An Alibi

In the autumn of 18— I had made my arrangements to retire from the practice of law, and preparatory thereto had gone up into the country for a vacation of a couple of months at the old place, out of the reach of business or clients.

But some way it happened that I could not keep away from a courtroom, and one morning learning that Judge—would hold a 'circuit in toe' town that day, I rode over to shake hands with some old friends, and gather the news of the county.

It was a brilliant morning. The mountains were covered with the tints of autumn, the sky was surprisingly clear and blue, everything invigorating to a city man. The ride along the country road was so inspiriting that, as I reached the front of the old courthouse and sprang from my horse, it was with a fresher and more lively flow of spirits than I had felt in years.

As I entered the room the Judge was standing near the stove, with a group of lawyers surrounding him, and, as I joined them, the sheriff entered with half a dozen prisoners.

"Criminal business today?" inquired someone.

"Yes," said the District Attorney. "We propose to try the two murder cases if we can."

"Who are the prisoners?" I inquired.
"A negro, Johnson—half the negroes in the county are Johnson—is indicted for the murder of his wife; and a young fellow, named Randall, for killing old Solomon Davis. You ought to remember the old man?"

"I do, well. I remember hearing of the murder."

There was no interruption to the joking and laughing around the stove; the entrance of the solemn-faced prisoners had no effect on the group.

That scene, which is one of daily occurrence in our country, is worthy a pause here to sketch. It cannot be possible that any man who has witnessed it as often as I have, can fail to desire the addition of some solemnities and formalities to our system of administering justice. There is a terrible carelessness in this custom of trying men for capital offenses in the same way that we discuss a dispute about fifty dollars, in the same courtroom, with the same attendants, and no more form or dignity. I could almost ask to have the big wig and the black gown restored.

The sun shone pleasantly in at the windows and fell across the wooden seats, and chairs, and tables, and on the torn and worn carpet, from which a sparkling cloud of dust arose at every footstep.

The bench was occupied by a county judge, who was waiting to sit as associate judge in the Oyer and Terminer. He had not removed his hat, but sat leaning back in his chair, with his feet elevated to the wooden desk in front of him, exposing his soles to the examination of all who

chose to look at them, while he was leisurely chewing the stump of a half-finished cigar that had gone out a few moments before.

Three or four lawyers and clerks were busily writing at the table in the bar. Twenty or thirty jurors were scattered around the room, with their hats on, and the seats of the outsiders were beginning to be filled with a crowd of country folks, eager to be present at the murder trials. The Judge stood near the stove, twirling his hat in his hands, and talking of the weather, the prospect of frost, the price of grain, and sundry commonplaces of that sort, while a hum of loud voices filled the entire courtroom.

In the midst of all this sat the prisoners. Four of them were indicted for minor offenses, and two for the highest known to our criminal law. I believe there is no higher grade of crime than murder, though treason precedes it in the statute.

The four who were to be tried for the lesser offenses were hardened-looking men. It is a melancholy fact that jail imprisonment has a hardening effect on most men, so that the months preceding trial are apt to unfit a man in personal appearance from making a favorable impression on the jury.

I could not see Randall. He kept his face down.
The colored man, Johnson, was looking around him on the courtroom with wonderment.
He had now anticipated this day for months, and had supposed that to others it would have some of the solemnity it possessed for him. He could not understand this strange callousness to his fate. Was that comfortable-looking man, who was so keenly enjoying the passing joke, the judge who was to administer life or death to him? Was that the bar at which he was to stand, and from which he was to go to the bar of God if the jury should find him guilty? Were these men who were scattered around the room, talking, laughing, idling the golden moments of life, the men to inquire into his worthiness to live yet longer in this sunshine, and breathe, and move, and act as a man on the earth? This, certainly, was not what he had expected when the great question of life and death was to be decided.

At length the Judge went up to his seat. The county judge dropped his feet to the floor, and another associate, a shock-headed man of small mental calibre, as his bullet-shaped skull indicated, followed the presiding judge and sat down to doze by his side. The crier opened the court with his absurd “Oh yes,” and the jurors answered to their names. The preliminaries were all finished, and the court announced that no civil business would be taken up until the calendar of criminal causes was disposed of. But no one left the courtroom, which was now densely crowded by the sudden influx of outsiders, to whom the opening of court had been announced, for a murder trial was a novelty in the county, and hundreds had flocked into the town to attend on it.

