The Criminal Witness

In the spring of ’48, I was called to Jackson to attend court, having been engaged to defend a young man accused of robbing the mail. I had a long conference with my client, and he acknowledged to me that on the night when the mail was robbed he had been with a party of dissipated companions over to Topham, and that on returning they met the mail carrier on horseback coming from Jackson. Some of his companions were very drunk, and they proposed to stop the carrier and overhaul his bag. The roads were very muddy at the time, and the coach could not run. My client assured me that he not only had no hand in robbing the mail, but that he tried to dissuade his companions. But they would not listen to him. One of them slipped up behind the carrier and knocked him from the horse. Then they bound and blindfolded him, and having tied him to a tree they took the mail bag, and made off to a neighboring field, where they overhauled it, finding some five hundred dollars in money in various letters. He went with them, but in no way did he have any hand in the crime. Those who did it fled, and as the carrier had recognized him in the party, he had been arrested.

The mail bag had been found as well as the letters. These letters from which money had been taken, were kept, by order of the officers, and duplicates sent to the various persons to whom they were directed. These letters had been given to me for examination, and I had returned them to the prosecuting attorney.

I got through with my private preliminaries about noon, and as the case would not come up before the next day, I went into the court to see what was going on. The first case which came up was one of theft, and the prisoner was a young girl, not more than seventeen years of age, Elizabeth Madworth. She was very pretty, and bore that mild, innocent look, which we seldom find in a culprit.—She was pale and frightened, and the moment my eyes rested upon her, I pitied her. She had been weeping profusely, for her bosom was wet, but as she found so many eyes upon her, she became too much frightened to weep more.

The complaint against her set forth that she had stolen one hundred dollars from Mrs. Naseby; and as the case went on I found that Mrs. Naseby was her mistress, a wealthy widow, living in town. The poor girl declared her innocence in the most wild terms, and called on God to witness that she would rather die than steal. A hundred dollars in bank-notes had been stolen from her mistress’s room, and she was the only one who had access there.

At this juncture, while the mistress was upon the witness-stand, a young man came and caught me by the arm. He was a fine looking fellow, and big tears stood in his eyes.

“They tell me you are a good lawyer?” he whispered.

“I am a lawyer,” I answered.

“Then—O!—save her! You can certainly do it, for she is innocent.”

“Is she your sister?”

“No, sir,” he said. “But—but—”

Here he hesitated again.

“Has she no counsel?” I asked.

“None that’s good for anything—nobody that’ll do anything for her. O, save her, and I’ll pay you all I’ve got. I can’t pay you much, but I can raise something.”

I reflected for a moment. I cast my eyes towards the prisoner, and she was at that moment looking at me. She caught my eye, and the volume of humble, prayerful entreaty, I read in those large, tearful orbs, resolved me in a moment. In my soul I knew that the girl was innocent; or at least, I firmly believed so—and perhaps I could help her. I arose and went to the girl, and asked her if she wished me to defend her. She said yes. Then I informed the court that I was ready to enter the case, and was admitted at once. The loud murmur of satisfaction which ran through the room, quickly told me where the sympathies of the people were.

I asked for a moment’s cessation, that I might speak to my client. I went and sat down by her side, and asked her to state to me candidly the whole case. She told me she had lived with Mrs. Naseby nearly two years, and that during all that time she had never had any trouble before. About two weeks ago, she said, her mistress lost a hundred dollars.

“She missed it from the draw,” the girl told me, “and she asked me about it, but I knew nothing of it. The next thing I knew, Nancy Luther told Mrs. Naseby that she saw me take the money from the draw—that she watched me through the key-hole. Then they went to my trunk, and they found twenty-five dollars of the missing money there. But O, sir, I never took it—somebody else put that money there!”

I then asked her if she suspected anyone.

“I don’t know,” she said, “who could have done it but Nancy. She has never liked me, because she thought I was treated better than she was. She is the cook, and I was the chambermaid.”

She pointed Nancy Luther out to me. She was a stout, bold-faced girl, about two-and-twenty, with a low forehead, small grey eyes, pug nose and thick lips. I caught her glance at once, as it rested upon the fair young prisoner, and the moment I detected the look of hatred which I read there, I was convinced that she was the rogue.

“Oh, sir, can you help me?” my client asked in a fearful whisper.

“Nancy Luther, did you say that girl’s name was?”

“Yes sir.”

“Is there any other girl of that name about this place?”

