



WOULD YOU CONVICT

ON CIRCUMSTANTIAL EVIDENCE?

The BELTED SKELETON

A TRUE STORY

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BARTOW S. WEEKS, formerly Assistant District Attorney of New York county, who defended Roland B. Molineaux in the celebrated murder trial, says:—

"It is absurd to state that innocent men are in no danger of conviction through circumstantial evidence. But the danger does not lie in the law. It lies in the fact that juries may be influenced by prejudice or public excitement to disregard the rules of evidence, which say that in a case of circumstantial evidence each separate fact must be consistent with guilt, and the whole hypothesis must be inconsistent with innocence.

"A case of circumstantial evidence is not to be compared so much to a chain, in which each link must be perfect, as to a rope, which is no stronger than its weakest strand, each part being essential throughout the whole.

"There is some chance for a wrong through direct evidence. Witnesses may commit perjury or be mistaken. But the ever present menace to the innocent man accused of a crime is the possibility that the jury may not see the rent in the net of circumstance that should, in justice, show his guilt to be impossible."

THEY bore on toward the reddened west, foot-sore and cheerless. It had been a wearying, toilsome journey since their start early that morning, with a disappointment to loosen the grip of resolution. Williams, unused to mere exertion that the juggling of bolts of cloth and the measuring of fabrics, had been ready to drop these two hours. Mahorn, sturdier of frame and muscle as of purpose, held doggedly to the track and would hear of no pause before they reached the county seat, that lay six miles or so ahead. As for lumbering Johnson, the third of the companions, his courage lacked the pith of his limbs and he had announced that soldiering was not for him and that he would turn for home at the crossroads.

They halted in the dust on reaching that point. Far back of them lay the town to which they had journeyed, only to find that the enlistment station had been abandoned. Ahead was the county seat, for which, as they now knew, they should have struck at the first. To the right stretched a fair, easy way to the home hamlet they had quitted with high hearts fully ten hours before. An hour's walk would lead to it, along the short leg of the triangle. They had practically retraced their steps.

"I'm out of it," said Williams, sullenly, leaning on the hickory staff that had propped his steps since noon. "I can't make another yard to-day, and I won't."

Mahorn turned on him impatiently.

"Don't be a milk sop, Dan. I've started to enlist and I'll be on the roll tonight or not at all. It's all right for Johnson, here, if he wants to quit. Nobody knows him more than they do me. But how about your folks if you go trailing back after the send off they gave you? Fine picture you'll make. Gone to the wars in the morning and back by nightfall. Get a little grit and come on."

"But can't we camp here for the night?" whined Williams.

"No, we can't and we won't. I'm going on."

"You wouldn't leave me, would you, Henry? I'm ashamed to go back with Johnson. And you know I'll without a cent. If you get there ahead of me I'll never find you, and then what can I do? You promised you'd see me through."

Henry Mahorn glanced at faint heart with a side-long sneer.

"Do you really think that makes any difference to me? I wasn't aware of any claim you held on my pocket."

The third man regarded the other spitefully.

"You said you'd see me to the recruiting station. You induced me to go along on that basis. All you wanted was company on the road, wasn't it? And now we're nearly there you don't care whether I stand up or whether I die by the roadside. You're a pleasant man for a comrade. I hope we're not in the same company. If we are I could tell some things about you that would make you mighty unpopular."

Heat Jangles Nerves.

"See here," broke in Mahorn, with some heat. "That's enough. Your nerves are all of a jangle, and so are mine, with this confounded heat. We've started on a serious business and I won't be delayed for any one I don't care a rap for. Is that plain? As for my standing over there, you left town because you weren't any too well beloved yourself, if it comes to that."

A dark flush swept the face of the slithered man. His lips, loose hung and nerveless, twitched as he raised a tight clenched hand. When he spoke his voice came in a shrill scream:—

"You—yon—hound! I'm done with you. Go on! Go on! A curse go with you on the first battle field, if you're man enough to reach it. And if I can follow I'll make trouble for you yet."

He stood, mumbling and shaking with the wrath that filled and mastered him as the other, making no answer, turned and strode on his way. Johnson grinned, dropped a word of parting and took the homeward road.

The long, purple shadows that had lain in wait be-

hind each tree and clump of underbrush spread swiftly upon the landscape. There was no house in sight. Mahorn's figure, as it swung along to the next turn, dusty, limping, and that of Johnson ascending a slight rise were the only living things that met the roving eye of Williams. In a minute he would be alone in the sombre plain, with nowhere to rest his head, with not a crust to stay his hunger. He was a man who had lived softly, if not too well, and the outlook struck a chill into him. There were guerillas in the country, people said, and more than one man had lost his life along the road, even penniless men. Presently it would be dark.

