

## *Circumstantial Evidence*

By Mrs. Bell Smith

One Sunday afternoon, some years since, about the bar-room of the only public house in the little village of S———, on Lake Erie, were gathered a number of gossiping idlers, sea-faring men, and farmers. Although early in the afternoon, the heavy clouds of an approaching storm so darkened the shore, that candles were lit, and in their dim light the gathered crowd listened to the beating of the waves upon the beach, and the distant roll of thunder that announced the coming strife. It was one of those scenes that occur when a mighty tempest comes down on Erie's inland sea, and the dullest seemed struck with its impressive grandeur. Sailors drank from their poisoned cups with less noise, and the village politicians were less absorbed in the presidential election. —One of the number seemed more uneasy than the rest. A young man, of mild prepossessing appearance, with a rifle in one hand and a powder horn slung over his shoulder, for he had but a few minutes before come in from gunning, paced to and from the door, looked at the troubled bay and cloudy sky, and frequently asked an old captain of a schooner when he would be able to sail—tonight?

“Tonight? No sir!” he responded to one of the inquiries; “nor tomorrow—nor next day, I expect. This 'ere storm looks as if it was going to lead off a dance for a good many flirtin' ones, and I didn't believe in puttin' out in such company—it corrupts good manners, as the sayin' is. You seem to be in a great hurry, comrade?”

“I am. The Sea Gull brought me ill news from home this morning, and I will double your passage money if you will run me down to C——— tonight.”

“Not I. I wouldn't undertake it for four times the money.”

Silenced by this reply, the young man returned sadly into the house; and, sitting down, thrust his hands into his pockets, with the dogged air of one who makes up his mind to be content with a positive evil.

M——— W——— had been in S——— but a few weeks, and although a stranger, had impressed its inhabitants favorably—so quiet, retiring, and, as all thought, kind was he in manner and disposition. The business that brought him to the place was by no means settled, and the intelligence he had received must have been of a very pressing nature to make one naturally so timid, anxious to brave a storm that caused the hardiest sailor to shrink from duty. He had been sitting with a look of discontent but a short time, when the clatter of horses feet were heard in the street, and a man, pale and trembling, stood within the door-way. His first discordant utterance was the word “murder!” No expression of pain or terror can send the same deathly chill to the heart as that one word of terrible import, and, paralyzed with stupid surprise, the gathered crowd inquiringly gazed at the breathless messenger of evil. Before he could relate what seemed to choke his utterance, the sheriff of the county hastily entered and arrested M——— W———.

“For what?” faltered the young man.

“The murder of Millie Woods,” was the stern reply.

It wanted only this to swell the horrible sensation that had fallen on the crowd. Millie Woods, a little girl ten or twelve years of age, was the only child of respectable parents, living within a mile of S——, and in her sprightly loveliness had won the affection of all the villagers. The circumstances attending her death were as follows:

The parents, as was frequently their custom, left the house under the charge of Millie, and had been the greater part of the day making purchases and visiting the village. Hurrying home before the coming storm, the agonized parents found their house robbed and their only child brutally murdered. The news spread rapidly, and soon the curious and cooler neighbors were looking carefully on all marks the violence had left in the premises. The front door was found open, all the inner doors unlocked or broken, every drawer, chest, press or cupboard, forced, and their contents scattered over the floor. In the garret, to which place the poor little creature had probably fled, Millie was found covered with blood that flowed from a stab in her side, her little hand grasping an old bed post, while around her neck, a white handkerchief was slightly knotted.

Upon the floor of the hall one of the neighbors picked up a squirrel with one forepaw gone and its head scalped by a rifle ball. A young man who had been chopping wood in a neighboring grove immediately recognized it as one W—— had shot that afternoon; he was by, and picking it up, remarked to W—— the excellent shot he had made. W—— left him in the direction of Wood’s house, with the squirrel in his hand. The handkerchief unwound from Millie’s neck had the letters m. w. in one corner. True, these were the initials of Millie’s own name, but her mother positively avowed she owned no such article. Satisfied with these circumstances the officer at once arrested W——. From the time the murder was discovered to the that of W——’s arrest was just two hours.

