

Pages from
The Diary of a Philadelphia Lawyer

No. IV.

The Unnatural Prosecution

Turning her mother's pains and benefits
To laughter and contempt—that she may feel
How sharper than a serpent's tooth it is
To have a thankless child!

Shakespeare.

AMONG the various occupations of man, there are none in which the practitioner is so much exposed to the extremes of human passion and human weakness, as in those which have been entitled *consensus publici*—the learned professions.

In periods of mental distress, when the anguished spirit wrestles with the demon of the world, and trembling under its load of conscious guilt—

That rings

In one dark, damning moment, crimes of years,
And screaming like a vulture in his ears,
Tells one by one, his thoughts and deeds of shame—

and the prospect of endless beatific existence in accepted and consecrated faith, sinks beneath the weight of its own immortal nature—when the soul shudders at its suspended condition, and even hope seems paralyzed, and fiercest terror strikes the alarum of everlasting death—when the proud spirit plumes its wing in anticipation of the flight that is to land it in its last, eternal home— 'tis then the timid and affrighted mortal calls to his side the minister of heaven's pledges, and in the society of the clergyman, seeks a consolation and relief by exposing the naked hideousness of his crime-covered heart.

In sickness, too, when the wan and withering hand of disease is laid upon the body, and sinking nature calls for another nerve to grapple with the tyrant in whose grasp she perishes; or when sudden accident has prostrated the natural energies of man, and the giant strength which, but a moment before, had possessed the frame, is fled—'tis then, whether in the stately chamber of the proud, or in the wretched hovel of the beggar—whether on the downy couch of pampered wealth, or on the rugged pallet of indigence, the physician is called upon to behold, in each alike, the proud and strong man writhing in the agony of pain—to hear from him his wailing plaints of suffering and of earthly wo, and to see around him, in various situations, without perhaps the means or prospect of relief, the havoc of disease and death, spending itself in the double affliction of the suffering he beholds in the prostrate victim before him, and the attendant misery and lamentation which bereaved friends and dependents pour over the relic of their living hope.

The lawyer, also, has his experience and exposure, though perhaps in a more limited sphere; and in the vexatious assiduity of litigious spirits and the groveling workings of revengeful minds, he often witnesses the wildest extremes of human passion and human weakness.

Some instances of this character, I find recorded in my diary, which, from their immediate relationship to the romance of real life, have afforded me matter of much ethical speculation, and among the number of which I have presented the following anomaly in the character of the female heart.

I had just returned from court; my brown bag was suspended from its appropriate hook in the book-case, and wearied and worn with the exercise of five consecutive hours in close attention and confinement of the bar, I had accommodated myself for a *siesta* with a composure as settled as if no inducement, however argumentative or insinuating its *retainer*, could draw me from it. I held in my hand a quire of foolscap closely written over, part of the labor of the morning, to which I was nodding a kind of familiarity between its monotonous recapitulations and my imperturbably somnolence, when a gentle knock at my office door aroused me.

The door was immediately opened by my student, who sat near it, in close and dry converse with some black-lettered spirit, and I was summoned to answer the demand of two well-dressed females, who inquired for me, in a suppressed and faltering tone. Laboring in a state of much excitement, my strange visitors stood for a moment in the centre of the room, mute and motionless, and scarcely seeming to understand my repeated solicitations to be seated. At length, after they had witnessed the departure of my student from the office, and cast a hasty glance around to see if none others were present to behold or hear, the younger of the two mysterious beings before me took her companion by the hand, and led her, in apparent unconsciousness, to a seat close by the chair from which I had just risen. The young female having gone thus far, stood still and silent beside me, as if she had not the strength to act or move. I placed a chair for her on my right, and directing her to the most encouraging and suasive converse I could command, at length succeeded in awakening her attention. She became seated, and raising the folds of a rich, black veil, which had obscured her features from me, turned upon me a face that might have formed a model for Praxitiles or a dilettanti. A tear rested in the corner of her soft, black eye, as if a pearl had been studded there to hang in glittering contrast with the rich silken lashes that surrounded it, and the subdued and pensive expression of her countenance told, with mournful truth, the intensity of the heart's affliction within. Her companion, who sat by her, leaned her head upon her shoulder, and seeming to catch encouragement from the sympathizing look which I had fixed upon her, endeavored, in faint whispers, to inspire her with confidence to commence the revelation of their business with me. A few moments elapsed, and at intervals of soul-piercing sobs, she informed me that her mother, who sat beside her, had occasion to see me on professional business, of such a character, as for the happiness of her family, demanded all the privacy which the nature of her situation would admit, and that to secure this, they had withheld from their most confidential friends, the slightest intimation of the distress in which they were involved. On this account, they appeared before me unattended, and sought such assistance as would secure to them the least possible occasion to appear in any other person's presence. An officer of the peace had called at their residence, and exhibited a warrant for the arrest of the mother, on a charge of *larceny*, but, perceiving the respectability of the parties with whom he was to act, and possessing more humanity than generally belongs to the minor ministers of the