"No, sir"

"Then rest easy. I'll try hard to save you."

I left the courtroom, and went to the prosecuting attorney and asked him for the letters I had handed him—the ones that had been stolen from the mail bag. He gave them to me, and having selected one I returned the rest, and told him that I would see that he had the one I kept before night. I then returned to the courtroom and the case went on.

Mrs. Naseby resumed her testimony. She said she entrusted her room to the prisoner's care, and that no one else had access there, but herself. Then she described the missing money, and closed by telling how she had found twenty-five dollars of it in the prisoner's trunk. She could swear it was the identical money she had lost, it being two tens and one five dollar bill.

"Mrs. Naseby," said I, "when you first missed your money, had you any reason to believe that the prisoner had taken it?"

"No, sir," she answered.

"Had you ever before detected her in dishonesty?"

"No, sir."

"Should you have thought of searching her trunk had not Nancy Luther advised you and informed you?"

"No, sir."

Mrs. Naseby then left the stand, and Nancy Luther took her place. She came up with a bold look, and upon me she cast a defiant glance, as much as to say, "trap me if you can!" She gave evidence as follows:

She said that on the night when the money was stolen, she saw the prisoner going upstairs, and from the manner in which she went up she suspected that all was not right. So she followed her up.

"Elizabeth went into Mrs. Naseby's room and shut the door after her. I stooped down and looked through the key-hole, and saw her at her mistress' drawer. I saw her take out the money and put it in her pocket. Then she stooped down to pick up the lamp, and as I saw that she was coming out, I hurried away."

Then she told how she had informed her mistress of this and proposed to search the girl's trunk.

I called Mrs. Naseby back to the stand.

“You say that no one, save yourself and the prisoner, had access to your rooms?” I said. “Now could Nancy Luther have entered that room if she wished?”

“Certainly, sir. I meant no one else had any right there.”

I saw that Mrs. N., though naturally a hard woman, was somewhat moved by poor Elizabeth’s misery.

“Could your cook have known, by any means in your knowledge, where your money was?”

“Yes, sir; for she has often come up to my room when I was there, and I have given her money with which to buy provisions of market-men who happened along with their wagons.”

“One more question: Have you known of the prisoner’s having had any money since this was stolen?”

“No, sir.”

I now called Nancy Luther back, and she began to tremble a little, though her look was as bold and defiant as ever.

“Miss Luther,” I said, “why did you not inform your mistress at once of what you had seen, without waiting for her to ask about the lost money?”

“Because I could not make up my mind at once to expose the poor girl,” she answered promptly.

“You say you looked through the key-hole, and saw her take the money?”

“Yes, sir.”

“Where did she put the lamp while she did so?”

“On the bureau.”

“In your testimony you said she stooped down when she picked it up. What do you mean by that?”

The girl hesitated, and finally said she didn’t mean anything, only that she picked up the lamp.

“Very well,” said I. “How long have you been with Mrs. Naseby?”

“Not quite a year, sir.”

“How much does she pay you a week?”

“A dollar and three quarters.”

“Have you taken up any of your pay since you have been there?”

“Yes, sir.”

“How much?”

“I don’t know, sir.”

“Why don’t you know?”

“How should I? I’ve taken it at different times, just as I wanted it, and have kept no account.”

“Now if you had any wish to harm the prisoner, couldn’t you have raised twenty-five dollars to put in her trunk?”

“No, sir,” she replied, with virtuous indignation.

“Then you have not laid up any money since you have been there?”

“No, sir—only what Mrs. Naseby may owe me.”

“Then you didn’t have twenty-five dollars when you came there?”

“No sir; and what’s more, the money found in the girl’s trunk was the money that Mrs. Naseby lost. You might have known that, if you’d only remember what you hear.”

This was said very sarcastically, and was intended as a crusher upon the idea that she could have put the money into the prisoner’s trunk. However, I was not overcome entirely.

“Will you tell me if you belong in this State?” I asked next.

“I do, sir.”

“In what town?”

She hesitated, and for an instant that bold look forsook her. But she finally answered,

“I belong in Somers, Montgomery County.”

I next turned to Mrs. Naseby:

“Do you ever take a receipt from your girls when you pay them?” I asked.

“Always,” she answered.

"Could you send and get one of them for me?"

"She told the truth, sir, about my payments," Mrs. Naseby said.

