



WOULD YOU CONVICT- ON CIRCUMSTANTIAL EVIDENCE? The PARTING GUEST A TRUE STORY

Copyright, 1900, by the New York Herald Co. All Rights Reserved.
HERE, when the smiling faces about the camp fire of the homeseekers when two young strangers rode within the circle of friendly light out of the dense forest and requested hospitality for the night.

The little caravan of prairie schooners was the property of the three brothers McLeod, who, with their families, had been heading westward this many a day with scant enough of lively company along the road. The advent of the horsemen, their cheerful greetings, their open delight in the warmth and company, promised a pleasant evening after a particularly wearisome stage of the journey through Southern Kentucky.

Nor did the newcomers prove a disappointment, but with quip, jest and song kept their hosts in happy mood after the simple fare of the wagon train had been shared. One of them was Alfred Hamilton, only son of a wealthy resident of a small village of the blue grass not ten miles distant. His companion was John Saunders, a Missourian, whose face was now set toward his home after a fortnight's visit under the Hamilton roof.

The two had been classmates at William and Mary College and had since contrived to spend a part of each year together. Saunders had terminated his stay that morning, and Hamilton had insisted upon bearing him company over the first stretch of the journey. They told of having lost their way in the woods, through which Hamilton had sought a shorter route. The fire of the emigrants had led them not only to food and shelter, but to the faint track from which they had strayed.

So well did they enjoy the hearty reception accorded to them that it was far past the time for tired wanderers on the westward trail to seek their rest when the hum of voices finally hushed and with saddles for pillows they sought sleep within the glow. The camp was astir at early dawn.

Saunders expressed some anxiety concerning the state of the ford at Rushing River, which lay between him and Scottsville, where he hoped to spend the next night. The youngest of the McLeod brothers, who had aided the travellers with many little attentions, placed his knowledge of the country, through which he previously had passed, at their service. He advised against attempting the usual ford to which the wagon road led, owing to tales of high water, but suggested that the horseman should strike off at a certain path leading to a shallower ford, which would bring him as quickly to his destination. Saunders thanked his informant and after bidding their way-side hosts farewell the two young men set out.

Two days later Alfred Hamilton returned to his home in the blue grass settlement. He said he had taken leave of Saunders about two miles from Rushing River, where the latter had been told to branch off. He resumed his duties as overseer of his father's ranch and estate.

Several weeks had passed since the departure of Saunders when Hamilton had occasion to ride one of the many fine thoroughbreds in the stable to the blacksmith's, at some little distance from the Hamilton mansion. The smith was a worthy man, and his shop did double service as the local centre for horse-shoeing and the clearing of horses for gossips. There was ever a group about that pedler, engaged in the discussion of matters large and small that had come to the ears of one or other. On this day a silent member of the gathering was Guy Maws, a young physician of the neighborhood, who had forgotten his usual impatience at the smith's loquacity through interest in the matter of his discourse; for a strange rumor had come from Scottsville.

The Case of Dr. Maws.

Maws was distinctly above the average of the country practitioner of the section. He was a graduate of medical schools in Philadelphia and Leeds, and with superfluous diplomas and certificates packed in his trunk had struck for the West in the belief that he should find the field less restricted and offering larger opportunities to his rather bold and original theories.

He had done fairly well, more from the fact that he was the only physician within many miles than because the people among whom he lived were awake to the many excellent qualities of his mind and the thoroughness of his training. Beyond this he was a sorely disappointed man, ambitious, conscious of his power, chafing under the humdrum of general practice. At the moment that Hamilton entered the shop the expressive face of Dr. Maws was lighted with momentary interest.

The smith, noting that his little audience had been increased by the arrival of such an important person as the son of Colonel Hamilton, began his tale anew. It seemed that a pedler, coming that morning from Scottsville, had told of the finding of a body on the bank of the river near that town. Murder had been done, the smith declared, and although the victim apparently had been a man of consequence, there was none to identify him.

Details were lacking in the narrative, but the smith was willing to manufacture these in any quantity, and started upon his congenial task. It was an exclamation from Hamilton that interrupted him. "Why, now, that's rather remarkable. My friend Saunders went home by way to the small ford, I hope it isn't his body."

Dramatic Possibility.

