

The Criminal Witness

A Lawyer's Story

In the spring of 1841, I was called to Jackson, Alabama, to attend court, having been engaged to defend a young man who had been accused of robbing the mail. I arrived early in the morning and immediately had a long interview with my client. The stolen bag had been recovered, as well as the letters from which the money had been rifled. These letters were given me for examination, and I returned them to the prosecuting attorney. Having got through my private preliminaries about noon, and as the case would not come off before the next day, I went into court in the afternoon to see what was going on. The first case that came up was one of theft; and the prisoner was a young girl not more than seventeen years of age, named Elizabeth Madworth. She was very pretty, and wore that mild, innocent look, which we seldom find in a culprit. She had been weeping profusely, but as she found so many eyes upon her, she became too frightened to weep more.

The complaint against her was that she had stolen a hundred dollars from a Mrs. Naseby; and as the case went on I found that this Mrs. Naseby was a wealthy widow living in town, and the girl's mistress. The poor girl declared her innocence in the wildest terms, but circumstances were hard against her. A hundred dollars in banknotes had been stolen from her mistress' room, and she was the only one that had access there.

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

"They tell me you are a good lawyer," he whispered.

"I am a lawyer," I answered.

"Then do save her! You certainly can do it, for she is innocent."

"Is she your sister?"

"No, sir," he added, "but—but—"

He hesitated.

"Has she no counsel?" I asked.

"None that is good for anything—nobody that'll do anything for her. Oh, save her! And I will give you all I've got. I can't give much, but I can raise something."

I reflected a moment. I cast my eyes towards the prisoner, and she was at that moment looking at me. She caught my eye, and a volume of humble entreaty I read in her glance resolved me in a moment. I arose and went to the girl, and asked if she wished me to defend her.—She said yes. I then informed the Court that I was ready to enter into the case, and was admitted at once. The

loud murmur of satisfaction that ran quickly through the room, told me where the sympathies of the people were. I asked for a moment's cessation that I might speak with my client. I went and sat down by her side and asked her to state candidly the whole case. She said she had lived with Mrs. Naseby for nearly two years, and had never had any trouble before. About two weeks ago she said her mistress had lost a hundred dollars.

"She missed it from her drawer," the girl said to me, "and asked me about it. I said I knew nothing about it. That evening I heard Nancy Luther tell Mrs. Naseby that she saw me take the money from the drawer—that she watched me through the keyhole. Then they went to my trunk and found twenty-five dollars of the missing money there. But, sir, I never took it, and so somebody must have put it there."

I then asked her if she suspected anyone.

"I don't know," she said, "who co'd have done it but Nancy. She has never liked me, because she thought I was better treated than she. She is the cook.—I was the chambermaid."

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

"Nancy Luther did you say that girl's name was?" I asked, for a new light had broken upon me.

"Yes, sir."

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 mailbag. He gave them to me, and having selected one, I returned the rest, and told him 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 the room to the prisoner's care, and that no one had access there save herself. Then she described about missing the money, and closed by telling how she found twenty-five dollars of it in the prisoner's trunk. She could swear it was the identical money she had lost, in two tens and one five-dollar note.

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

"No, sir," she answered.

"Had you ever before detected her in any dishonesty?"

"No, sir."

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

“No, sir.”

Mrs. Naseby 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 her evidence as follows:

She said that on the night the money was taken, she saw the prisoner going upstairs, and from the sly manner in which she went up she suspected all was not right. So she followed her up. “Elizabeth went to Mrs. Naseby’s room and shut the door after her. I stooped down and looked through the keyhole, and saw her take out the money and put it in her pocket. Then she stooped down and picked up the lamp, and as I saw that she was coming out I hurried away.”

Then she went on—told how she had informed her mistress of this, and that she proposed to search the girl’s trunk.

I called Mrs. Naseby to the stand.

“You said that no one save, yourself and the prisoner, had access to your room,” I said. “Now could not Nancy Luther have entered your room if she wished to do so?”

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

I saw that Mrs. Naseby, 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 to my room while I was there, and I have often given her money for marketing when the market men happened to come along with their wagons.”

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

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 at once make up my mind to expose the poor girl,” she answered promptly.