The prisoner was hurried to the nearest magistrate, and the evidence I have detailed, given before him. In addition to this, spots of fresh blood were found on his coat sleeve, and as Woods had been robbed of some gold and silver coin, of a peculiar character, two or three of the pieces were found upon the unfortunate man’s person. This riveted the final link, and the crowd grew furious. Little Millie, so loved and loving, all remembered as a child of their own, and she to be butchered for gold—the law seemed too slow and mild for vengeance; and the great crowd, now swelled to hundreds, swayed to and fro shouting angrily for blood.

A convict but lately from prison, hastened forward with a rope, threw it over a post while some of the citizens in answer to this mute suggestion, hurried the unfortunate prisoner towards the impromptu gallows.

The Rev. gentleman paid little attention to the talkative official, as they paced along. He was meditating upon the thorns that had lined the way of the transgressor; but he calmly meditated. Troubles of such magnitude touched him as lightly as did the cold of the December night his well protected person, and he looked upon their trials as quickly as he did the patches of gleaming snow as they passed, or the star-beams that struggled through the wintry mist.

“Oh! gentlemen!” screamed the young man, frightened at what appeared his inevitable fate. “Have mercy upon me—I am innocent—indeed I am—have mercy.”

His voice was drowned in a roar from the crowd. “Who had mercy on little Millie? kill him! kill him!” and again they pushed him toward the fatal post.

“Oh, God!” cried the unhappy man in bitter anguish and trembling like a child, “will no one pity me? I have a widowed mother—mercy, mercy—wait a little while.”

One, alone, answered this last appeal, a young lawyer of eminent ability, and personally popular, sprung forward, severed the rope, and then in a clear, silvery voice that rung out high above the tumult, said:

“My friends, be careful of your acts. You are about to do what, in this man you condemn—an awful murder. Chain him down, do what you will to secure the criminal, but respect the law—” “And give ‘Squire B——— a chance to clear him,” interrupted the convict I have mentioned.

“To that man fresh from the cells, I have nothing to say. But to you, my companions, neighbors, friends, I appeal—earnestly appeal. Why will you do this cruel thing? What right have you to commit a murder? How will you answer to the great Giver of all good for this? Where is your authority?”

“He who sheddeth man’s blood, by man shall his blood be shed,” responded a harsh, solemn voice, and the crowd turning saw, where a torch waved over a stern, unfeeling face, the countenance of their preacher. It was a time when the gathered feeling checked by some great obstacle, pauses in its rash career, and for a moment there seems a doubt which way the tide will flow. The awful passage so solemnly quoted, fell on the crowd at that moment, when the slightest word would have turned them from their purpose, and stimulated as it seemed to them by a command from Heaven, they once more seized their trembling captive, when the old captain, whom W——— had importuned for a passage, claimed to be heard:

“Comrades,” said he, “Squire B——— thinks we hadn’t ought to hang this fellow. Well, I’ll tell you what we’ll do. —He wanted to sail with me this day. He shall do so. We’ll take him outside the Bay—tie him in an open boat and set him adrift. Then the Lord have mercy on him. What say you?”

A shout of approbation was the only response, and they hurried W——— to the shore. In the meanwhile the storm grew loud, and when in the dark night, their torches beaten out by the

wind and rain, the crowd heard the angry waves dashing over the rude pier, their courage failed; seven only were found ready for the enterprise. Clambering upon the deck, with their victim in their midst, the cables were cut, and the little bark, like a frightened bird, flew out to sea.

Perhaps no scene ever painted itself on the canvas of real life, so startling, weird, and strange as this. While the stout-hearted clipper steered the bark, the convict, assisted by four of his companions, tied W—— to the open boat, and the preacher kneeling upon the deck, was heard between pauses of the thunder, far above the waves and wind, calling upon Heaven to bless their unholy act.

The open lake was gained, and then the wretched man, regardless of his entreaties and screams, was given to the foaming waters. In a glare of lightning, that was followed by a deafening peal of thunder, they saw their victim rise upon a huge wave, then plunge into the darkness and death beyond.

Short time had the executioners to dwell upon their ruthless deed. Their lives were in jeopardy. A storm so violent has seldom been equaled, and the little craft was worked, save the skipper, by unskillful hands. Desperate efforts were made to regain the Bay, but the entrance was narrow and intricate, while commands grossly misunderstood, were promptly executed, so that the bark ran upon a ledge of rocks and quickly went to pieces. Two only of this strange crew were saved—the clergyman and the convict together reached the shore.

