

A Case Of Circumstantial Evidence

In a small town of Saxony there lived three young men whom we shall call George, Ernest and Lewis, and who, from their intimacy, were strongly attached to one another. George and Ernest were merchants; Lewis studied law, and practiced in his native place.

One summer day Ernest and George set out on horseback for a town about thirty miles off where they had business to transact. Ernest was weak enough to be fond of discussing with his friend on religious subjects, on which they were of different opinions, and had often had warm disputes, though George was as irritable and passionate as he was obstinate in maintaining his notions. During the journey Ernest led the conversation to this unlucky topic. They fell as usual into altercation, which was kept up till they reached the inn, where they agreed to dine. The dispute was continued over a bottle of wine, but with temper on both sides and the travelers pursued their journey. Ernest renewed the subject of their former conversation, and both being elevated with the wine they had taken, the dispute became more and more violent as they proceeded; so that by the time they had entered a wood through which their road lay it had degenerated into downright personality and abuse.

George's passion knew no bounds; unconscious of what he did, he pulled out a pistol and presented it at his companion. The pistol went off and Ernest fell from his horse, which frightened by the report and relieved from his rider scampered away into the woods.

George, pale as death, immediately alighted to assist his friend, who was weltering in his blood, the paroxysm of passion was over, and had given place to the utter repentance.—He stooped trembling to Ernest who just then breathed his last.

Overwhelmed with despair and anguish he tore his hair, and afterwards galloped back to the village to surrender himself to the hands of justice as the murderer of his friend, that he might put a speedy end to his life, which was now the most oppressive burden to him. The officer to whom he delivered himself up sent him under guard to the town where the friends resided.

The body of Ernest, whose pockets were found rifled, was also conveyed thither and interred.

The legal proceedings against George commenced. He repeated his confession before the judges and implored a speedy death. The examination was closed, and he was informed that he was at liberty to choose an advocate to defend him, as the law requires, but he declined to avail himself of the privilege, and with tears besought the Court to hasten the execution.

Being, however, again urged to appoint an advocate to conduct his defense, he named his friend Lewis.

“At the same time,” said he still, “there needs no defense; I wish only for death; but I submit to the required formality. My friend may undertake the bootless task, and thus show his attachment to me for the last time.”

With profound emotion Lewis entered upon the most painful day that had ever fallen to his lot in his whole professional career.—Though he despaired of being able to save his friend, he determined of course to make every possible effort to accomplish this end.

With this view he objected that Ernest's body had been committed to the earth without any previous judicial examination and dissection. The judges replied that this ceremony seemed unnecessary and superfluous, as the murderer had voluntarily confessed the deed; but if he (the advocate) insisted on the examination of the body, it should be taken up. By the desire of Lewis this was accordingly done. The town surgeons attended, and declared that as the ball passed through the heart, death must naturally ensue. Lewis wished to know if the ball was still in the body; the surgeon sought for and found it; upon which the advocate sent for the pistol with which the deed had been perpetrated, and tried to drop the ball into the barrel. It seemed too large—he accordingly tried it in all possible ways—still it would not go in. That the ball could not be fired by that pistol was evident to every observer, the judges looked at one another and shook their heads—There was not one person but had completely made up his mind respecting the guilt of the prisoner; but this circumstance quite confounded them all. The confession of the prisoner made without the employment of the slightest fear or force, was corroborated by every circumstance that had previously come to light; the ball alone seemed to proclaim his innocence.

Lewis began to conceive the strongest hope and his judgment was nearly overpowered with the excess of his joy. He proposed that the proceedings, together with the ball and pistol should be sent to the tribunal, that it might decide in this extraordinary affair.—This proposal was the more readily accepted as the local court was puzzled by how to act, and absolutely unable to pronounce any judgment whatever.

While the papers were in the hands of the suspense tribunal in the metropolis, a highwayman, who had shot and robbed a traveler on the road not far from the birthplace of the friends, was brought to that town. Convicted by sufficient evidence he acknowledged his crime; but that was not all; he confessed, on further examination, that two months before he had murdered another man on the same road. The circumstances had excited suspicion, and being still further questioned, he related the following particulars:

“About that time I happened to be in a village public house. Two men on horseback came in after me; I remarked that one of them had a heavy girdle, filled with money, fastening round his body underneath his waistcoat. I began to consider whether it was not possible to possess myself of this rich booty; but then how was this to be done, as he had a companion?

However, thought I to myself, I have a brace of pistols. If I shoot one the other will probably run away in a fright, and before he can give the alarm and bring witnesses to the spot, my best horse will have carried me far enough out of their reach; if contrary to expectations, the survivor should stand by his companion, what hinders me from giving him the other ball?

“Such was my determination, which I resolved immediately to execute. I had overheard them talking of the way they should take, rode off before, and having tied my horse to a tree, concealed myself in a thicket by the roadside. No sooner had I taken my station than the travelers approached. They were quarreling violently. I had already taken aim at the man with the girdle

when the other took out a pistol and discharged it at his companion. I fired at the same moment. My man fell just as the ball whizzed past my ear. He then sprang from his horse, was engaged for a short time with his dying fellows travelers, and the instant when I was going to fire at him he mounted again and galloped away.—I had now time to rifle the pockets of the deceased, and having done this, I rode off as fast as I could.”

He described the time, the place and the two travelers so minutely that there remained not the slightest doubt of his having actually committed the murder of which George had accused himself. The latter trembling with rage; had fired at random, and was innocent of the death of his friend.

The local tribunal transmitted all these particulars to the Supreme Court, the proceeding with accompaniment, were returned and the ball exactly fitted the pistol which was found upon the murderer at the time of his apprehension.

Let the sympathizing reader now endeavor to form some conception of the transport of Lewis on having saved his friend. Let him figure to himself the joy of George, when the painful coarse business of an atrocious crime was thus removed from his bosom! He was unanimously declared innocent of the murder; his passion cost him two months imprisonment, and it was long before his tears ceased to flow for his dear departed friend. Lewis begged the ball, and the instrument of George’s deliverance, as a memorial of the extraordinary event.

The forms of legal proceedings may often seem troublesome or useless, but let them not be arraigned on that one account—now and then, indeed, a criminal may through their means escape the punishment due to his guilt, but if, in the course of a century, they save the life of only one innocent person, the wisdom of the legislator ought to command our gratitude.

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