Mahorn was rounding the turn now—Mahorn, whom he hated, but who was at least a man. And Mahorn had money, which meant food, protection, shelter. He started from his leaning posture against the hickory staff and shouted:—

"Henry! Oh, Henry! Wait a second; I'm coming."

Mahorn halted while Williams, with painful but hasty steps, came on after him. Johnson, at the top of the rise, turned and watched the scene, then grinned and resumed his way.

The tide of war had rolled back. The tramping hundreds of thousands had marched in the last review and turned their hands once more to the works of peace. The little wayside hamlet in Illinois wel-

axed in sleep or an exhausted mariner lashed to a spar. To all appearance it had remained undisturbed for five years or so, possibly longer. The spot where the plum tree grew stood on a part of a large estate that had never known the axe and would draw few visitors.

Thorpe proceeded with his preliminary notes upon the circumstances surrounding the finding of the skeleton and its present condition. With native prevision he foresaw that some detail of trifling immediate moment might bear a weighty relation to the case, if the affair should so shape that any explanation of the mystery might be advanced.

In truth he had little hope of such an outcome. The country had grown used to the traces of sudden death. A thicket here and there upon the fringe of the war torn sections might easily hide a fearful secret to which the key had been lost. But with ready method and conscientious care he set his wits to work upon the matter.

One of the first things that a study of the skeleton's position conveyed to him was assurance that the man had never placed himself in the tree. The belt, besides holding the arms to the sides, was buckled on the under side of the trunk. The buckle itself was unusually small and the tongue had been slipped through it. Again, he shrewdly marked that a living,

above the bridge of the nose. The skull between the eyes had been fractured. There were traces of other abrasions, but, in the opinion of the examiners, no other blow had been struck upon the head that could have caused death, although one of them might have induced insensibility. They did not think that the shattering of the forehead had been caused by a bullet, owing to the nature of the depression. There were no marks upon the ribs to indicate the glancing of a knife or other foreign body.

The skull was in good condition and offered a promising opportunity for identification. The teeth were particularly well preserved, and one feature here was of first importance to Thorpe's purpose, since in life it must have been apparent to all who knew or had held conversation with the man. The canine tooth on the left side of the lower jaw projected outward to a marked degree. Nor was this the result of a loosening in the socket. The bone of the jaw was slightly malformed, with a twist in its curve that held the tooth permanently at an angle.

Another fact that Thorpe found worth noting was that a molar on the same side of the jaw had been broken off above the roots. There were indications that the tooth had been decayed and the physicians concurred in the belief that it might have been snapped by force during an attempt to extract it.

The clothing, such as remained, was of a poor and cheap texture. There were some rags of a cotton shirt. The coat and trousers had been of blue shoddy. A mouldering fold of the coat retained part of what had been a pocket, and in this the deputy sheriff discovered another fragment of potential evidence. It was a small roll of cheap gold braid, rotted into a mass but still capable of being classified by any dealer in dry goods.

Thorpe caused the skeleton and the clothing to be laid out in the town hall for public inspection, relying upon recognition of the relics by some chance visitor. He won his point much sooner than he had expected. The first man who viewed the skeleton was the postmaster, who made an instant identification. He said:—

"That's Henry Mahorn. There never was but one man who carried a tooth in his head like that."

Teeth in Evidence.

Corroboration was full and satisfactory. All who had known Mahorn during his year of residence verified the pronouncement. The man's small but noticeable disfigurement was remembered by every person who remembered him at all. Identity was further established by the statement of Brooks, an itinerant dentist who visited the village once each year. He declared that he had attempted to extract the decayed molar for Mahorn, but that it had broken under the forceps. He also recalled the prominent tooth.

Thorpe's first care in reconstructing the movements of Mahorn attending his departure was to fix the date. This at first presented some difficulty, since there had been no one to bid him farewell. But the blacksmith recalled that Mahorn had marched off to the east for a town where the enlisting station was supposed to be located and that he had gone in company of Daniel Williams and Thomas Johnson. Williams was now employed as a cooper and Thorpe knew and liked him. He made his next application for information of the former counter jumper.

Williams readily recalled the day's journey with the other two men, the disappointment at finding that the enlistment station had been closed, Johnson's defection and the continued tramp with Mahorn. He said that after leaving the cross roads he and Mahorn had gone forward without loss of time, reaching the county seat in the early evening. He had parted from Mahorn, he said, as soon as they entered the town.

"Are you sure you have found Mahorn's body?" asked Williams. "I believe you're on the wrong track."

"What makes you say that? Have you seen the skeleton?"

"No," answered Williams, with some hesitation. "But I don't see how it could be Henry Mahorn."

He repeated his narration of the trip with Mahorn with a ready flow of words. To Thorpe the man's conversation seemed a trifle too smooth and detailed. Considering the lapse of time he could have understood a halting speech more easily. He left Williams in an irritated mood. He could not shake off the feeling that the cooper was hiding something from him. And why should Williams wish to hide anything from him? He was in the street when a thought came to him and he returned.

