

## *A Case that was Never Tried*

For reasons which will soon be obvious, I shall forbear giving real names in this recital.

Within a week after my installation as prosecuting attorney, it became my duty to take charge of a case, the details of which would make an interesting narrative, if related in a more dramatic style than can be expected of an old lawyer whose literary efforts have been mainly confined to drafting briefs.

Agag Sayles was shot dead in his own sitting-room. He was a man whom few loved, and whom so many had reason to dislike, that had there been no other clew to his murderer than that afforded by the motive of ill will, it would have led in so many different directions that the keenest scent would have been put at fault.

But there were "reasons more relative than this." Mr. Sayles had been left guardian of George Wilson by the latter's father. Young Wilson, when he came of age, disputed his guardian's account, and a bitter quarrel arose between them.

On the night of the murder Wilson was apprehended, fleeing from the victim's house, by those who first rushed to the scene on hearing the assassin's shot, and on his person was found a pistol which seemed to have been recently discharged. A note, too, was found in the slain man's pocket, in Wilson's handwriting, appointing a meeting for that evening, and threatening that, unless redress were at once accorded for his wrongs, he would seek it in another way.

It is but fair to give Wilson's version of the facts, which was, that while he and the deceased were seated near an open window the fatal shot was fired from without, and that he had been arrested while in the act of running to give the alarm. The pistol found in his possession, he said, he had bought the day before in anticipation of going on a journey as soon as his affairs with Sayles were settled, and he had discharged it once to test it. But, of course, an accused criminal will say anything to save his neck; and when the *post mortem* examination revealed that the bullet found in Agag Sayles's head tallied exactly with the calibre of Wilson's pistol, all reasonable doubts were dispelled.

On the verdict of the coroner's jury the accused was committed to answer to the charge of willful murder, and in due season was indicted by the grand jury. There was much sympathy, though but little hope, for the prisoner. An examination of the dead man's papers showed that he had grossly cheated his ward. But, in the eye of the law, fraud is no excuse for murder.

At ten o'clock on the night before the day set for the trial, I sat in my office looking over authorities and preparing for the coming contest. The case was plain enough, but able counsel had been retained for the defence, and though I felt no vindictiveness toward the prisoner, it was my duty to see that justice was not thwarted through professional ingenuity or legal strategy.

I was deep in Hale's "Pleas of the Crown," when a loud report, followed by the jingle of broken glass, aroused me. At a glance I saw that a shot had been fired through a pane of the window left exposed by a partially opened blind, and had penetrated a looking-glass, in which my image must have been visible to one looking in the direction which the ball had taken.

My office was on the ground floor, and I reached the street almost immediately. A man was walking rapidly away, but there was nothing in his manner indicative of flight. I followed him cautiously, determined to scan his movements closely, but to do nothing rashly.

He proceeded at the same gait, I following at the same distance, till we had gotten beyond the limits of the village,—for our little country town was nothing more,—when the man turned into a lonely path, and kneeling near a huge cliff, hastily thrust something into a cavity of the rock; then lifting up his face he exclaimed, "I thank Thee that I have been enabled to take vengeance on another of thine enemies!"

The moonlight fell brightly on the upturned features. Judge of my amazement when I recognized them as those of Tracy Hubert, a young clergyman of eminent learning and piety, and the pastor of our leading church!

As he rose and retraced his steps, passing me within arm's length without noticing my presence, I marked the singular expression of his eyes. With a fixed, glassy stare, they looked straight before him. He was evidently in that state which, after all the light science has been able to cast upon it, still remains so mysterious, known as somnambulism.

I made no effort to stay his course, but searching for the object he had hidden, I found a pistol, with which I hastened back to my office. Inspecting it closely, I discovered that one groove of the rifles was deeper than the rest, and a precisely corresponding inequality was perceptible in the ridges left on the bullet taken from the head of Agag Sayles. It had evidently been fired from that pistol!

Laboring under the delusion that he was fulfilling some exalted demand of duty, it was plain that the young clergyman had taken one life, and attempted another, whilst in a condition which left no memory of the acts when his mind had returned to a normal state.

Next morning I privately made known my discovery to the judge and the prisoner's counsel. We agreed that it would be needless cruelty to one who was unconscious of having on his hands a fellow-creature's blood, to reveal to him the dreadful truth. But, to do justice to George Wilson, I announced in open court that evidence, not proper then to be divulged, having clearly shown his innocence, the prosecution was abandoned.

Mr. Hubert's friends were confidentially informed of the facts, and a close watch was kept over him. But he soon began to exhibit marks of mental aberration so unmistakable that he was removed to an asylum, where he died not long after.

*The New York Ledger*, November 23, 1878