The words swept nervously from the speaker and the smith paused at the suggestion. It was a dramatic possibility and the group took it up readily. A babble of comment arose from the group, in which all its members joined with a single exception. Hamilton's remark rang curiously in the ears of one of his hearers. To the keen, observant mind of Guy Maws there was a trace of significance in the speech that entirely escaped the more ordinary men. He watched Hamilton, expecting some explanation of the mere fact that a body had been discovered. But Hamilton, rather too eagerly, it seemed to the physician, was aiding the discussion of the lurking dangers of the river section. Maws awaited his opportunity and slipped in a question in an offhand manner.

"Why should you fear it to be Saunders?" he asked. "Your friend must have been safely in Missouri before this."

"Merely an impulse," answered Hamilton, with just a hint of hesitation. "He took an untraveled way. We haven't had any word from him, you know, and well, you must all remember the Robley gang that had a place somewhere on Rushing River. I went part of the way with him, when we parted I warned him not to take the unfrequented ford. If it is Saunders I was the last to see him alive, I suppose. It was taking a big risk to go that way, and he heldups there not so long ago."

"But the Robley gang has been broken up and scattered these three years," said Maws.

Hamilton was plainly restless under the insistence

of the physician. He enlarged volubly upon recent rumors that certain of the band who had escaped had been seen in the vicinity. From that he led the talk upon former exploits of the famous outlaws. The conversation took a reminiscent turn, and Hamilton by degrees abandoned his flow of speech and became silent and distraught.

Detected a False Note.

Maws paced slowly to his home in a thoughtful mood. He had detected a false note in Hamilton that troubled him more than he cared to admit. To his sensitive brain it seemed as if the young man had been too anxious, as if he did "protest too much." And how did it happen that the purse of one who was something of a spendthrift and known to be hard put to it for money should be so well lined? But he tore himself abruptly from this line of reflection on reaching the standing of the subject he had almost unconsciously placed on the mental operating table.

Confirmation of the first report obtained from the pedler reached the community a few days later with the news that persons in Scottsville had identified the body. It had been proved beyond peradventure to be that of John Saunders, slain with a bullet and robbed of all articles of value. There were no clues to the assassin or assassins.

On assuming himself that this outline of the matter was authentic, Dr. Maws put his reader into harness and set out that morning for Scottsville. It was his impulse to know and see more of the matter, and in obeying he was yielding to a fascination that deeds of violence had always exerted over his imagination. It was, moreover, his first opportunity to connect himself with such a case since his arrival in Kentucky.

Starts on the Trail.

Dr. Maws was more interested in the murder of Saunders by reason of a sudden but warm friendship that had sprung up between them during the latter's recent visit. The Missourian possessed a stronger and more mature mind than his friend Hamilton, and the physician had found in this genial, sober, well-balanced nature a measure of congeniality and sympathy that he had not discovered elsewhere since his university days. He had it well in view that he might aid in bringing to punishment the wretch concerned in the taking off of so excellent a gentleman.

He was accepted as a competent examiner on presenting himself at the court house, and was admitted with two others of his profession, who had made a preliminary report. He found that Saunders had died from a wound in the back of the head, under the left ear, where a section of the skull had been torn away by the bullet, fired either from a rifle or a heavily-charged pistol.

There were no other marks to indicate attack preliminary to or following the fatal shot. The clothing was torn or soiled, indicating, so far as the lapse of time made its condition of value, that there had been no struggle. The man had been dead more than two weeks, the physicians agreed.

Dr. Maws obtained from those who had discovered the body a full account of the circumstances. It had lain in some undergrowth to the side of the trail and at the head of an abrupt descent to the ford. The ground was soft and there were no stones within twenty feet. The body was buddled in a heap as if, the men thought, Saunders had been "dumped" from a saddle or a wagon. There were no wheel marks on the trail. Indeed, few wagons passed that way. They could detect no hoof marks, but this was of small importance to the account of the circumstances.

The only other point of importance was the fact that a neck cloth of plain silk was picked up near the body. To this was fastened a small pin of oval shape bearing conventional geometric figures.

The young physician took careful notes and measurements of what he learned and saw. His business-like methods impressed the prosecutor, although his fellow practitioners were disposed to frown upon his stepping beyond the purely surgical aspects of the case. Returning from Scottsville he made his way over the smaller ford and spent the rest of the afternoon in going over the scene of the murder.