"Have you any idea what became of Mahorn?" he asked.

"Yes," said Williams. "He enlisted in the Tenth Missouri Volunteers. I suppose he was shot or died in a hospital."

"But you just said he left you when you reached the town."

The nimble tongue of Williams tripped for a second and ran on.

"Well, he told me that was the regiment he wanted so I suppose he joined."

It took a week to run down Johnson. The deputy sheriff found him working as a laborer on a farm in another part of the county. Johnson told his story in straightforward manner. One day had cured him of the war fever, he said, but Mahorn was a man to go through with his plans. He described his parting with the other two at the crossroads and spoke of the words between Mahorn and Williams, recalling with a grin how the weaker character had yielded and had followed the stronger down the road. Thorpe was inclined to be very suspicious concerning this suggestion of a quarrel and questioned Johnson keenly and at length. He found no ill nature in his man. The narrative, as the investigator determined to his own satisfaction, was colored by no dark, unconfessed motive.

Sure of the Pipe.

But he had not exhausted the possibilities of Johnson as a witness. He pulled from a pocket the pipe he had found by the plum tree and which he had meantime restored to its original condition. Holding this before Johnson he asked him sharply if he knew whose it was.



INSISTENCE OF HIS GAZE MADE FIRST ONE AND THEN ANOTHER GLANCE IN THAT DIRECTION.

comed its heroes. Among the last of the living to be accounted for was Daniel Williams, a changed man, strong, wiry, upright, alert, bronzed, with a corporal's stripes on his uniform well won at Vicksburg. People were proud of Williams.

One of those who had not returned was Henry Mahorn. It was a time of unexplained gaps in communities. Obscure engagements, forgotten burial grounds, camp hospitals had their unwritten lists of dead. Families suffered untold agonies of suspense in waiting for the troops to come home. Mahorn had had no family. There were few to wonder what his fate had been and fewer to care. He had lived in the town only a year.

There came a day when a farmer coming to market brought in a story that caused a mild sensation. A laborer wandering through a patch of woods off the road to the county seat had come upon a skeleton perched in the lower branches of a tree.

The man who took charge of the investigation was John Thorpe, a deputy sheriff, one of those who had done manful work for the preservation of order at home while others gained more glory at the front. His duty had led him into as deadly warfare, however, for Southern Illinois had been infested with bandits, guerillas and sham combatants, the buzzards of the conflict, preying upon the unprotected of either side. Thorpe was tall, thin, quick handed, sharp eyed and capable. His courage was unquestioned, as was his claim by right of character and training to the pursuit of criminals.

Discovery of the Crime.

Thorpe found the farmer's report to be true. A farm hand—Tobin—employed some miles distant, had been exploring aimlessly in a wooded patch when he made the startling discovery. A wild plum tree grew with a curious formation, presenting a natural chair where its two main branches left the trunk three feet above the ground. In this, supported partly by the tree, partly by the mass of thrusting twigs and shoots that grew about, half hung, half leaned the skeleton of a man.

It was complete, nor had the stress of weather deprived it of some fragments of a suit of clothes that flapped in tatters upon the fleshless limbs. Its position in the tree had been secured further by means of a thin leather belt, of unusual length, that had been passed about its middle, holding down the arms, and fastened under the branch that served as the back of the reclining chair.

Its head was sunk upon its upper ribs and from a little distance in the shadowy wood there was a semblance of wearied life in its pose, as of some worker

resisting prisoner could not have been fastened in such a manner, since the pressure of the belt, coming just above the forearm, would have failed to prevent the instant freeing of the arms by a twisting pull. It was evident that the victim had been either dead or senseless when placed upon the tree.

The belt was something of a puzzle. The tongue was a separate strip of leather, sewn to the body of the article and tapering. The buckle was held by another separate strip, sewn to the other end in the same way. Thorpe had never seen such a belt.

As he circled the plum tree his eye caught a scar upon the branch that faced the skeleton. Stepping closer he made out a rough carved emblem that added the last touch of the bizarre and grotesque to the strange picture. It was a cross, the bars widened at the end to suggest the conventional bones. To the serious minded Thorpe this discovery seemed unreal. It threw a hint of mockery, of stage effect, upon a grave matter. He almost resented it.

The space about the plum tree was grown with tangled vines and grasses. Thorpe tore his way among the matted obstruction for possible further clues. A little whisp of a snake glided away from beneath his feet and flashed from sight. Thorpe instinctively plucked up a dead branch and struck at it. The stick landed upon a tuft below which was some object that gave back a sound from the blow. He uprooted the tuft. Beneath lay a thing that he could not distinguish at first from the soil about it. Lifting it carefully he found it to be a briar pipe, with a bone stem, incrusting with decayed vegetation, but well preserved. It was mounted with parallel bands of twisted silver, tarnished but whole.