And now for the first time I looked with some degree of attention at the prisoner Randall, who was charged with this terrible offense. He was a young man. He might have been twenty-five or seven. His complexion was exceedingly clear; his eyes were black and piercing. His air was calm and somewhat strange. He was well-formed withal, and the impression which his appearance created was far from unfavorable. He had broad and well-built shoulders, a firmly-knit and

compact frame, a graceful waist, an upright carriage, and in general the *beau ideal* of a romantic murderer.

His dress was of the roughest and most common sort. It contrasted so strangely with his face that you were startled. Doubtless his own clothing had been taken from him; perhaps to be used in evidence against him. Certainly that man was not used to wear that style of dress. He was not that sort of person.

When the indictment was read, and he was called on to plead to it, he answered "Not guilty," in a firm, clear voice. I leaned forward to him with an involuntary feeling of sympathy that I could not restrain.

"Have you counsel?" asked the Judge.
"I have none."

"Why have you not employed any?"

He looked up at the Judge with a sort of half-comical, half-sneering smile, and without replying, glanced down at his clothing and back at the bench. I sat so close to him that I could see a smile, somewhat bitter, gradually coming over his face, and at length he spoke:

"Had the authorities permitted me to retain my own property, possibly I might have been fit to pay someone to see that I was condemned in due form of law. I wish no counsel."

"Are you a lawyer?"

The question fell from the Judge's lips as if involuntarily. Clearly he suspected, as I did, that the man was more than he seemed.

"I am not."
"It is my duty to urge you to take advice, and I do so most sincerely. The court will assign counsel to you if you are unable to pay for it yourself."

"I have said that I do not wish it."

The man's strange manner attracted my interest more and more. There was a sort of determination about him that led me to think he was someone in a desperate humor, resolved on taking the chances of life or death, with something of a preference for the more terrible fate. I had seen such cases before. It was not uncommon to find men thus reckless at the very moment when most of all they needed deliberation and cool judgment.

It was not that he sought a felon's doom. It was not that he wished to die. Possibly the near prospect of death would have appalled him. His plea of Not guilty showed that he was no suicide.

It was only that for some reason he was for the time utterly careless of the future, and was

willing to stake his life on the toss of a copper, or the decision of a *petit* jury, which is much the same thing.

"Have you no friends?"

There was a flash of light across his countenance, and then a gloom fell on it that was absolutely appalling in its utter despair.
"I do not know that that concerns the matter now in hand."

I could stand it no longer, and while the Judge consulted a moment with his associates, I spoke to the prisoner.

"Will you permit me to advise you, Sir?"
"Do you ask as a lawyer, Sir?"

"As a lawyer or a friend, whichever you please."

"I must decline your kindness, Sir!"

"I appreciate your idea, but in this case you must forego it. The court will appoint someone to take care of your interests. Is it not better to accept my offer than the tender mercies of the court, who will consider its duty done by handing you over to some young attorney, who will make you ridiculous by his ignorance. Think quick, or I shall be superseded. Come, man, I speak as a gentleman to a gentleman. You cannot refuse me. I will at least save you from the annoyance of a plea of insanity, or any other whim of a boy."

A momentary hesitation gave place to a free assent, and he accepted my proffer. Stating to the court my intention to appear for the prisoner, I requested a few moments' indulgence for conversation with him.

I led him from the box to a side window, and began to question him. I now observed an increased restlessness in his eye. I sought in vain to catch it. Five minutes of attempted conversation convinced me beyond a reasonable doubt that the man was not in his right mind, and I returned to the bar and stated my ideas, privately, to the Judge.

At his request two physicians who were present examined the prisoner, and reported, as their decided opinion, that the man was seriously ill, and in fact insane; but it was their opinion that the present insanity was the delirium of fever.

"The man is ill, very ill, and it is only the violent excitement of his fever that keeps him standing. He should be cared for instantly."

Such was the opinion of the doctors, and the court immediately remanded the prisoner, with orders that he should be attended to with the utmost care. The fever fit which had but just commenced, was already grown violent, and I followed him to the jail with an anxiety I could scarcely have believed possible an hour before. Having taken measures for his comfort, and

obtained a nurse for him, I left the jail and returned home, for it was impossible to do anything toward investigating the charge so long as he remained in this condition. The trial, of course, went off for the circuit, much to the disappointment of some hundreds of eager horror-seekers, who laid it partly to the Judge and partly to me that they had not heard the condemnation to death of a man of like passions with themselves.

And now let me return a few weeks and state the particulars of the crime imputed to my unfortunate client. A farmer of advanced years lived about seven miles from the county town in his old house, where he was born, and where he had seen the suns of nearly seventy summers ripen successive crops of grain in the broad fields. He had coined the sunshine into gold, and had grown richer than his neighbors, and harder of heart withal.