He had at first a theory that the horse ridden by Saunders would afford the most promising clue, but the difficulty of identifying the animal caused him to abandon that course for the time. With his keen instincts of the observer alert he moved slowly over the ground, trying to reconstruct the tragedy here enacted. Saunders probably had been shot from a bush, he thought, and he crawled amid the underbrush and young growth at the sides of the trail, hoping to find the very spot where the murderer had concealed himself.

Analyzing Suggestions.

Meanwhile in one corner of his mind he was sorting and analyzing suggestions arising from the facts already known. There was the ornamental pin. Such things were used frequently as badges of organizations. The emblems were not Masonic, although somewhat similar. There were students' clubs at colleges and universities that adopted a uniform pin for their members. He knew several such clubs. How many men in that section had been to college? There were three or four in Scottsville, but on imagining each in the role of assassin he rejected them in the absence of corroborative details. There was also young Hamilton.

Here he stuck, nor could he entirely argue away a measure of added weight he now derived to the unpleasant impression the young man's behavior had excited in him. He made no jump conclusions, however, for he was aware fully that since Saunders himself had been to college the pin was, in all likelihood, his own. To set against this he had the fact that the scarf and pin had been found at least thirty feet from the body, which might or might not be of significance. These observations he stored away for later examination.

Falling to find anything that pointed to a murderer concealed in ambush, he discussed with himself the nature of the wound. The effect of the charge pointed not only to its strength in tearing away the bone, but the obvious inference was that the shot had been fired at very close range.

Studying the Mode of Attack.

It was also evident that it would have been very difficult for the assassin to have reached Saunders' side unobserved. The muzzle of the weapon must have been held but a few feet from the head of the rider, who was all unconscious of his danger. It was fairly clear that the attack had been a complete surprise. On the other hand, if the murderer had been riding at Saunders' side as a companion, what more easy than for him to rein in a step and discharge a firebrand without warning?

It was far into the afternoon before anything of a reward was discovered of the greatest value. At a spot fully fifty feet from that where the body was found he came upon a single-barreled pistol with the hammer down and a thin coating of burnt powder within the mouth, indicating that it had been fired recently. He exulted in the thought that he held the very weapon with which the murder had been committed.

Of the pistol itself he could make little. It was an ordinary arm, evidently of English manufacture and of a decidedly antiquated design. The butt was shod with a heel of thin gold plate bearing no marks. Not feeling justified in retaining evidence of such potential importance, he returned to Scottsville for the

night and delivered the pistol to the authorities, with an account of his finding of it.

Laying Down a Theory.

The superficial facts preceding the death of John Saunders were quickly gathered. Hamilton was questioned by the prosecutor and told of accompanying his friend on the first stage of his journey, their stop with the emigrants and their start again the next morning. He repeated the statement that he had parted with Saunders after a ride of about half an hour and had turned back toward home.

Here the inquiry rested for some days, and the commonly accepted belief was that the traveller had been waylaid by a member of the Robley band of desperadoes, a few of whom were still at large. While the efforts of the officials did not slacken it was generally felt that the matter would remain clouded until justice should chance to lay a hand on one of these notorious criminals.

Meanwhile Dr. Maws was carrying on a quiet investigation of his own without taking the prosecutor or others into his confidence. With his usual methodical habit in affairs of interest he set such bits of information as he had or gleaned from time to time into a diagram, neglecting none of the circumstances surrounding the visit of Saunders.

Colonel Hamilton, the father of Alfred, was an irascible and headstrong governor to his household, consisting of his son and a daughter, Marion, who had recently become a marked favorite over her brother in the domestic drama. Alfred had formed an attachment the year of his graduation from college for the daughter of a hunter and trapper, who lived in

and had cleared himself entirely of debt. Since then he had been free in money matters, as many could testify, and had even gone so far as to advance a few loans to acquaintances from his own pocket.

Development had suspended in both the official and the private investigations of the murder when Dr. Maws had occasion one day to visit the Hamilton home to prescribe for one of the servants. On his way out he passed Miss Hamilton at the terrace. He stood aside with a formal bow when his eye caught the glitter of a pin which she wore in the bosom of her dress. In the flash he saw that its design was similar to the one that had been found in the neck cloth near the body of Saunders. Hastily amending his intention of departure, he spoke to the young woman and held her in conversation while he further examined the pin. It was an easy matter to identify the geometric marks as exactly the duplicates of those on the article now held as a clue by the authorities. After studying it for some minutes he made a casual remark of curiosity concerning the little brooch. She took it off and handed it to him, saying that it was the badge of a little club or society to which her brother had belonged at college.