Some three years after these strange events, the Rev. M. H—— was awakened one night by a request to come immediately and administer religious consolation to a prisoner who in attempting to escape from jail, had been mortally hurt. The Rev. gentleman, folding his cloak about him, and accompanied by the jailor, threaded their way through the wintry streets toward the prison. The demand for a clergyman, and Mr. H—— in particular, by the convict, the jailor informed his companion, while on their route, astonished him greatly. The prisoner was one of the most hardened offenders that it had ever been his fate to meet with. Twice in the state prison, and sentenced for a third time, he had attempted to escape by filing off his irons, forcing a lock, and climbing to the roof of the jail, intending to lower himself by means of bed clothes into the street. But the roof being all ice, he lost his footing, and was thrown thirty feet upon the frozen ground.

They found the prisoner writhing in pain upon his bed, in the gloomy cell lit by a single candle, and alone, for the surgeon had pronounced his case hopeless.

“You’ve come at last,” he growled, as the clergyman approached the bed, took from beneath his cloak a Bible, and began the duties pertaining to his sacred mission. “You’ve come at last. I thought I’d go out before you came.”

“The Lord spares you for repentance, let us lose no time.”

“No he don’t’ I’m bound to go down—down—down. Don’t be fooling—I didn’t send to you for that.”

“The sands of life are running fast. —In a few moments you will be in the presence of your Judge, and repentance will be too late!”

“It’s a space too late now—“

“Think of your past life—think of the eternal punishment awarded by an offended Maker—“

The answer to this was an impatient roar of oaths, that made even the jailor’s blood chill.

“I will not remain,” said Mr. B——, sternly, “and hear this awful blasphemy. I warn you now, beware.”

“Well, listen then—stop your cursed palaver—don’t you know me?” The clergyman held the candle to the convict’s face, and started with astonishment.

“O! you know, do you? You will listen now. You remember that night we tossed W—— overboard—how he howled and prayed. Oh, oh! look at yourself!”

“I did my duty as a minister.”

“Ah, ha! you did, did you? You did your duty in drowning a poor devil for a murder he never committed? Do you hear that? for a murder—a murder he never did?”

A tremor like an ague ran through the preacher’s frame, and then he stood as one dismayed to dumbness.

“He never did the thing. I murdered Millie Woods! I chased her to the garret, and killed her. I was there robbing the house, when W—— came. I heard him speak kindly to the child, give her the squirrel, and then leave. A minute after she was a dead baby, and W—— had the blame.”

“Lord have mercy on me!” groaned the divine.

“How I laughed to see you run that poor W—— down, when I slipped that gold in his pocket. How he prayed and begged, poor devil, for mercy!”

The preacher wrung his hands in agony, and still groaned, “Lord have mercy on me.”

“Yes, yes! it’s your time now! I won’t beg—I won’t! I’ll die game, but you can howl—he said he had a mother, —we all went under—but you and I, parson, came up together, now we go down!”

The divine twisted his gaunt fingers, and moaned as one afflicted in his sleep.

“See! see!” shouted the convict, half rising with the delirium that ushered in death—“there he rides, howling—don’t hurt me, O! please, don’t—there, I choke here—hear him—now, hear him—a widowed mother! We strike! we’re going down—down!” he cried, and throwing his muscular arm round the preacher and pulling him to the pillow—“down, down, we go, down”—but his hold relaxed; the voice ceased; a shudder ran through his iron frame, and the wretched criminal was no more.

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In time the village of S——— grew to a city. Many of its old citizens had emigrated or were dead, and among the remaining, the events I have narrated had faded into an almost uncertain legend, when, one sunny afternoon, an elderly gentleman of staid, respectable appearance, accompanied by his wife and children, made his way from the evening steamer to one of the principal hotels. —After securing rooms, he walked into the streets. He earnestly scanned the signs as he passed. He stopped before one that read “Attorney at Law,” he pushed, and then, with a start as if the determination had a spice of the desperate in it, he ascended the stairs and entered the office. An elderly man was seated at a table surrounded by books and papers. Inviting the new comer to be seated, he peered at him, through his spectacles, and inquired his business.

“Mr. B———, do you not remember me?”

“I cannot say that I do,” answered the Attorney, slowly, as if in doubt.

“Do you not remember pleading in behalf of a poor fellow about being lynched for a murder some thirty years ago?”