Solomon Davis was an iron-handed and stony-hearted man. No one loved him, not even the wife of his bosom, who had traveled the journey of life with him for more than forty years. But his wealth had won him some degree of respect, for that it will always do, and he was made a director of the bank in the county town when it was first established. But the old man never deposited money in the bank. It was for a long time a subject of wonderment to the neighbors what he did with his money between the time of receiving and the time of investing it, until some person revealed the fact that there was a strong box under the bed in the old man's bedroom, where he doubtless made deposit of his riches till such time as he could purchase lands or undoubted securities. It was, in fact, his own son that revealed this secret, for the old man had a son, a graceless boy, who had grown up into a wild and dissipated man, and who at length left home and had never been heard from. Doubtless he was lost at sea, or had died in some distant country, for ten years had passed and no tidings of him had reached any ear.

The wife of Solomon Davis was a woman of remarkable character. Why she had married him no one knew. She was his exact apposite in every respect. In youth it was said she had been as beautiful as her daughter now was, and much the same gentle, lovely person. She had been a calm, quiet person—doubtless a sufferer from the harshness of her husband, but never complaining—and now, as old age had come on, and the end could not be very far off, she had grown more cheerful and pleasant than ever, and seemed to be getting somewhat of the sunshine of another country on this world's path.

Bessie Davis was a sweet girl—a gem in the county, known all over for her beauty and her loveliness. She was the child of her parents' old age, and as such she had been more the pet of the family; but as one and another went away by the dark road that never turns toward home again, and at last John was gone too, she was the sole stay of her mother's lonesome hearth in the long winter evenings, when the old man sat silently adding up the gains of his year's labors, or studying, in uncommunicative gloom, the prices current in his paper.

One evening Mrs. Davis and Bessie had gone to pass the night in a distant part of the county. They had driven the old horse with the gig themselves, and Mrs. Davis, having arranged everything for her husband's supper, had permitted the servants to go to their friends also, with directions to return by daylight in the morning.

The morning never came to the old man. When the servants came back he was found lying dead

on the floor, with a bullet hole through and through his breast, and the bullet was found in the corner, where it had fallen from the wall, which it had struck but lightly. The old man had struggled hard before he died, for there was evidence of a fierce contest; the chairs and table were overturned, and the room thrown into confusion.

The strong box was standing on the floor in front of the bed, open, but how much had been abstracted it was impossible to say. Bills, gold, silver, and securities, lay scattered about in it, and the only possible estimate of the amount of the robbery that could be made was no better than a guess, and entirely worthless.

The moment that the discovery was made the news spread like light, and before noon half the county had heard of it, and three men had been arrested on suspicion of the murder.

The first was a hired man of the next neighbor of Mr. Davis, who was seized for saying that it was no loss to the county if the old man was dead. This was at first deemed very suspicious, but cool reflection led men to think it would hardly do to hang a man on such evidence, and he was discharged. The second was a half farmer, half horse-jockey, who was trading horses in the county town, and having rather an unusual quantity of gold about his person, was required to account for it—a requirement which proved somewhat embarrassing, for although he had not gotten it from Solomon Davis, he had cheated a near neighbor of the murdered man out of a hundred dollars on a horse trade, which had made him flush for the time, and he had no desire to meet the cheated farmer until the money was used up. But gold can no more carry evidence of murder on its shining face than it can carry the plague through quarantine, and the jockey escaped for a trifle paid to a lawyer to have him discharged on a writ of *habeas corpus*, there being no information or complaint against him.

The last arrest was made at about noon. A man of doubtful appearance was found in the forest, about four miles from the Davis farm. When found, he was walking and leading a horse that was somewhat lame, but otherwise a magnificent animal. He was well dressed, but his face was pale, and his eye roving and suspicious. They were poor physiognomists, but they knew enough to see that he was not an everyday character, and they questioned him.

His replies were wary, they thought, and guarded. A man of the world would have thought otherwise, and called them indignant.

“Where was he going?”

He replied to that question with a cool stare, and walked on.

“Where was he last night?”

“What mattered that to the questioner.”
“Have you money about you?”

“Some. What business is that of yours?”
“Let us see it.”

At that he started back, and looked up suddenly into the faces of his interrogators, and drawing a pistol, held it very much as if he intended to use it.

One might have thought that he took them for highway robbers, so cool was his air; but they thought differently, and advanced, whereupon he snapped the pistol at the head of the first. It did not go off. In point of fact, the pistol proved to be not loaded. He knocked down the first man with the butt of it, and the second with his fist, by a well-directed blow under the ear, and then sprang on his horse, and drove the spurs into him. But the poor horse was dead beat out, and stumbled with him a hundred rods off, throwing him into a pile of stones, where he lay senseless until his resuscitated opponents came up and made a peaceable capture.