In Rival Society.

"Did Mr. Saunders also belong to this society?" asked Dr. Maws, coming out plump with his question. Miss Hamilton replied that Saunders had belonged to another and rival organization at William and Mary, the pin of which was quite different in shape and marking.

"And does your brother part with this valuable mark of his intellectual superiority so readily?" asked



HE AROSE FROM THE UNDERBRUSH ALMOST AT SAUNDERS' SIDE.

Dr. Maws, carelessly, although his brain was keen enough to seize the answer.

"No," answered the young woman, with a smile, "he has two of these pins and he has condescended to let me have one of them."

The physician took occasion to meet with young Hamilton later in the day where he was superintending the erection of a fence on his father's grounds. The only topic of the time was the murder of Saunders, and this they discussed, Hamilton violently denouncing the Robley band, whom he said he was sure had committed the deed.

"By the way," remarked Maws, "you have heard of the pin that was found by the body. I suppose there is no doubt that it was the property of Saunders?"

The keen glance that accompanied the inquiry detected the start and the sudden whitening of the face with which Hamilton received this square attack. He answered with visible effort.

"None at all. No, of course not; why should there be? He was wearing the pin of his college society when I saw him last."

Some of His Discoveries.

Dr. Maws laid the sum of his discoveries and his inferences before the judgment of his own mind that evening and traced the rise of the hypothesis that had taken gradual growth in his consciousness. In this he was quite sincere and was moved not at all by any ill will for Alfred Hamilton. He was not particularly friendly with the youth, but felt no animosity toward him and was positive that the weight of evil circumstance he had collected bearing upon the scene of the house of Hamilton was not increased or overbalanced by malice or prejudice.

Calling at the Hamilton home the next day, he sought the Colonel on the pretext of discussing with him the condition of the servant he had been treating. By degrees he led the elder man around to the subject of arms, in which he knew him for something of an expert, and followed the conversation with what patience he could muster through the mazes of manufactured weapons, gunpowders, comparative deadliness and finally to the matter of duelling.

Here Colonel Hamilton was in his element, and led by clever questions from Maws, he declared that

he had several sets of pistols of proved accuracy and excellence. Once started on the topic he pursued it to the point for which Maws had been working and took the physician to the library, where he showed him six mahogany cases containing ivory handled and silver mounted duelling sets, all complete.

Still Maws was not to be thrown from the scent. He expressed great interest in the collection and asked if there were any other pistols in the house.

"Oh, yes," replied the Colonel indifferently, "I gave an old set to my son, good arms, but nothing to compare with what I have shown you here. I think they are on the cabinet."

While his host passed into the front room the physician stepped to the cabinet, on which lay a plain black box. He lifted the cover and glanced inside. In its place lay a gold buttoned pistol, the exact duplicate of the one he had found by the ford, and an empty impression in the plush showed where the other should have been.

This was enough for Maws. He lost no time in setting out for Scottsville with his notes in his pocket. There he sought out the prosecutor and laid before him a consistent, matter of fact description of the circumstances that had come to his attention. He disclaimed any desire for notoriety or for undue prominence beyond what would come to any citizen who had carried through an unpleasant task that he regarded as a duty.

Amazed by Disclosures.

He insisted that before any action was taken the officials must go over the ground he had covered independently of his conclusions, which he preferred to keep to himself.

The prosecutor was astonished at the amount of instant evidence that had been overlooked by his officials and collected by the amateur detective, and, complimenting him highly, promised to give the points outlined by Maws his closest attention. The next day two deputy sheriffs went to the Hamilton mansion and placed Alfred Hamilton under arrest on a warrant charging him with the murder of John Saunders.

The youthful prisoner allowed his demeanor to cool strongly against him from the outset. Since the discovery of the body it had been noticed that his manner was depressed and preoccupied, a fact that had been laid to natural grief over the death of his closest friend. When confronted with the series of circumstances arrayed against him at a preliminary hearing he became convinced, apparently, that his case was hopeless and gave himself entirely over to gloomy and sullen reserve.