"O, I don't doubt it," I replied; but ocular proof is the proof for the courtroom. So, if you can, I wish you would procure the receipts."

She said she would willingly go, if the court said so. The court did say so, and she went. Her dwelling was not far off, and she soon returned, and handed me four receipts, which I took and examined. They were all signed in a strange, straggling hand by the witness.

"Now, Nancy Luther," said I, turning to the witness, and speaking in a quick, startling tone, at the same time looking her sternly in the eye, "please tell the court and jury, and *tell me, too,* where you got the seventy-five dollars you sent to your sister in Somers?"

The witness started as though a volcano had burst at her feet.

She turned pale as death, and every limb shook violently. I waited until the people could see her emotion, and then repeated the question.

"I—never—sent—any!" she fairly gasped.

"You did!" I thundered, for I was excited now.

"I—I—didn't," she faintly uttered, grasping the rail for support.

"May it please your honor, and gentlemen of the jury," I said, as soon as I had looked the witness out of countenance, "I came here to defend a youth who had been arrested for robbing the mail, and in my course of preliminary examinations I had access to the letters which had been torn open and rifled of money. When I entered upon this case, and heard the name of this witness pronounced, I went out and got this letter which I now hold, for I remembered to have seen one bearing the signature of Nancy Luther. The letter was taken out of the mail bag, and contained seventy-five dollars, and by looking at the post-mark you will observe it was mailed on the very next day after the money was taken from Mrs. Naseby's drawer. I will read it to you, if you please."

The court nodded assent, and I read the following, which was without date, save that made by the postmaster's stamp on the outside. I give it here verbatim:

"Sister Dorcas: I send you heer sevente-five dolers, which I want yu to kepe it for me till I cum hum, i cant kepe it here coz ime afrad it will get stole, dont speke wun wurd tu a living sole bout this coz i dont want nobodi to know i have got enny money. yu wont will yu. i am first rate heer, only that gude for nothing snipe of liz madwurth is heer yet—but i hope tu git rid of her now. yuk know i rote yu about her. give my luv to awl enquiren friends. this is from your sister till deth.

NANCY LUTHER."

"Now, your honor," I said, as I handed him the letter, and also the receipts, "you will see that the letter is directed to Doreas Luther, Somers, Montgomery County. And you will also observe that one hand wrote that letter and signed those receipts. It is plain how the hundred dollars was disposed of. Seventy-five were in that letter and sent away for safe keeping, while the remaining twenty-five were placed in the prisoner's trunk for the purpose of covering the real criminal. Of the tone of the other parts of the letter I leave you to judge. And now, gentlemen of the jury, I leave my case in your hands, only I will thank God, and I know you will also, that an innocent person has been thus strangely saved from ruin and disgrace."

The case was given to the jury immediately following their examination of the letter.

They had heard from the witness's own mouth that she had no money of her own, and without leaving their seats, they returned a verdict of—"Not Guilty."

The youth who had first asked me to defend the prisoner, caught me by the hand, but he could not speak plainly. He simply looked at me through his tears for the moment, and then rushed to the fair prisoner. He seemed to forget where he was, for he flung his arms around her, and she laid her head upon his bosom and wept aloud.

I will not attempt to describe the scene that followed; but if Nancy Luther had not been arrested for the theft, she would have been obliged to seek the protection of the officers; for the excited people would have surely maimed her, if they had done no more.

Next morning, I received a note, handsomely written, in which I was told that the within was but a slight token of gratitude due me for my efforts in behalf of a poor, defenceless, but much loved maiden. It was signed "Several Citizens," and contained one hundred dollars. Shortly afterwards the youth came to pay all the money he could raise. I simply showed the note I had received, and asked him to keep his hard earnings for his wife, when he got one. He owned that he had intended to make Lizzie Madworth his wife very soon.

Next day I succeeded in clearing my other client from conviction of robbing the mail; and made a considerable handle of the fortunate discovery of the letter which had saved an innocent girl on the day before, in my appeal to the jury; and if I made them feel that the finger of Omnipotence was in the work, it was because I sincerely believed that the young man was innocent of all crime; and I am sure they thought so too.

New Hampshire Statesman, May 10, 1856
Raftsman's Journal, Wednesday, June 11, 1856

A shorter version of this story, the main revisions of which are replacing the opening two paragraphs with a single paragraph and the omission of the closing paragraph, was published in the *Galesville* [WI] *Transcript*, October 18, 1861. Click here to redirect to the shorter version.