His pockets contained a considerable amount of gold and banknotes, but nothing to indicate his name or character or residence, nor did he communicate anything to his examiners. There was blood on his coat, but that might have been from his own wounds on the stone-heap. He behaved singularly, refusing to answer any questions or to employ any counsel.
One curious fact appeared—one of those slight circumstances that often serve to support great consequences. The horse of the prisoner had been ridden hard, and died shortly after his capture. One of his shoes was broken, and the half was missing. This half was found lying in the road near the Davis house, where it had doubtless been lost, and the track of the horse was distinct from that point to the fence in front of the door, where he appeared to have paused, and then gone at a long gallop into the back part of the county. The trace was lost a mile or two off, but he was doubtless returning toward the same place when arrested. It was supposed his object was to avoid suspicion.

From that day till the opening of the court he had lain in prison, waiting trial, and constantly in the same silent, listless state, which argued a determination to do nothing which could compromise his position, or else a pitch of desperation seldom met with in a young, strong man.

Such was the man whose destiny was in my hands next to God's. But for a long time it appeared that he would answer first at the bar of Heaven. I did not see him for a week after I met him in court. A message was sent to me from the sheriff that the physician thought he could not live during that night, and I rode into town to see him. They seemed to regard me as his guardian, for I was the only person who had taken a particle of interest in him, or who had been in any sense his friend since his arrest. As I entered the room to which he had been transferred after this attack of illness, the physician stepped back from his couch and whispered to me that he could not stand it much longer.

He lay at this time on his back. His wild eyes flashed hither and thither with eager haste, and yet saw none of us. Others surrounded his soul while we surrounded his body. He was looking at them, talking with them—now pleasantly, now bitterly, now furiously.

"Mother, she said she did not love me! Was not that enough? I tell you, Fred, I did all that man could do, said all that man could say. But she spurned me, nevertheless—drove me out by her coldness; Froze me out, I should have said."

I have always much the same feeling, when listening to the ravings of delirium, that a man has when forced to overhear a conversation intended to be strictly private. But there was no help for it now; and I began to get a little insight into the character of my client as I heard his first words, and I listened intently, thinking, indeed, that I was to lock all this up forever in my brain when he, poor fellow! should have ceased to rave.

The story soon came out, scarcely with more distinctness than in the words I have quoted. It was the old story of a mad love—a cold and haughty lady, an humble suitor, rejected firmly, dismissed, maddened, and driven away in despair.

In the mood which a passionate disposition was apt to fall into under such circumstances, he had came into the county, and gotten into the difficulty which now involved him.
I had readily seen that, in the combination of circumstances, there was really no evidence of guilt in a man of good character; but I had some doubts of being able to establish that in this case, if the evidences of passion were to be relied on which I now had.

I pitied him sincerely. That his whole life had been bound up in that love was manifest, and now all seemed over.

He had been silent for some moments, during which I was thinking, when he suddenly broke out in a voice of keen, imploring agony. It was like the call of a lost spirit. It rang through the walls of the old jail, waking the prisoners in their solitary cells, and scaring them into thoughts of unearthly visitors. I thought it was the last—that his soul was, in that wild cry, going out on the untried journey. But it died down to a low moan of exhausted suffering, during which I could detect the utterance of words, and suddenly they seemed to be words of pleasure, of delight; and he said, in a low, pleasant voice, "Ada! My Ada! My darling! Oh, I do so love and bless you, Ada!" and, murmuring her name over and over, he fell quietly asleep.

The struggle was over. I slept as long as he, in an armchair near him, and was roused by his first movement. That was when he woke in his right mind, and asked where he was. At first, as the recollection of his painful position came over him, he seemed much troubled; and as his memory carried him only to the courtroom, and the plea of "Not guilty," he asked anxiously, and yet with a smile, "Guilty, or Not guilty?"

"Not tried at all. You were taken sick in the courtroom."

"Ah! Yes; I remember. You are the gentleman who volunteered to aid me. I remember talking with you, but nothing farther."

The physician forbade farther conversation, and I left him, hoping everything from his improved state.

I called again a few days later, and the jailer told me to go directly to his room. "He don't want to see you, Sir, and told me to tell you so; but I reckon you'd better go in."

He received me politely, but coldly, He was growing better, but he was perfectly

incommunicative at first, and I had great difficulty in persuading him to talk of his own position.

