

From the Gazette of the Union

## *Circumstantial Evidence*

by Peregrine Pendegrass

In the summer of 1839, a man named Rawson had been arrested and committed to jail for the alleged murder of Peter Garnut, in one of the towns of the county in which I resided. It was haying time. — Garnut and his son, a lad of fourteen years, had been engaged during the day in hauling hay from a meadow some half mile distant from the house. As evening approached they completed their work, and the last load was on the wagon. Garnut mounted upon the top to drive home, and directed his son to go round by the pasture, which lay in a different direction, for the cows. The boy proceeded in one direction and the father drove on across the fields in another. In the course of half an hour the lad reached home, and about the same time the team and load of hay arrived, but without a driver, and the lines dragging on the ground. Alarmed and fearful of accident, the boy and a hired man who was working about the house hurried off in the direction of the meadow. On reaching the edge of the field they beheld Garnut lying on his back, and Rawson running rapidly across the lot, away from where the former lay. — To reach Garnut was the work of a moment. He was dead, and weltering in gore! The hired man immediately pursued Rawson, shouting murder! at the top of his voice. Rawson heard him!

He turned his head; hesitated and slackened his pace. “Stop murderer! Stop!” cried the man. “You have killed him!” — Rawson suddenly halted and wheeled round. His clothes were covered with blood and his countenance betrayed great agitation. He seemed stunned for a moment. Then, suddenly starting, he changed his course and ran like a deer for the woods, which he soon entered far in advance of his pursuer and disappeared among the dense foliage. The man followed to the border, but finding pursuit hopeless, returned. In the mean time the boy had given the alarm and several neighbors had arrived on the field. On examining, a deep wound was found on the left side of the deceased, tending upward under the ribs in the region of the heart. The hat was off, and there was a deep concussion on the back of the head, apparently the effect of a heavy blow. About four rods from the place where the dead lay was a pitchfork that the deceased had used during the day, one prong of which and a part of the handle were covered with blood. Near the instrument, a dark pool of blood clotted the grass, while between the pool and the place where the corpse lay, a track of crimson that indicated that the body had been removed.

Garnut and Rawson were owners of adjacent farms, and there had long been a bone of contention between them. There was a dispute about the division line. Garnut claimed that a mistake had been made in the original survey and that Rawson was in possession of land rightfully belonging to the former; while the latter insisted that the first survey, accompanied by actual location and long possession, could not be questioned. The dispute ripened into an open quarrel and Garnut commenced an act of enjoinment to recover possession of the *locus in quo*. This suit was pending at the time of the alleged murder.

Rawson was working in a cornfield adjoining the meadow on the day in question, and angry words had passed between them. The connection with the long-standing enmity between him

and the deceased appeared to satisfy everyone of his guilt. — Parties were formed for his pursuit. The woods were scoured, and the following day he was discovered concealed among branches of a tree and captured. An examination was had and he was fully committed. I was not present at the examination. His only counsel at that occasion was one of the windy and ignorant pettifoggers with which the country abounds, and no attempt had been made at a substantial defense.

The day after Rawson's committal to jail, I was seated in my office reading from the morning paper a detailed account of the 'shocking murder' committed by him, when a gentle knock aroused my attention. On opening the door, a woman some thirty years of age and of prepossessing appearance entered. She was pale—very pale. Her eyes bore evidence of recent weeping and her whole countenance betokened deep melancholy. Indeed I have seldom seen any person exhibit a more touching picture of sadness. She took the seat proffered her, and I waited with more than the usual interest to hear the object of her visit.

"This is Mr. Pendegrass, I presume," she began. I nodded assent.

"I am the wife of Rawson."

I understood at once the cause of her sorrow and the object of her call upon me. A moment before, I regarded her husband with sorrow. I had taken the newspaper account as the true one, and acquiesced in the appellation of 'murderer' which had been applied to him. I was now inclined to look upon the transaction differently. My indignation altered, and I really hoped, for the sake of the interesting woman before me, that there might be some defense for her husband.

