

# Would You Convict a Prisoner on Circumstantial Evidence?

Hate as primitive as in the age of crawling things brought the two young men, with tense, ready muscles and out thrust jaws, face to face and eager for battle. A motive old as life itself impelled them each toward the other's throat—the disputed favor of a woman. And here intruded the note of a higher development and civilization, for instead of standing aside in savage content the woman threw herself between the two.

With hands outstretched she mutely motioned them apart. For a second they hesitated, then obeyed the pleading, impartial gesture. Thereafter each took his leave formally and left her, white faced and alert, among the shadows on the porch. Tyler was the first to go, and he awaited Bell at the garden gate. Their figures stood clear in the moonlight and the girl watched anxiously, but the red flood of instant rage had left them fiercely cold and restrained.

"George Bell," said Tyler, "this is no place for a settlement, but I'll make it my business to see that you answer to me some time."

The other, without pausing, moved past through the gate, but turned at the other side.

"I reckon you know where to find me when you're ready, John Tyler. We'll arrange our little differences where we won't be interrupted and whenever you're lookin' for some trouble."

That's me," remarked Tyler briefly. They parted, one walking toward the town, the other toward his tethered horse at the post, without a backward glance. The girl, who had listened intently, remained until the footsteps of Tyler had died away down the path and Bell's mount had vanished over a swelling rise. Then, filled with a dread she felt powerless to remove, she hurried into her home, closing the door.

It was a Sunday night when the cert of defiance, in accepted Kentucky manner, was exchanged between the rival admirers of Elsa McDonald. The quarrel had been a matter of slow growth, the outcome of the Blue Grass beauty's coquetry and frequent meetings on contested ground. She had given neither particular encouragement, but each grew to believe him self obstructed and s'ndered by the other, after the common persistence had driven other candidates from the field. The cause of their enmity had played the familiar game, and at first with safety. But these were men of the soil, virile, masterful, impatient, and the inevitable spark had been struck.

Tyler lived in the town, on the outskirts of which stood the McDonald place. Bell, recently fallen heir to a considerable estate and breeding farm, occupied his family mansion about six miles distant along the country road.

Early on the following Thursday morning the employes on the Bell farm, swarming to work from breakfast, found the favorite horse of their employer, the one he most frequently rode, standing outside the gate of the stable yard, lathered and exhausted. The animal was spattered with mud, part of the bridle had been torn away the girl had loosened and the saddle hung awry against one flank with dragging stirrup. The stableman, stepping by force of habit to adjust the displacement even before he had exclaimed upon the singularity of it, cried out as he placed a hand upon the pommel. The saddle leather on the right side was streaked and splashed with blood.

The alarm spread with scarce a word spoken, and men about the place were being collected by the overseer of the farm, Mason, before the stableman had removed the broken bridle. It was a matter calling for instant action, and action was something that Mason understood. A few sharp questions brought out that young Bell had started out the preceding evening about seven o'clock, heading at a brisk gallop toward the town.

"There's only one place he'd be like to go on that road, 'less he passed it," was the stableman's comment.

"And that's to the McDonald's," added the overseer. "He hasn't missed a week time out of mind sparkin' that girl."

Four of the farm hands, under the lead of Mason, quickly saddled and mounted, and the group made off down the highway at top speed. They drew rein before the McDonald house while the family were still at breakfast, and the overseer, hat in hand, walked into the room without ceremony.

"Boy pardon, Miss McDonald," he asked abruptly, "but did Mr. Bell come to see you last night?"

The young woman, startled and coloring under the sudden question, answered that she had not seen Bell since Sunday night. The word turned to her father, with his word of explanation.

"He started, I suppose, for your place

last night. His horse came home this morning with blood on the saddle. There's been some devilry between them and here."

McDonald instantly volunteered his services, and the men left the house. The girl, alone with her mother, sat with compressed lips and flushed cheeks. For her the affair had a greater significance than she cared to acknowledge. There was an element of fear and self-reproach in her reflections, but she was not given to subtleties and she set herself to await the outcome of the search.

While one of the farmhands pressed forward into the town to notify the authorities of the facts the rest of the party was split up under the direction of Mason, and the laborious work of investigation along five miles or more of road was begun. It was evident that Bell's thoroughbred had travelled far and through rough country, but the natural supposition was that its wanderings had been those of a riderless steed. The thought of foul play was uppermost and the likeliest spot for violence was along the highway. Within a few hours nearly a hundred of the townsmen, mounted and afoot, came to aid the searchers. The day closed barren of results.