Most men who lock up their souls hide the key so carefully, that in their efforts to conceal it they direct attention to it. Not so my friend. He was impenetrable in his reserve.
Name, residence, history—all he avoided strictly. His appearance was good, his conversation brilliant at times, his manner polished, and he was evidently accustomed to the society of the refined and wealthy. All this he could not conceal. In relation to his own case, I at length persuaded him to give me the history of the night on which the murder was committed.

He said he had been riding through the county that night rapidly for urgent reasons.
He had paused at the farmhouse of Solomon Davis, where he had thought to ask for a drink of water. This was early in the morning; but the silence and gloom of the house led him to suppose no one was up yet, and he rode on. He was returning by another road when he was apprehended. He had resisted instinctively, and but for the accident to his worn out horse he would have escaped.

"Where were you the evening previous?"

"You must pardon me. I cannot go into that."

"But, my dear sir, it is necessary that you do so. It is clear that Davis was murdered long before daybreak; so that, if we can account for you elsewhere at or near that time, we shall clear you."

"That would be proving an *alibi*."
"Precisely."

"I wish it might be done; but it is impossible. Ask no further questions on that point. If a defense can be constructed on the facts I have given, I am content. If not, I must take my chance."

"But—"

"The matter is settled, sir."

"I am afraid there is little chance for you, then, for juries in this county, to my certain knowledge, have an awful proclivity toward verdicts of guilty, and they will hang you on the slightest possible evidence."

"So be it, then! I am content."

"Content! You are content to die, and a dog's death at that?"

"What matters the way one dies? Will it make any difference in the profoundness of one's rest afterward?"
"Perhaps not. But to die! To die at all is hard, and few men can say that they are content with the prospect. This world is not so dismal after all."

“And why not? Is this a pleasant specimen of it?” and he looked around at the smoky walls of his room and the grated windows.

“But you might be free from this, and out yonder is a pleasant prospect. See how the sunshine gladdens everything!”

“Everything? Why, it seems to me there are many places in the shade yet. Sunshine does not reach everything; and many persons besides prisoners look at it through bars.”

“You are discontented. Is there not something in the world for such as you to do?”

“There are enough to do it without me.”
“Have you no ambition?”

“None.”
There was no disappointment nor misanthropy in the tone. It was cool, calm, and not expressive of any emotion.

“And why none? Surely the field for young and ardent souls was never more open or more broad. You might have a brilliant career.”

“To end just here where I now stand, on the verge of the grave, and what richer should I be?”

“What richer? My friend, there are no riches of gold to be taken hence with you; but are you ready to go out now? I speak not alone of the preparation that all men need for the dark road. But have you gathered the only earthly riches men may take hence with them? Have you won love? Have you bound any true hearts to yours, so that their love will not be broken off by death? Will you carry any human love into the unseen world with you?”

“Thank God, none!”

His voice was calm; the tone as before; but he used three words in place of one. Had he said “None!” I should have been satisfied; but the gratitude he expressed led me to recall the night when I stood by his couch, and heard him murmur a name in tones of deep affection.

“Is there anyone waiting your coming in that other world?”

“No! I go into it alone, if go I must. But no more if you please. I think it would have been better had I not accepted your offer of assistance. I should, doubtless, have been hung ere this. You but disturb me with vain questions.”

“My friend,” said I, rising as if to leave him, “I will leave you, since you desire it; but understand that I leave you to almost certain death. You seem to have chosen it. Be it so. But is there not now a memory of past joy that can win you back to some little love of life? Am I not right in believing that you remember faces that were once beloved; eyes that once gleamed with affection; lips that once whispered words of thrilling tenderness in your ears? I have seen men

like you before, and I know that the despair of disappointed love is often terrible, is worse than any other; but there are thoughts, memories of joys lost—but whose soft and holy beauty lingers yet—that are enough to call back life to the dead soul; almost to revive the dead body. Think of these, and say if I must leave you."

"I have no such thoughts; no such memories. Excuse me. I am much exhausted."

And so I left him. I called the next day, and was denied admission; the next, and was again denied; and so I abandoned him, and returned to the city, leaving a note for him repeating my offer of services if he were disposed to accept them. But I did not hear from him.

