

## CONVICTION UPON CIRCUMSTANTIAL EVIDENCE.

in circumstances, it is much superior to positive proof. At one time great injustice was done by condemning persons for murder when it had not been proved that a murder was perpetrated. The now well-recognised principle in jurisprudence that no murder can be held as having been committed till the body of the deceased has been found, has terminated this form of legal oppression. A common cause of injustice in trials for murder is the prevarication of the party charged. Finding himself, though innocent, placed in a very suspicious predicament, he invents a story in his defence and the deceit being discovered, he is at once presumed guilty. Sir Edward Coke mentions a melancholy case of a gentleman charged with having made away with his niece. Though he was innocent, in a state of trepidation he put forward another child as the one said to have been destroyed. The trick being discovered, the poor man was executed, a victim of his own disingenuousness.\*

\* The following case occurred in Edinburgh (*circa* 2 Chambers' Miscellany).

Catherine Shaw encouraged the addresses of John Lawson, which were insupportably objected to by her father, who urged her to receive the addresses of one Robertson. One evening being very urgent thereupon she peremptorily refused, declaring she preferred death to being Robertson's wife. The father became enraged, the daughter more positive, so that the words "barbarity, cruelty, and death," were frequently pronounced by the daughter. He locked her in the room and passed out. Many buildings in Edinburgh are divided into flats or floors, and Shaw resided in one of these flats, a partition only dividing his dwelling from that of one Morrison. Morrison had overheard the quarrel, and was impressed with the repetition of the above words, Catherine having pronounced them emphatically. For some little time after Shaw had gone out all was quiet; presently Morrison heard groans from Catherine. Alarmed, he ran to his neighbor, who entered Morrison's room with him and listened, when they not only heard groans, but distinctly heard Catherine murmur, "Cruel father, thou art the cause of my death." They at once hurried to Shaw's apartment, knocked but received no answer, and repeated the knocks, but no response came. A constable was procured, and an entrance forced, when Catherine was found weltering in her blood, a knife by her side. She was alive, but unable to speak, and on being questioned as to owing her death to her father, was only able to make a motion with her head, apparently in the affirmative, and expired. At this critical moment Shaw entered the room; seeing his neighbors and a constable in his room he appeared much disordered, but at the sight of his daughter, turned pale, trembled, and was ready to sink. The first surprise and succeeding horror left little doubt of his guilt in the breasts of the beholders; and even that little was removed when the constable discovered blood upon the shirt of Shaw. Upon a preliminary hearing he was committed. On his trial he acknowledged having confined his daughter to prevent her intercourse with Lawson; that he had frequently insisted on her marrying Robertson; and that he had quarrelled with her on the subject the evening she was found murdered, as the witness Morrison had deposed; but averred he left her unharmed, and that the blood found on his shirt was there in consequence of his having bled himself some days before, and the bandage becoming untied. These assertions did not weigh a feather with the jury in opposition to the strong circumstantial evidence of the daughter's expressions of "barbarity, cruelty, death," together with that apparently affirmative motion with her head, and of the blood so seemingly providentially discovered on Shaw's shirt. On these concurring statements Shaw was found guilty, and executed at Leith Walk. Was there a person in Edinburgh who believed the father guiltless? No, not one, notwithstanding his latest words, at the gallows, "I am innocent of my daughter's murder." A few months afterwards, as a man who had become the possessor of the late Shaw's apartments, was rummaging, by chance, in the chamber where Catherine died, he accidentally perceived a paper which had fallen into a cavity on one side of the chimney. It was folded as a letter, which on opening contained the following:—

The rules of evidence and the practical principles of jurisprudence have been methodized

"Barbarous father, your cruelty in having put it out of my power ever to join my fate to that of the only man I could love, and tyrannically insisting upon my marrying one whom I always hated, has made me form a resolution to put an end to an existence which is become a burden to me. I doubt not I shall find mercy in another world, for sure no benevolent Being can require that I should any longer live in torment to myself in this. My death I lay to your charge; when you read this, consider yourself as the inhuman wretch that plunged the murderous knife into the bosom of the unhappy

CATHERINE SHAW.

A few years ago a poor German came to New York, and took lodgings, where he was allowed to do his cooking in the same room with the family. The husband and wife lived in a perpetual quarrel. One day the German came into the kitchen with a clasp-knife and a pan of potatoes, and began to pare them for his dinner. The quarrelsome couple were in a more violent altercation than usual; but he sat with his back towards them, and being ignorant of their language, felt in no danger of being involved in their disputes. But the woman, with a sudden and unexpected movement, snatched the knife from his hand and plunged it in her husband's heart. She had sufficient presence of mind to rush into the street and scream "murder." The poor foreigner in the meanwhile, seeing the wounded man reel, sprang forward to catch him in his arms, and drew out the knife. People from the street crowded in, and found him with the dying man in his arms, the knife in his hand, and blood upon his clothes. The wicked woman swore in the most positive terms that he had been fighting with her husband, and had stabbed him with that knife. The unfortunate German knew too little English to understand her accusation, or to tell his own story. He was dragged off to prison, and the true state of the case was made known through an interpreter; but it was not believed. Circumstantial evidence was extremely strong against the accused, and the real criminal swore unhesitatingly that she saw him commit the murder. He was executed, notwithstanding the most persevering efforts of his counsel, John Anthon, Esq., whose convictions of the man's innocence were so painfully strong, that from that day he refused to have any connection with a capital case. Some years after this tragic event the woman died, and on her death-bed confessed her agency in the diabolical transaction.

One of the most remarkable cases of conviction upon circumstantial evidence that has occurred in this country, is that of one Ratzky, who was tried and convicted in 1863, at the Oyer and Terminer in Brooklyn, N. Y. The case is known as the "Diamond Murder," and the circumstances of the case were in brief as follows:—

Ratzky boarded at a house in Carroll Street in said city, where one Fellner also boarded, who had a short time before come from Mentz, Germany. Fellner was about fifty years of age, had been a large dealer in diamonds in his native place, but, as shown, he had for certain causes absconded and fled to this country. On his passage over he became enamoured of one Miss Pflum, who was in company with her sister, a Mrs. Marks. On his trip over his gallantry and attentions gained for him, from the passengers, the appellation of "Don Juan," and Miss Pflum that of "Zerlina." Arriving at New York the two ladies engaged rooms at a house in East Broadway, and it was shown on the trial that their characters were not the most exemplary.

On Friday morning, a few days after Fellner and he had commenced to board in Carroll Street, Ratzky and he went to New York together. Fellner never returned to the house. His body was found washed ashore at Applegate Landing, near Middletown, N. J., four days after. On examination of the body it was found that the deceased had been murdered, there being twenty-one wounds on his breast. The body was identified by one Mrs. Schwenger, who boarded in the same house where Ratzky and Fellner had boarded. Ratzky fled under an assumed name, but was arrested in St. Louis, and finally brought to trial. His story of the affair is, in short, that, on the evening of the morning when he went to New York with Fellner, they called at the house where Mrs. Marks and Miss Pflum were. That Fellner and Miss Pflum were engaged in conversation for an hour, and that during the evening Fellner gave him a gold watch which Miss Pflum handed him from a jewel case belonging to Fellner. It was a little after 8 o'clock that evening when Ratzky informed Fellner that it was about time for them to go home. That he urged Fellner several times to go, but he and Miss Pflum were engaged in a lively conversation, and that at last upon further urging Fellner rose to go, kissed Miss Pflum with great