The task was resumed the next day, and the next. Public excitement, which had ranged high with the first word of murder, began to subside. It was advanced as possible that the wealthy young landowner had left the country on a lark, or perhaps was being held for ransom. No one could suggest a feud in which he might have become involved. The residents of the village returned to their accustomed round, only Mason and his handful of assistants clinging to a wearying and seemingly hopeless search. The overseer, having examined every foot of the roadway and its fringes, widened the strip of ground to be covered on both sides and caused his men to ride up and down the length as if following successive furrows. This led them ultimately into the woods on either side.

The first few fruitless days wore out Mason's impatience and it became after that a matter of dogged loyalty. He let it be known that he would pursue his tactics for a month if there were need, or until some word or a clue to the whereabouts of Bell came to light. One other member of the community, Elsa McDonald, followed the progress of Mason's work with an interest equal to his own.

It was a full week after the Thursday on which the horse had returned without his owner when the discovery was made. Mason himself came upon it. The body of George Bell was found in a heavily wooded section about a hundred rods off the road and midway between his own home and that of the McDonalds. It had been divested of coat, shirt and boots. There was a wound almost as large as the palm of a hand under the left shoulder blade. Subsequent medical investigation showed that the contents of both barrels of a shotgun had practically torn away the left side.

Rigid examination of the spot failed to reveal any clue. The revolver which Bell had been known to carry was missing, as was the belt from which the holster had hung at the back of the right hip. No trace could be found of the missing garments. A small sum of money and a pocket knife completing the inventory of what the young man was known to have had with him, were gone. The autopsy established that death must have been instantaneous. The course taken by the shot had been on an upward angle toward the opposite shoulder. From this it appeared beyond all question that the victim had been murdered while riding his horse and oblivious of danger.

Mason made a close inspection of the features of the surrounding ground. He found that almost in a straight east to the highway a thick clump of bushes grew on both sides of the ditch affording a close covert, against which wagon wheels brushed in transit. There could have been designed no better place for the ambushing of an unsuspecting traveller. He sought for marks that might have been left by a concealed assassin, but could discover none. He was more successful in finding proof that the body had been dragged from the road to its hiding place. In the dust of the wagon track stains were easily obliterated, but through the thick, close woven underbrush he discovered frequent marks of blood. He noted as worthy of remembrance that the Wednesday night in question had been misty and overcast. When he left the spot the overseer had a clear picture of the method by which the murderer had accomplished the crime.

While the coroner's jury was hearing the case the next day a buggy drove up to the town hall. From it alighted Elsa McDonald, and the crowd made room for her as she moved into the room in which the inquest was being held. She was agitated and under stress of deep emotion, but there was no hesitation in her manner. During the time since the disappearance of Bell she had taken herself seriously to task. She had formed the resolution to tell everything she knew if there should prove to be a fatal outcome to the mystery, and she was now present to keep that resolve. The coroner had been notified of her desire to appear as a witness and she was called to the stand.

Without pose or sentimentality she related the source of differences between Bell and Tyler and the scene on the porch. She repeated the phrase with which the men had parted, holding threat of a speedy settlement of scores. Her recital was brief and dramatic, and the crowd sat breathless while she described her postponement of a furious quarrel by stepping between the enemies. When she came to an end with Tyler's phrase, "You'll have to answer to me sometime," there was a stir in the room, and several men started quietly and unobtrusively for the doors.

The movement did not escape the quick eye of the Sheriff. He whispered a moment with three of his deputies and despatched them hurriedly. After further testimony by Mason and members of his party the coroner called for Tyler. There was no response. One of the Sheriff's men returned and the coroner was informed that deputies had visited the Tyler home, but could not find the young man. It further had been learned that Tyler had not been at his home for about a week.

Mason was a man whose most marked characteristic was a need of rendering absolute fidelity to some one. His relations with Bell had been closer than those of master and man and he had accorded to his employer unreserved devotion. The tragic death of the young landowner filled him with slow burning rage and the unreserved determination to devote himself to applying what assistance lay in his power toward the ends of justice. His mind was rather narrow but intensive and he possessed an admirable power of application. Meanwhile he was just and clear headed and was not the one to allow one set of appearances to outbalance another in favor of vengeance. He did not merely demand of himself that some one must suffer for this thing, but that the guilty man must suffer.

It was this quiet strong, forceful personality that now became dominant in the case. He followed the obvious track indicated by the testimony of Elsa McDonald and applied himself to tracing Tyler's relations with Bell. He learned, in the first place, that there had been no opportunity for a meeting between the rivals after the throwing down of the gauntlet up to the time when Bell left his farm on Wednesday evening for the purpose, so far as could be judged, of visiting the girl. Neither of them had been seen at the McDonald house after Sunday night. His inquiry was then directed toward discovery of any communication that might have been passed between them for it ran in his mind that a place of meeting had been appointed at which they were to submit their quarrel to the arbitration of personal combat. The precision with which Bell had been waylaid argued, to Mason's mind, that Tyler knew where and at what time to expect his enemy.