Elisa Granger was a frequent visitor at the jail and did all in her power to arouse him from his lethargy and to nerve him to a fight for life, asserting her full faith in his innocence. But the young man, with his despondent attitude, could not be shaken from his increased by the hostility of his father, who withheld sympathy or support.

At the trial the case gathered by Maws was presented effectively, with a steady crescendo of accusatory facts. The story told by the prisoner of having lost his way while escorting Saunders on his homeward journey was pointed out as highly improbable. Hamilton said that this was due to a short cut he did not know, but his long residence in the section threw discredit upon the statement. The very incident of the night camp was regarded as a lie, and since the McLeods had passed on without leaving any trace it could not be supported. The testimony establishing that the penniless Alfred had returned with his pockets full of money was not weakened by Hamilton's unverified story that Saunders had lent it to him. The very admission by the accused that it was Saunders' money he had brought back was regarded as a grave blunder.

The pistol and the society pin, of which the State produced the duplicates in proof that they were Hamilton's property, were large counts against him. The prosecution took the position that he had tossed the weapon aside after the murder and had dropped the neck cloth and pin while robbing the body. But more remained behind.

Maws, accompanied by an officer who had the right, had searched Alfred's room in the mansion. Here they found the suit of clothes that had been worn by the young man on the ill-fated ride with his friend. Miss Hamilton, called as a witness by the prosecution, was forced to admit that she had taken the suit for repairs the day after her brother's return owing to the state of the garments. She had found them torn and covered with mud and, what was fully emphasized in court, with blood stains. She gave this information reluctantly, but could not be shaken from the statement.

A final circumstance was advanced that achieved the confusion of the defence. A silver mounted pen-knife was found by Maws in Alfred's room, and this was not only proved to have been Saunders' property, but a servant swore to having seen it in Saunders' hand just before he rode away. Hamilton reluctantly and suddenly admitted that the society pin was his, explaining that he and Saunders had exchanged keep-sakes, the pin being given for the knife.

Maws proved a fair and intelligent witness on the medical points, the identifying of the society pin and the pistol and the finding of the clothing and the knife. After this there was some general testimony on the prisoner's actions, his tendency to occasional violence and his suspicious exclamation at the blacksmith's. A plea of general good character formed the basis for the speech of the prisoner's counsel, and the case went to the jury. They returned an immediate verdict of guilty.

Alfred Hamilton was not a strong man, and the conviction broke down what little resistance and stamina he had retained through his ordeal. Elisa Granger remained his faithful supporter to the end. His health declined rapidly and his mental condition became affected. When the day of execution arrived and they came to lead him from his cell he was found dead.

Twelve years later a man was arrested, tried and convicted for housebreaking, with murder, in Illinois. Before the sentence was carried out he sent for the officials and a clergyman and caused them to take down his dying statement.

He was the youngest of the McLeod brothers. On the night when the two young strangers rested at their camp Saunders and inadvertently disclosed that he carried a considerable sum of money. Hearing that they were to part before reaching the river, he advised the traveller to cross by an unfrequented ford, made his way there through the woods and intercepted Saunders.

While Hamilton was asleep McLeod had taken one of his pistols from his saddle holster, and with this weapon in his hand he arose from the underbrush almost at Saunders' side, shot him in the back of the head and robbed his body of such valuables as he could find. He was disappointed in the amount of money he obtained, which was only a few dollars.

The truth of the story told by Hamilton was thus disclosed. At parting with his friend they affectionately exchanged keepsakes, Saunders giving him the silver mounted pen-knife, while he pinned his society emblem on Saunders' necktie. The latter knew of Alfred's money troubles and induced him to accept a loan of five hundred dollars just as they reached the point where the path branched.

On his way home the horse that Hamilton was riding was frightened by a deer, badly wounded and dead almost under his hoofs. The rider was thrown, falling to the ground in the tracks of the deer, this accounting for the soiled and stained condition of his clothing.

His subsequent actions, which had counted so strongly against him, his agitation, his denial to Maws that the pin found by Saunders was his own, were the promptings of a rather weak character, overwhelmed by fear of being implicated in a crime of which he was wholly innocent, but in which he saw the part that might easily be assigned to him.

The only actor in the tragedy that was left upon its stage when Hamilton's innocence was established was Elisa Granger.