law, he encouraged the supposition that there might be some mistake, although his directions were very minute, and only required the promise of the party to be at the alderman's office, in — street, with her counsel, at a specified time. To ask my attendance upon this occasion, was the object of their visit. Having understood thus much, I immediately endeavored to learn, by such interrogatories as presented themselves to me, from what source, and by what means this prosecution had been brought, still expecting to find that from the susceptibility of woman's fears, there was unnecessary alarm, and that probably it would result in proof, to be a suit of revenge, as I have known instances, instituted by some unfavorably dismissed domestic, who sought to wound by exposure, and thus to gratify their malignity. The name of the prosecutor had not been noticed by either of them in the surprise with which they were so suddenly overwhelmed, and neither could summon the recollection of a cause which could exist in the breast of any human being, to involve them in afflictions they apprehended were so serious.

The time arrived when they were to appear at the office, and after assuring them of every consolation I could inspire, I took a seat with them in their carriage, and gave directions to the coachman to hold up at the dwelling of the magistrate—having, by this time, well assured myself that I was in company with members of one of the most respectable families in the northern part of the city, I determined, without hesitation, to avoid the necessity of exposure in the public office, as long as it was practicable.

Having seen my client seated in the parlor of the dwelling, I hastened to the office of the alderman, to ascertain the particulars of my mysterious case. On entering, I found him seated in his executive chair, calmly waiting the presence of any and all who should be “brought to be tried.” I immediately announced to him my business, and requested to know the character of the prosecution against my client.

All that I could ascertain was, that the suit had been instituted by a female of respectable appearance, who demanded the most rigid precision in all the proceedings held by him, and evinced no ordinary determination of spirit in her undertaking. Confirmed now, that my suspicions of the origin of the case were correct, or that, in the other event, the investigation would develop a mistake in the identity of the defendant, I announced myself as ready to enter into a hearing of the case, and hastened to introduce my client, with every confidence I could inspire, aided by the sweet assurances of her fair attendant, into the public room of justice. The entrance from the dwelling of the alderman was in the rear of his desk or magisterial platform, and so as to obscure persons seated in the front of the office, from the observance of those entering thereby. At this door I introduced my client, and seated her in as much retiredness as possible, with her daughter at her side. A few moments elapsed while the necessary preparations for business, and unfolding of dockets, were made, and the *trial ex parte* commenced. The alderman, with becoming dignity, demanded the parties in the case of the commonwealth vs. ———, charged with larceny, and in a magisterial voice inquired if the prosecutor was ready to proceed. From the opposite corner of the office, a delicate but firm voice responded “YES.” As the answer reached the ear of my client, I perceived a heavy shudder convulsed her frame, and a deep heaved sigh from the daughter, who had clasped her arms around the neck of her parent, and was hiding her face in her bosom, excited in me new and fearful forebodings of my cause.

“Come forward;” demanded the magistrate, “and take the book.”

A pale and delicately beautiful girl, one on whom care and sorrow seemed to have made an early depredation—like the first shoots of spring nipped by a lurking frost—stepped boldly to the stand, and received the holy book from his hand.

“You do swear,” commenced the magistrate, but ‘ere he could proceed farther, a wild and piercing shriek from the defendant—a death-like utterance of the name of “ELIZA,” and a long drawn breath, were but the instantaneous precedents of a deep swoon into which she had fallen; while the daughter stood motionless and fixed in a wild and vacant gaze upon the prosecutrix, and striving, in indistinct articulation, to say “*Sister*.”

With the assistance of those who stood near me, I hurried the apparently lifeless pair to the parlor from whence I had brought them, and leaving them to the ministrations who could afford more tender and appropriate relief, I hastened to the office, resolved to probe at once the mystery that accumulated around me.

As soon as I again appeared, the alderman informed me that the witness for the commonwealth, who stood alone, unmoved before him, prosecuted for the purpose of recovering some valuable papers, which she had stated upon oath were surreptitiously taken from her by the defendant, nearly a year since, and which were the sole assurances of a handsome patrimony belonging to her.

I requested to examine the witness personally, which was of course permitted. Recalling her to the stand, I asked her, with as much composure as my own agitation under the scene which had transpired would permit, *her name*.

“Eliza ——,” she replied, in the same firm tone in which she had first spoken.

“How long,” I continued, “have you known the defendant?”