“You say you looked through the keyhole and saw her take the money?”

“Yes sir.”

“Where did she place the lamp when 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 she said she did not mean anything, only that she picked up the lamp.

“Very well,” I said, “how long have you lived 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 here?”

“Yes sir.”

“How much?”

“I don’t know, sir.”

“Why don’t you know?”

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

“Now, if you wished to harm the prisoner, could you have raised twenty-five dollars to put in her trunk?”

“No sir;” she replied with virtuous indignation.

“Then you did not 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 Mrs. Naseby lost. You might have known that if you had remembered what you asked her.” This was said very sarcastically, and was intended as a crusher upon the idea that she should have put the money in the prisoner’s trunk—However, I was not overcome, entirely.

“Will you tell me if you belong to this state?”

“I do, sir.”

“In what town?”

She hesitated, and for an instant the bold look forsook her. But she finally answered, “I belong to Somers, Montgomery county.”

I next turned to Mrs. Naseby.

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

“Always.”

“Can you send and get one of them for me?”

“She has told you the truth, sir, about the payments,” said Mrs. Naseby.

“Oh, I don’t doubt it,” I replied, “but particular proof is the thing for the courtroom. So, if you can, I wish you would procure the receipt.”

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 signed in a strange staggering hand by the witness.

“Now, Nancy Luther,” I said, 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 the jury, and me, where you got that seventy-five dollars you sent in your letter 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 have an opportunity to see her emotion and then I repeated the question.

“I—never—sent—any!” she gasped.

“You did!” I thundered, for I was excited now.

“I—I didn’t,” she faintly muttered, grasping the railing by her side for support.

“May it please your honor and the gentlemen of the jury,” I said as soon as I looked the witness out of countenance. “I came here to defend a man who was arrested for robbing the mail, and in the course of the preliminary examinations I had access to the letters which had been torn open and robbed of the money. When I entered this case and heard the name of this witness pronounced, I went out and got this letter which I now hold, for I remembered having seen one bearing the signature of Nancy Luther. This letter was taken from the mail bag and it contained seventy-five dollars, and by looking at the postmark you will observe that it was mailed the day

after the hundred dollars were taken from Mrs. Naseby's drawer. I will read to you, if you please."

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

Sister Dorcas:—i cend yu hear seventy-five doller which i want yu to cepe fur me til i cum hum i cant cepe it cos im a feared it wil git stold don't you spek one ward to a livin soal bout it i want nobode to no ive got any munny yu wunt now wily u im first rate hear til that gud fer nuthin stripe liz madworth is hear yit—but i hop to git over her how yu no i rote to yu bout her—giv mi luv to all inquirin frens this is from your sister til deth. "Nancy Luther."

"Now, your honor," I said as I passed him the letter and also the receipts, "you will see that the letter is directed to Dorcas Luther, Somers, Montgomery Co.— And you will observe that one hand wrote that letter and those receipts, and the jury will also observe. And now I will only add, it is plain to see how the hundred dollars were disposed of. Seventy-five dollars were sent off for safekeeping, while the remaining twenty-five dollars were placed in the prisoner's trunk for the purpose of covering the real criminal. Of the tone of parts of the letter, you must judge. I leave my client's case in your hands.

The case was given to the jury immediately following their examination of the letter. They had heard from the witness' own mouth that she had no money of her own, and without leaving their seats they returned a verdict of—"NOT GUILTY."

I will not describe the scene that followed; but if Nancy Luther had not been immediately arrested for theft, she would have been obliged to seek protection of the officers, or the excited people would have maimed her at least, if they had not done more. The 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 the poor and defenseless maiden. It was signed, "Several Citizens," and contained one hundred dollars. Shortly afterwards, the youth who begged me to take up the case, called upon me with all the money that he could raise, but I showed him that I had already been paid, and refused his hard earnings.

Before I left town I was a guest at his wedding—my fair client being the happy bride.

Galesville [WI] Transcript, October 18, 1861

This is a shorter version of "The Criminal Witness" (*Raftsmen's Journal [PA]*, June 11, 1856). This shorter version replaces the two opening paragraphs with a single paragraph. [Click here to redirect to the longer version.](#)