The intelligent, clear eyed quality of the man instinctively found its complement in Elsa McDonald before he had taken many steps into the affair. Her attitude toward the case was much the same as his own, and although she had not loved Bell she felt a loyalty to his memory not unmixed with a desire to remove the shadow of reproach cast by her unthinking aggravation of a quarrel. If Tyler were innocent it was in her interest to prove him so. In any event she wanted the truth as keenly as did Mason.

The overseer visited her immediately after the inquest and obtained from her all details that might have a bearing on the crime. She supplied one fact of first importance. She said that on Tuesday she had received a note from Bell announcing that he would call to see her on Wednesday in the hope of finding her at home. Might it not be that some one had obtained word of the young man's movements from this note? She added that she suspected one of her servants, a negro, of aiding Tyler in his courtship through information concerning the McDonald family and its affairs.

Pursuing the investigation, Mason questioned the negro and elicited the fact that he had been employed in some such capacity by Tyler. Under pressure he admitted that the kitchen of the McDonald place was a busy clearing house for gossip; that rumors of an impending quarrel between the suitors had been discussed and that one of the maids had learned of Bell's

intended visit to her mistress. This bit of news, he said, being of the kind which he had communicated to Tyler on several occasions, he had sought that young man on Tuesday night and informed him concerning the note.

Here was an important advance into the surrounding circumstances. Tyler, already stamped as Bell's enemy, was now clearly indicated as one of the very few persons who could have known beforehand of the plans of the land owner and the time at which he would be likely to be passing along the road.

While engaged in these preliminaries the overseer had not neglected to keep an eye upon the pursuit of Tyler which was being pushed by the Sheriff and his aids. There had been no result. No one had seen him leave the town, nor could any member of his family give information as to the exact time of his departure or his present whereabouts.

Gaining no further result from inquiries into the complications that had preceded the murder, Mason now threw his own work parallel with that upon which the Sheriff was engaged. He saw some possibility of aid in the negro who had acted as Tyler's spy. The man had been discharged following the revelation of his secret transactions, and the overseer sought him out.

"Have you any idea what has become of Tyler?" was his direct question.

"No more'n you," came the sullen answer.

"Look here, you're out of work, aren't you?"

"Yes, I am, 'cause I couldn't hold my blamed tongue. I ain't goin' to make no more plays like that."

"Well," said Mason, "it's pretty clear you haven't got much to expect from Tyler now. Here's fifty dollars. You get it the minute Tyler is landed in jail. I don't know and don't care, just now, whether he's innocent or guilty. What I want is to get him."

The negro glanced at the money but made no reply. The next day he sought the overseer.

"Have you looked for him at his uncle's house, 'bout ten miles down river?"

Ten minutes later Mason was galloping, rifle in hand, down the river road in the direction indicated by the negro. He had known in a vague way that Tyler's uncle lived in the country, but no one among the authorities had thought to look for him at such a place. They inclined to the belief that he had taken to the mountains or had headed for Louisville.

Mason rode up to the house of Benjamin Tyler, a tobacco planter, in the early afternoon. He did not dismount, but thrust his horse close in to the steps, thus bringing himself on a level with the porch and directly before the door. He waited until the clatter of his arrival should bring him a response, alert for danger and with his weapon ready in the crook of his elbow. There came leisurely footsteps along the hall inside, and a figure appeared in the doorway. Mason's rifle came to his shoulder in a flash, and it was along the steady sights that he opened the conversation.

"Just keep your hands where they are, John Tyler."

The young man stood leaning with a hand on either side of the doorway, and starting at the warlike apparition thus suddenly projected from the sunshine of a summer day. Finally, having adjusted himself in some part to the situation, he spoke with a hard smile.

"What's wrong, Mason? taken to stickin' folks up for a livin'?"

"Don't try to work that game with me," said the overseer, sharply. "You know well enough what I'm here for. I'm a deputy sheriff, and I arrest you for the murder of George Bell."

Tyler started slightly and then sneered.

"I don't know what you're talkin' about. I nuther do you, I reckon. If you'd given me half a chance you wouldn't be sittin' there so sassy with your gun. Well, what next? Want my roll? 'Taint very big."

Mason did not restrain a grim smile of admiration.

"You're smart, Johnny," he said. "I'd never be the one to deny it. Just march over and turn your back to me, and keep your arms lifted. That's it. Likely little pop shooter you got there."

It was growing dusk when the towns people flocked to the street to watch the passing of a strange little cavalcade. Tyler sat on Mason's horse with his arms bound behind him. The overseer walked ahead, holding the bridle over his arm, and with his rifle at a trail.

With the prisoner safely in jail Mason and the Sheriff made the trip to Benjamin Tyler's again the next day to gather facts as to his nephew's arrival there. The planter said that on the Wednesday night of Bell's disappearance

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