The memory of the lonesome prisoner haunted me. I did not think I had felt so much for him. I could not get rid of the memory of his face that night I passed by his side.
One morning I was interrupted by the entrance of a client, who introduced a gentleman to me who wished some advice. He was an American by birth, who had passed the chief portion of his life abroad in the south of Europe, where he had married and brought up one child, a daughter, now nearly twenty years of age. On the death of her mother he had desired to return to America; but the great obstacle to this was the fact that his daughter was betrothed to a man of high standing, and the completion of her marriage would effect a separation that he could not think of with any degree of satisfaction. He was not a man of very ardent feelings. He had not loved her mother very much; but the daughter had won a place for herself in his heart, and though the marriage had been contracted through the influence of wealthy relatives of his wife, he had found out the repugnance of his child to the proposed match, and had readily lent himself to her design to escape the fulfillment of her forced vows. Leaving covertly, he had brought her with him to this country. But he had been followed by the suitor, and though he had not been six months in America, he was already surrounded by persecutors who had convinced him that he must sacrifice one of two things, his daughter or her large fortune. He had unwisely written a great many letters acknowledging the betrothal, and there was thus abundant evidence of the contract of marriage. He wished to know whether the threats that had been made could be enforced, and whether it was so serious an alternative that was before him. His long absence from America had made him almost a foreigner in his ignorance of our laws.

My quiet laugh at his story reassured him more than words could have done, and he was altogether relieved when I explained to him that his choice was simply to consent to the marriage, or pay such damages as a jury might be induced to give for the breach of contract; and I added that, in my limited experience, I had never known an action of the sort brought by a rejected man, except in the renowned case of Wilkins *versus* Blake, which was a good precedent for all such cases.

The few words I spoke made a new man of him. He had been living in retirement, having no acquaintances but the foreigners who had tracked him out, and his bankers, who were my clients. He blessed the day which led him to ask the advice of the latter, and brought him to my office; and he begged me to go then instantly to his house and see his daughter—an honor I was forced to decline. But I yielded to his urgent entreaties, and promised that same evening to see her; and I did so.

She was a magnificent creature. Let me see now if I can describe her. No, I will not attempt it. Imagine her what you please, only full of life, and gentleness, and exquisite grace, and loveliness. She was one to make young men mad. I was a bachelor of fifty, and not apt to be crazy about women; but my partner laughed at me next morning when I described her to him, and told me I was growing young again.

In a few weeks I was on terms of remarkable intimacy with Mr. Walton's family, and found myself at his dinner table almost as regularly as he was there himself. There were several reasons for this, the chief one being that the old gentleman's affairs required careful examination by a lawyer, and I devoted the evenings to him for nearly or quite a month. The second was, that he and his daughter afforded two interesting objects for an observing person to study. He was somewhat simple-minded, exceedingly warm-hearted and frank; while she was full of intelligence and feeling, and gifted with refined tastes and keen appreciation and love of the beautiful.
"By-the-way, my child," said Mr. Walton one day after dinner, "what do you suppose has become of Mr. Gaston? He has not been here in two months, or more."

"Upon my word I do not know, father."
"Do not be so serious about it, child. I did not think you did know. You speak as quickly as if you thought I suspected you of a secret correspondence with him."

She actually blushed at the suggestion, and looked reproachfully at her father, who continued to speak, but addressed himself to me.

"Mr. Gaston and his mother and brother crossed the ocean with us. They were pleasant acquaintances. Miss Walton enjoyed their society much. He has not been here of late, though Mrs. Gaston has called frequently. He must have left the city. I thought at one time that it was possible young Gaston might be a lover; but he seems to have vanished."

"We met them first in Italy."

"Ah! So we did. You remember it better than I."

"A lover for Miss Walton," said I, looking at her, and meeting her kindling eyes. "On my word; that is a strange idea. What say you to it, Miss Walton?"

"Why strange? May I not have lovers, sir?"

"As many as you choose. But I can't imagine the man bold enough to think of winning you. You are rather one of the sort I should think of buying through your family, as our friend Count — thought to do, rather than to be approached with idea of winning you."

She laughed, and our conversation ran on in a light, pleasant strain, about love, and love-matches, and similar subjects, until I was led, in some way I have since forgotten, to tell the incident of my late client in the jail of — County.

At the first the countenance of my listener betrayed more than ordinary interest, and at my description of the night-scene, and his delirium, and the words he used, she sprang from her seat.

"Why, that is John Gaston!"
"Why, Ada, I am astonished!"
"Ada!" It was the first time her father had used the name. The whole truth, of course, crossed my mind immediately, without need for the explanation the brave girl gave instantly.

