should turn to hatred and seek revenge.

I do not mean to intimate that such was the nature and character of the prisoner's attachment to the deceased. It may have been as pure and holy as ever glowed in the bosom of a mortal being. It may have burnt and blazed too strong for the physical powers of his mind to endure; and the lamp of reason itself may have gone out, or but glimmered in its socket, under the influence of its all-absorbing power; and if by such, or any other cause, the prisoner's mind had become unsettled and deranged;—if reason had been driven from its throne, he was a wretched, miserable, crazy man, but not a guilty one. And here, perhaps, I ought to be more specific as to what amounts to, or constitutes such a derangement, as excuses from the imputation of guilt, and saves from the infliction of punishment.

It is a general rule, that all homicides—that is every killing of a person, is presumed to be malicious, and of course, murder, unless the controversy appears from circumstances of alleviation, excuse, or justification; and that it is incumbent on the prisoner, to make out such circumstances, to the satisfaction of the court and jury, unless they sufficiently appear from the evidence and case made out on the part of the prosecution—or perhaps at most it is necessary for the state to show a homicide committed by defendant prima facie, clear of any alleviating, excusing, or justifying cause.

In the case now before the court, as I have already remarked, the homicide is proved, and if not confessed, is not denied. The prisoner then is obnoxious to the charge, and liable to the dreadful consequences of murder, unless he can alleviate, excuse, or justify his conduct. It is not necessary for me to enter into a specification of what constitutes an alleviation, excuse or justification. The defendant has not attempted to alleviate, or to justify—but his defence is bottomed on a fact, which, if true, is an excuse. That fact is a state of mental alienation; and if such alienation did exist, it is an excuse. It does rescue him from the charge of crime, and shield him against the punishment due to guilt.

But then it must be satisfactorily shown to the jury, that he was in that unhappy and miserable condition; and at this point the difficulty meets us and presents two questions. 1st, What state, or degree of alienation of mind, constitutes an excusing insanity? and 2dly, Did such an insanity exist?

The first it is my duty to ascertain and declare; the second, it is your province to determine.

In ascertaining what degree of insanity will excuse, we may derive some assistance from the reason of the thing; from analogy to other cases, and from settled rules. Reason and good sense teaches us at once, that it is not every weakness, imperfection or fallacy of the human mind, that puts an end to our free moral agency and exonerates us from accountability; for in the true philosophy of mind in reference to moral actions, every departure from truth and virtue, is but an act of insanity; the manifestation of a disordered mind as well as a depraved heart.

In the case of children of tender years, of nine and ten years of age, who have been indicted, convicted and executed for crime, the inquiry has not been whether by premature maturity of intellect, they were capable

of understanding and judging correctly of the moral law, and all the considerations upon themselves and others; but whether they had intelligence enough to know right from wrong, to abstain from evil, or whether they were committing a crime for which they deserved, or were liable to punishment. But without pursuing these remarks any further, it is enough for me to say, that the ablest and most humane judges that ever adorned the judgment seat, have repeatedly decided, that it is not necessary to render an act criminal and the perpetrator punishable, that every spark of reason should be extinct; that though it may glimmer in its socket, and give but an unsteady and doubtful light; yet if enough remains to show it was susceptible of feeling its legal and moral obligation, though not sufficiently strong and steady to discover them in all the bearings and obligations, yet he is responsible and punishable. But, if there is an absence and destruction of the reasoning powers, a dark chaos of the mind, incapable of feeling the restraints of law, or of discriminating between right and wrong, or fitful and illusory phantoms of the brain, that present things in a false light, or impose upon the disordered intellect as realities, what has no existence in nature, such a mind, thus in ruins has ceased to be accountable for its acts.

I do not mean to say that there must be a total and absolute extinction of the light of reason. If the prevailing character of the mind is insane; if only now and then it is pierced by a lucid ray; but its general character is disordered and chaotic, it would be dangerous, if not cruel to convict and punish for a crime an individual thus already miserable and pitiable.

With these remarks, on the extent and degree of derangement necessary to exculpate a defendant, and referring you to the cases that have been read and commented on by counsel, I dismiss this branch of the subject.

With this explanation, your next inquiry will be—
"Did such a state of mind exist?"

In these investigations we can derive after all, but little practical benefit from the learned and scientific works on medical jurisprudence. We know, for instance, that intemperance sometimes produces insanity, and insanity sometimes shows itself by intemperance. But the difficulty is to tell, which is the cause, and which is the effect, so in this case—whether a disordered intellect led him into the excesses he committed on board the steambath and in the city of New York, or whether those excesses were characteristic of the real moral feelings, that led him to the commission of this horrid deed, is a question that the casuistry of doctors can afford us but little help in solving.

After all, in their own language, it must depend upon the circumstances of the case.

It may be gentlemen, you will find evidence enough of such an alienation of mind as I have described, and God grant that you may; for we would rather, infinitely rather, find him a maniac, than a murderer.

And here you will refer yourselves to the evidence. You will remember, and try to account for his altered looks, and the absence of his wonted cheerfulness, after his return from New York. He had left, it was thought, perhaps hoped, at least by the mother, never to return. But he came back. He came back pale and dull. Was it the paleness and dullness of a diseased body; a distracted and deranged mind? Was it the sad effects of his recent debauch and dissipation in the city of New York? If the latter, was that debauch, that disgusting conduct related by his friend Wallace, the actings out of an insane mind; or a depraved heart. Was it the paleness of passion, the dull gloomy and unsocial feelings of a heart bent on mischief? Had a fixed and settled purpose been formed in his bosom, to destroy the man he could not make his own, or was he the unhappy victim of his ardent, but misplaced affection?

These, gentlemen, are questions, to which you must respond; and if any thing in the absence of full and satisfactory evidence of insanity, can save the prisoner, it may be found in the burning eloquence, and untiring efforts, the soul stirring appeals of his able and distinguished counsel; they have done their duty; and if the unhappy prisoner must pay, to injured justice, the forfeit of his life, his blood will not be found on any part of their professional garments.

And now let me beseech you, gentlemen, that nothing I have said, be understood by you, as intimating an opinion unfavourable to the prisoner. I have not intended, in reference to the great and material facts in the case, to express any opinion either for or against him. My object has been, however unsuccessful the effort, so to conduct this trial, that if the prisoner is acquitted, public justice shall be satisfied—if condemned, may die in peace with me, and have no occasion to occupy his last lingering reflections, with the thought that the court has done him injustice. That such has been my object, I think I can confidently, but reverently appeal to the Searcher of hearts.

To his guidance and direction, gentlemen, I fervently commend you. *God bless your chamber, and there in the fear of God, judge you expect to answer for the transactions of this day, at His bar, discharge your duty to the country, and to the prisoner; and may the Spirit of unerring wisdom, the God of mercy and of truth, preside over your deliberations, and*
(Six fourth page.)