"This is a sad case," I replied, "I fear your husband will find it difficult to establish his innocence."

"O sir, I fear so too; everyone believes him guilty; yet I know he cannot be; he is incapable of such a crime."

"I hope so, my dear madam, I hope so; but are you acquainted with the facts in the case?"

"I am not, I only know he assured me of his innocence; and I believe him. I came for you to go and visit him in prison; he will tell you all and be able to convince you, I am sure, that he never, never committed that dreadful crime."

"I trust he may, madam. It would afford me the greatest satisfaction. I will go and see him immediately."

Taking my hat and cane I departed on my errand. On reaching the jail I was conducted to the prisoner. He was confined alone in a strong grated cell. The door was opened, I entered and we were locked in together. The only article of furniture in the cell was a small cot bed, on the foot of which Rawson was seated. I stood a moment, regarding him without speaking. I generally form an opinion of some kind from a person's appearance. The accused was a man of rather strong frame and rather above medium size. The expression of his countenance was frank and

open, and his calm blue eye met mine without quailing like a man conscious of innocence. The impression he made on me was favorable, and taking his hand, I said almost involuntary:

“My friend, you are the last man I would take to be a murderer.”

“Nor am I, thank God,” said he with emotion; “though people call me so, I am as innocent of the crime as the child unborn.”

His tone and manner increased my confidence, and I hoped that a full exposition of the facts would convince all of his innocence.

I continued, “Mr. Rawson, I am here as your counsel; whatever you tell me will be held as secret as the grave. But I must know all. I must have a full and true account of the whole matter from beginning to end. I must know the worst, and without such a statement, I cannot consent to act as your advisor.”

“Mr. Pendegrass, I will tell you all. I have nothing that I wish to conceal. I blame myself for naught, except my weak and foolish, but innocent conduct in running away.”

I sat down by his side on the bed and motioned to him to proceed.

For several years past, Garnut and I have been on bad terms. He claimed part of my orchard, which I bought and paid for, and which I believe to be justly mine. He was not satisfied with the old lines, but wished to establish new ones, and get a strip of land at my expense. I resisted, and at last he brought an ejectment suit against me, which is not yet tried. We seldom met without sharp words passing between us. On the day of his death, I was hoeing corn in an adjacent field. He taunted me with living on other people’s property; I retorted, and a good deal was said by both of us.”

“About the time of quitting work, I saw that Garnut and his boy had got the last hay-cock on the wagon and the old man started off with the team, while the boy went the other way. I was ready to quit work, but thought I would wait a little while and let him pass on first, as I had no desire to go near him. When he got about half way out of the meadow and was driving along, not far from my fence, one wheel of the wagon appeared to sink into a hole, giving the load a sudden jerk and pitching Garnut to the ground. The horses went on without stopping, and I expected to see him jump up. He did not, however, and the load passed on. I saw him extended on the ground. I immediately ran to his assistance, and to my horror found that the pitchfork, which was on the load, had entered his side, and he was laying senseless. I pulled it out. The blood flowed copiously. I felt his pulse, it beat faintly. I thought I would be able to carry him to the nearest house. I raised him up and carried him in my arms. He was too heavy, and I was obliged to lay him down. I pulled open his vest; the blood was still streaming out, I knew not how to stop it. I then thought I would run for Dr. Morton, who lived nearly three-fourths of a mile off, and leave Garnut where he was, as I could reach the Doctor’s nearly as soon as any other house. I started to do so. I had proceeded some distance when I heard a voice behind me shouting murder. When I turned my head and saw the hired man running after me. At first I supposed he was on the same errand as myself, but when I heard him cry, “Stop murderer! You have killed him!” I was

thunderstruck. The position I was in flashed like lightning across my brain. Garnut and I were known enemies. We had a dispute that very afternoon. He was found killed, the pitchfork near him, and I running off covered with blood. All this would be damning evidence against me and there was no living witness but myself of the real transaction. I hesitated. Fear predominated. I took the very worst course and fled for the woods. You know the rest. I fled like a criminal, but without guilt, and no one will now believe me innocent.”