"Father," said she, in an excited tone, "I love John Gaston, and he loves me. I have rejected him three several times: once in Europe, once on shipboard, once here—each time because I knew not whether I was free. I treated him lightly, scornfully, because it seemed best to teach him to forget me. The last time we parted he was in such despair that I was nearly wild with the agony myself. But I heard no more from him; and I hoped, for his sake and mine, that he had returned to Europe. But he went away that night on horseback, was apprehended for a murder, is lying in prison waiting his trial, is likely to die. I must go and save him. Let us go tomorrow. Will tomorrow do, Mr. Phillips?"
At that moment I recollected that the day for the session of the Oyer and Terminer for — County, which would regularly occur in three months, was, by a new arrangement, changed to this very day. It might be already too late for the trial. At all events the only chance was for the next morning, and it was a long way to ride. But we laid our plans instantly. First a note was dispatched to the residence of Mrs. Gaston, explaining, as well as was possible, the circumstances of her son's case. She had supposed him in Europe, as he had sent a note to her to that effect, she being out of town. His long-continued silence had created no alarm, for he was always a wayward and unintelligible person, of violent passions, and given to long wanderings; and, indeed, he had not been so long absent that a letter from across the ocean could be expected. Then we mounted our horses, and rode all night, until the morning, up the country roads. It was nine o'clock when we reached the old place in the grove, and forgetting that the country courts open an hour earlier than we do in the city, we paused a little while for refreshment. It was after ten when we entered the courtroom.

I shall never forget the appearance of the prisoner at that moment.
He deserved to hang for the deliberate suicide he was committing. But I had begun to pardon him. There was his own despair at the loss of such a woman, and then there was the impossibility of proving an alibi except by bringing her to the stand to testify to the humiliating circumstances of that night.

As we entered the courtroom, the trial, which had occupied the court the entire day previous, was drawing to a close. The evidence had vastly increased in strength. The pistol ball was found to fit the pistols which had been taken from the prisoner. Mrs. Davis had testified to the fact that the prisoner, whom she had not seen since the murder until the previous day, had been at the farm some weeks prior to the murder, and had conversed several hours with Mr. Davis, during which time the old man had opened his chest to take out title deeds, and might then have exhibited his gold. It was impossible to say how much had been stolen; but it was proved that Mr. Davis had received a considerable payment in foreign gold a few days previously, and ten pieces found in possession of the accused were of similar description. The horse's tracks were identified, the broken horseshoe, the empty pistol, the manner of arrest, the behavior of the prisoner, everything

was proved, and the case, which I had thought a very slight one, was actually magnified into very clear evidence of deliberate murder. But the worst testimony of all had been elicited in an unexpected moment. Bessie Davis was on the stand; proving some point of little importance, when she for the first time caught sight of the face of Gaston, and she started up with a cry of surprise that startled the entire courtroom; the next instant she sank back, trembling and sobbing as if her little heart would break.

Bessie Davis was well beloved by every person in that courtroom, and her conduct caused a universal sensation. The prosecuting officer, who was a clever enough lawyer, but a man of little fineness of feeling, blundered out a demand if she had ever seen him before.

Then the story came out. Bessie had seen him the same day her mother had mentioned, though not at the same time. She had met him every evening after that. He had appointed to meet her on the road near the house, in the gloaming, and he had come each time on horseback, and had walked for half an hour with her.

"What did he say?"

Ah, Bessie! It was hard to tell that crowded courtroom the soft words he had whispered in her ears, the promises he had made, the vows they had exchanged. But so it was; and she gained courage to recount the whole.

It was just as this commenced that we entered, and the crowd gave way when it was said that we were witnesses. John Gaston was gazing at the beautiful girl on the witnesses' stand with open eyes and undisguised astonishment. Was he dreaming? Could he have made love so desperately as all that, and never have known it? The witness was telling truth beyond a doubt. No one could hesitate to believe that beautiful and simple-hearted girl, as she told the story of her own weakness. She wept, too, at intervals, and her tears told awfully against the accused, who now stood charged with winning that pure and gentle girl's love, with the cruel intent in his soul to murder her father.

"He left me at sunset the evening before he kil—before my father's death. He said I might not hear from him again in six months or more, but he swore on this cross which he gave me, that he would come back within the year, and I promised him—that—I—would—love—him—and wait—for him."

"Ah, John Gaston—John Gaston, how could you be so faithless!"
My veiled companion had, with myself, pressed up to the side of the prisoner's box, and she spoke these words in a low tone, but so full of fun, of keen enjoyment of a ludicrous scene, that it added to my bewilderment, while it startled him like a flash of lightning. He looked around, leaned over toward her, whispered a word or two, received a whispered reply, and then a light spread over his face that was totally new to me, and he seemed like a new man. He uttered a loud cry, and reaching out his hand to mine, grasped it with an energy that was positively painful. This sudden movement, and the approach of Mr. Walton, created so much confusion that the court ordered the noise to be suppressed, and I advanced into the bar toward the young lawyer who had been assigned for the defense during my absence. He recognized me immediately, and I

begged permission of the court to consult a few moments with him before we opened the defense.