“As long as I have a recollection of any one.”

“Is she related to you?”

“Yes—she is my mother!”

“And you would bring your mother before the thronged tribunal of justice, as a criminal at the bar?”

“I want my papers and my property,” was her cold and indifferent reply. I could proceed no farther with my interrogation, and, after a moment’s consultation with the magistrate, we exercised our united energies, by the invocation of all the penalties of her ingrate purpose—by the strongest appeals to the virtue of filial love, and by all that was sacred in humanity, to induce her to desist from her unnatural course. But all was of no avail, and I, in the last extremity, asked permission to enter my name upon the docket, for the future appearance of the defendant, to

enter into a recognizance to appear at the next sessions of the court, if necessary, to answer the charge alleged against her.

I now returned to my client, and found her so far recovered as to be able, under the guidance of the ministering angel that attended her throughout, to enter her carriage, to which I handed her, after giving her the most positive assurance of following her in a very short period, to her residence.

As soon as I had made the necessary arrangements at my office, I hastened to fulfil my promise. The card that had been left with me, referred me to one of those beautiful private residences in ——row, in —— street. I rang the bell, and in an instant was welcomed in, by the fair one who had already excited my liveliest sympathy.

In the back parlor, reclining upon a rich lounge, I found the afflicted subject of my solicitude; she requested me to be seated by her, and to bear patiently with her, while she endeavored to impart to me the circumstances connected with the unnatural scene I had witness. Eliza had been a favorite daughter, and was educated in the tenderest and most sumptuous manner. She had ever been a dutiful and affectionate child from her infancy. In an unfortunate moment, however, she formed an acquaintance with a wretch in human shape, whose prepossessing exterior, suasive manner, and assiduous attention, soon won the poor girl's affections, and so completely coiled his serpentine blandishments around her, as to render her heedless of every tie that bound her in her fidelity. Under the most solemn assurances of marriage, he induced her to desert her home, her widowed parent, and the fatherless companion of her youth, and with the means of obtaining a large portion of her little patrimony—the savings of a father's industry, whose remains had long since been consigned to the narrow charnel house—to elope with him, and consign herself to a bed of infamy and shame.

The papers, to recover which the prosecution had been brought, instigated by the fiend who had already robbed her of that which was more valuable to her than all, had been rescued from his unrelenting grasp by the vigilance of the mother, and were the sole assurances of the lost girl's fortune.

To preserve this for a day of tribulation that must soon await her, had been the anxious object of the parent in retaining them, and no law, thought she, human or divine, could interfere with a purpose so benevolent and just.

I inquired whether the daughter was of age when these papers were taken, and received an affirmative reply.

It then became my painful duty to assure the mother that the papers must be delivered up, under the only alternative of legal guilt of the crime alleged.

She raised her finger, and pointing to a package that was standing in a casket upon the table near her, faintly whispered, there they are—take them to her; the last link is broken, and now I have no hope!" I took the papers, and after some time spent in endeavoring to animate and console the afflicted family, and requesting that the daughter should send immediately for some of their most

confidential friends, in whom sympathies they might find relief, I hastened to the alderman, to place in his charge, and at his direction, the subject of the LARCENY. The papers were received, and the prosecution dismissed.

A few months only elapsed, before I heard of the death of my client. She lingered like those who strive to smother grief, without apparent disease, and unable to survive the unnatural shock she had suffered, soon sunk, broken hearted in the grave.

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About two years after the above events transpired, I was waiting in the Mayor's Court of the city, for the trial of some importance, in which I was engaged, when I was assigned by the Court, in the exercise of the authority which belongs to them, to defend a prisoner at the bar, who appeared utterly destitute and surlishly reckless of her fate. She was miserably attired, and in her lineaments of face, the long, deep furrows of protracted suffering and want were strongly marked. I conferred with my client in the dock, in which white and black, the most loathsome specimens of human depravity, were indiscriminately huddled together, and heard the brief and reluctant history of her arraignment. She desired to plead guilty. She had committed the offence of *larceny*, that by her conviction she might gain a solitary seclusion from the world. She had loathed the society of her fellow creatures until their contact was no longer endurable. She feared to die, and had not the nerve for a suicidal deed. She had been educated in affluence—she became the victim of seduction—had broken the heart of a widowed parent in her delusion—disgraced a fair family name—her seducer had squandered away long since a patrimony which she had inherited, had deserted her, and left her penniless upon a cold world, without a virtue on which to found a plea for charity—and now she sought, in the solitary cell of the penitentiary, the longest separation from the companionship of her fellow beings, the penalties of the violated law would inflict.

This prisoner was Eliza ——, the prosecutrix of her mother.

Burton's Gentleman's Magazine, May 1838