“Do not say that, Mr. Rawson,” I replied, “I do not doubt your innocence or the fidelity of your statement; I will examine the matter fully. Have you courage all may be well yet.”

Soon afterwards I took my leave of him and returned to my office, where I sat a long time considering the course to be adopted. The first thing I did was to go to one of the surgeons who did the *post mortem* examination and procure an accurate description of the wound. I learned that the instrument had entered beneath the fifth rib, and thence passing upward, grazed two or three ribs and turned inwards, passing near the heart and producing hemorrhage and death. From this description it was evident that the fork to produce such a wound, must have been nearly or quite perpendicular with the body, and turned in an awkward manner to be used with the hands. I next proceeded to examine the fork the handle of this was at least eight feet long. I discovered that it would be impossible to inflict the wound with the instrument if the accused was standing on the ground at the time. — The length of the handle would preclude the possibility of the prong being brought to the proper angle. This examination fully satisfied me that Garnut must have been as high above the ground as the length of the fork, and confirmed Rawson’s statement. The next thing to account for was the contusion on the head. I determined to make a personal examination of the meadow. Taking an officer with me, I started for that purpose. We called at Garnut’s late residence, and taking along the boy that was with him in the field, proceeded to the meadow. The marks of blood were still visible. A drain had once ran through the field, but had become filled up with earth, except here and there a spot. Through one of these the wheel was passed. I now looked closely around the first pool of blood and discovered the object of my search. About three or four feet from the pool, half concealed in the grass, lay a cobble stone as large as a man’s head. The top of it was stained with blood, and a few gray hairs (the color of Garnut’s) were sticking to the stone. This explained the wound in the head of the deceased, he having doubtless struck upon when he fell from the wagon. All present carefully examined the stone as it lay, and it was then raised to preserve as evidence on the trial. I now questioned the boy in relation to the pitchfork. He recollected distinctly that it was upon the load when his father started. — There was still one other point which I determined to examine. I was satisfied that the fork must have been stuck in the deceased when he was in the act of falling from the wagon, and it struck me as very probable that some marks of blood would be found in the hay. We accordingly proceeded to the barn and commenced a careful examination. It was easy to identify the particular load, as it was the last drawn in, and lay upon the top of the mow. After pitching over a considerable quantity we at last found a small lock clotted with the blood. I had now completed my search. Everything had turned out satisfactorily, and I returned home fully satisfied that Rawson’s story was true in all its parts.

The session of the court of Oyer and Terminer, at which the prisoner was to be tried, drew near. It was known that I was his counsel, and several of my considerate friends inquired why I

consented to injure my reputation by defending a known murderer, whom the whole community denounced?

My reply that I believed the accused innocent was received with that half sarcastic and incredulous smile which seems to intimate that a man does not himself believe what he is saying.

The day of the trial came at last. The court room was crowded to excess, and a deep interest was manifested by all. The district attorney opened the case in an eloquent speech. He spoke of the long standing enmity between the prisoner and the deceased; the fact that they were in the meadow, and no other person near; the evidence of conscious guilt, exhibited by Rawson in running away and hiding in the forest, and the stains of blood found on his person. All going to establish conclusively the fact of his guilt.

Witnesses were then introduced, who found the facts to be as he stated, and the prosecution closed. A strong *prima facie* case had been made out against the said prisoner.

In selecting the jury, I freely used my challenges, and secured a panel of intelligent and unprejudiced men. I proceeded to open for the defense. In the first place I related fully what had taken place at my interview with Rawson. I then stated the examination which had been made in the field, and the array of facts which would be proved, corroborating Rawson's statement and establishing his innocence beyond a reasonable doubt. When the prosecution closed, deep anxiety marked the countenances of the jury. As I advanced in my statement of the defense, this wore away, and before I concluded a heavy burden appeared to be removed from their minds.

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