A few words from Miss Walton had put me in possession of the explanation to Miss Davis's testimony, and I now learned all that Mr. Stevens had proposed to do for his client. He was prepared to make a vigorous defense with no sort of evidence in his favor, but he had gotten up some ingenious plans, which were now entirely useless. I took the case up with confidence, and opened the defense by stating my ability to prove the entire innocence of the prisoner, and promised to astonish the court and jury and crowd in general, but Miss Davis in particular, whom I took occasion to compliment in terms that evidently secured favor from many who heard me.

The testimony was brief and clear. Mr. Walton remembered the day and the evening distinctly. He had himself exchanged his own foreign gold that day with Gaston (called Randall in the indictment), and he could identify the pieces though he had not seen them since. "All my gold was of one sort. English sovereigns of the reign of —, and dated 18—. I brought them from London with me." On examination the ten pieces found on the prisoner proved to be the same. The evening before the murder he had left Gaston in his own drawing room at nine o'clock, with Miss Walton, and he was sure he was there until much later.

Then Miss Walton took the stand. It was a splendid sight to see her. The contrast with Bessie Davis was noticed by everyone. Bessie was white and dove-like; Miss Walton was dark, radiant, and queenly. Her beauty took the gazers by storm. No one could help loving and idolizing it. The whole courtroom hung on the accents of her clear, musical voice, as if it were a superior being that spoke. She seemed in her element too. The embarrassment of Bessie Davis had prepared her for her story, and it was much easier to describe her own experience after listening to that simple and affecting history.
As she proceeded the court and jury began to lean toward the prisoner. She told first of all the facts as to his presence with her that night. Then the night previous, and each night for a month. He had never missed an evening since they had been in America. And then she laughed pleasantly, and said that she was sorry to contradict the young lady yonder, but she had a stronger claim on John Gaston than Miss Davis, and she was not disposed to yield it. "He could not have been making love to Miss Davis on those evenings, for the same promises that she says he was making to her, he made to me at those very moments, after dinner, in the twilight, in the drawing room in —, fifty miles from here."

A smile began to steal over all the faces in the room, except that of Bessie Davis, who was looking in bewilderment from the prisoner's box to the witnesses' stand. She was puzzled. She did not think for one instant that the beautiful girl who was testifying told aught but the truth. Her face and voice were too pure and guileless.

"I can explain Miss Davis's error. I am sorry it has happened, for she might have been spared the statement which has been drawn from her. Mr. Gaston has a twin brother, so like him that no casual observer can distinguish one from the other. But there is a difference. Mr. Phillips, please ask Miss Davis the color of Mr. Gaston's eyes."

It was out of order, but the excitement had become great, and all rules of testimony were

forgotten. I asked the question, and Miss Davis replied with a blush that convinced us she had often observed them.

"I think they are blue."
"Can you not speak more decidedly?"
"They are blue."

"And Mr. Gaston's yonder could never have been mistaken for blue. They are of the blackest. That is almost the only distinction between the brothers. Miss Davis has known Frederick, not John Gaston, and that Frederick had nothing to do with this murder I am very certain."

"Of course he had not," said a voice in the crowd, and the exact copy of the prisoner forced his way into the bar and toward John Gaston. The meeting of the two brothers was a sight worth seeing.

Of course the trial was over.

And the same might have been said of Bessie Davis, who had nearly fainted when it at length became apparent that her innocent story and confession of the walks under the elm trees in the gloaming, and all her heart's secret store of love, had, after all, nothing to do with the case, and had been brought out by a mistake.

But Miss Walton and both the brothers were at her side, and when a verdict was recorded, under direction of the court, and we went out to the carriages, the crowd greeted us with hearty cheers that seemed significant of their joy.

"The scoundrels!" said John Gaston, as he looked out of the carriage window. "Every man of them would rather see me hung than here. They would not have been here if they had supposed there would be an acquittal."

So my story is ended. I leave the reader to gather up the ends which I have failed to work in, and fasten them as he pleases.

They were married at the same time, and it was one of the pleasantest days in my professional history. For I called it a professional affair altogether, inasmuch as I lost sight of all of them immediately, and had no other acquaintance with any of them than this which I have sketched. I should add, however, that the murderer of Solomon Davis was discovered many years afterward in the shape of a peddler, who betrayed himself in a drunken frolic, and who was convicted and hanged, to the satisfaction of the good people of the county.

Harper's New Monthly Magazine, September 1856.