“Mr. M——— W———!” exclaimed the lawyer joyfully. “Can it be possible? I never forgot a face, and yours I saw in frame work that night that ought to impress it upon my memory forever. —But I thought you dead years ago. Sit down—sit down and tell me all.”

“After I was thrown from the vessel that night,” said W———, seating himself, “I was so frightened that for some time I had no consciousness of what occurred. On becoming more collected, I found my little boat half filled with water, riding the short heavy waves, and every second I expected to go under, or be capsized and so drown. This not occurring, I began to look about me. I found the cord by which I was tied, passed over my shoulder. I managed to get it in my mouth and soon gnawed it apart. This loosened my hand, so that in a few minutes I freed myself and sat up. With an old cup that I found in the boat I bailed out the water, and then breaking up one of the seats, I managed the little affair so as to ship no more of the waves, and in this way rode through the storm and the night.

“By morning the wind had somewhat subsided, but so exhausted was I by fear and fatigue, that I was forced to lie down, and was soon fast asleep. When I awakened, the sun was setting, and far as I could see on every side was a dreary waste of water. I feared nothing so much as falling again into the hands of that terrible mob.

“The full moon came out, making the scene as light almost as day, and a gentle breeze springing up, I took my coat, fastened it on to the broken seat, and with this for a sail, drifted, as near as I could make out by the stars, in a north-easterly direction. I knew sooner or later, I must strike the Canada shore, but how far I had been carried in the storm, could not, of course, determine. Through that long night I floated on. I saw the moon go down and the stars fade into the cold gray light of morning, and then the sun came up with the clear, calm day, but no land was to be seen—nothing but glittering water. I imagined at one time seeing the dim distance a sail, but if one, it immediately disappeared. About noon I noticed something floating near me, and on paddling my boat alongside, found it a bale of goods, carefully corded together. I fastened it, almost without motive, to my boat, and again lying down was sound asleep. I was awakened by a shout, and starting up, found I was running in close to a wooded shore and a number of men staring in wonder at my appearance, In answer to my request, one of them waded in and pulled my boat to the land. I learned to my great relief, that I had reached the Canada side, within a few miles of ———. It was supposed that I had been shipwrecked, to which my bale of goods at once gave coloring, and secured for me a kind reception. On opening my bale, the next day, I found it filled with costly silks and velvet, and so admirably packed, that the water had not damaged them. This had probably been lost from some wreck in the late storm, and noting the address with the intention of repayment some day, I sold the contents, and with the proceeds made my way to New York, where I, after my mother’s death, joined an expedition fitting out for ———, South America. In this new home I married, and engaged in merchandize. There I lived until I learned, a few months since, my innocence, of that cruel deed, had been made known by the confession of the real criminal.”

“I knew you were guiltless at the time of the murder,” said the lawyer, when W——— had finished recounting his strange escape. “The circumstances were too evident against you. I have succeeded in my profession, by some little knowledge of human nature, and it has taught me to be very suspicious of what is known as circumstantial evidence. So it is if read correctly; but what convinces a common mind of one thing lends a more acute one to an opposite conclusion. The criminal would have no trace, would not deepen his own tracks [illegible] his own name in blood for justice [illegible] along; but he will, if it can be done, write characters that all who [illegible] may read to the abuse of others. Therefore, the stronger the circumstances appear to an ordinary mind, the more evident the innocence of the accused to a [reasoning] one. Above all, when a man has lived through half a century a good husband—affectionate father, and blameless citizen—no discovery of a mutilated [illegible], steps in blood, or death-painted knife should set aside the circumstances in his favor, that make the committal of a great crime seem miraculous.”

The lawyer ceased abruptly, and catching W——— by the arm, pointed to the open window. He looked and saw a tall gaunt figure, with sunken eye, pale cheeks and long gray hair, in the

gloom of the evening, muttering as he passed along, as if the mind was not in the present, and ill at ease. "That," said he, "is Mr. H. Since the night of the criminal's confession, his intellect, never very strong, is a perfect wreck. Every evening he hastens to the lake and looks anxiously over its waters. If stormy, no entreaties can induce him to seek a shelter, but hour after hour he paces along the shore, as if every moment he expected some revelation from its troubled water."

"Ah!" added the lawyer with a sigh, "he is not the only man in our broad land, who has suffered from misunderstanding of that awful text."

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