Nothing further rewarding his search through the undergrowth, he turned his attention to the skeleton. The utmost care exercised by the deputy and his assistants did not suffice to dislodge the bones from their resting place in perfect condition. It was necessary to reconstruct the frame with the parts laid out upon a plank.

With all the bits of evidence it was then placed in a farmer's wagon and taken to the village. Here Thorpe set about obtaining the expert information which was indispensable to the next step in the investigation and which it lay beyond his province to pass upon. Two physicians were summoned and made an examination.

The skeleton was pronounced to be that of a man not more than thirty years old, about five feet nine inches in height and of powerful build. Death, it was determined, probably had been caused by a blow from some heavy weapon, a club or the butt of a rifle, just

"Sure. That belongs to Williams," was the prompt answer.

"How do you know?"

"Couldn't miss it. Nobody else has a pipe with silver trimmings like that. I tried to buy it from him once, but he wouldn't part with it."

"Did Williams carry a pistol when you went off together to enlist?"

"Not that I knew of, and I'm pretty sure he couldn't have had one without my knowing it."

"Was he armed in any way?"

"Not what you might call armed. He carried a hickory staff he'd cut, if that's what you mean?"

"Was it heavy staff?"

"Middling heavy. A good stout stick."

One more matter was settled by Thorpe before his return to the village. He visited Missouri, obtained the records of the Tenth Missouri Volunteers and scanned them for Mahorn's name. He could not find it. Pending answers from inquiries at Washington he hurried back with the information he had obtained. His duty was plain. Williams had lied concerning Mahorn's movements. A pipe belonging to Williams, which was now identified by three other persons besides Johnson, had been found by the skeleton. There had been a quarrel between the men, who were last seen together on the road which passed the lonely wood. So far it was possibly not a strong enough case for conviction, but it called for the apprehension of Williams.

On the strength of the evidence held by Thorpe Williams was held for murder at the inquest.

The investigator continued with his task. He turned next to an examination of the room that had been occupied by the prisoner in the house of the master cooper, his employer. As he had hoped, he found the kit that Williams had carried through the war and a collection of mementos and relics. Sorting these articles, he appropriated each one that offered any chance of a clue and set it aside as a possible aid. He had nearly completed the search, which he undertook more with an idea of covering the available ground thoroughly than with any great hope of success, when, in turning over some odds and ends of garments in an old box, he came upon a thin leather belt. He was in the act of tossing it idly to one side when a flash of recollection came to him. The belt he held was the exact duplicate of the one that had bound the skeleton to the tree.

Following hard on the scent thus suddenly grown warm, the deputy sheriff set himself to strip this circumstance down to its naked significance. He hurried to the Town Hall with his find and laid it out on a table. Beside it he placed the belt that had bound the skeleton. Allowing for the warping and usage of time upon both articles, the solution of the resemblance was at once apparent. He had before him the two halves of what had once been a wide, double belt. The small buckles, the seven tongues, were identical on each. The original belt had been cut down the center, rough hand, with a sharp knife. The irregularities along the inner edges fitted perfectly.

This circumstance was used as the cornerstone of the case against Daniel Williams, but Thorpe was able to lay his hand upon other important points before the trial. By dint of thorough and painstaking inquiry he found a man at the county seat who had known Williams and had recognized him on the night he arrived there tired and travel worn. This man had seen the prospective recruit at a small hotel and could swear with great positiveness that Williams was not accompanied by Mahorn, whom he also knew. The witness was also able to revive the memory of the proprietor of the hotel, who had not known Williams but could recall his visit through some trifling incident. Both agreed that Williams seemed to have money on the night in question. To set against this Thorpe advanced proof that Williams had been in great need of cash before leaving to enlist, the pressure of his debts having constituted part of his motive for seeking the front.

A few days before the trial word was received from Washington that no record of a soldier named Henry Mahorn could be found.

Gold Braid the Missing Link.

One more accessory piece of evidence was obtained by Thorpe. From the keeper of the little store where Williams had been employed before joining the army he learned that gold braid of the kind found in the pocket of the skeleton's coat had been carried in stock at the time of the war. Williams would have had access to this braid.

Why it should be found in Mahorn's pocket was not immediately clear, but the deputy sheriff finally settled that point to the satisfaction of the authorities. By the testimony of the blacksmith and Johnson he brought out that Mahorn had worn a suit of gray, according to their best belief, when he left the town, while Williams was dressed in dark blue. The skeleton's coat was blue. From this Thorpe advanced the theory that Williams had changed coats with Mahorn after murdering him, thus accounting for the presence of the braid.

The case for the prosecution as collected by Thorpe began with a character sketch of each of the three companions and their adventures up to the crossroads. Williams was drawn as an irritable, petulant man, subject to fits of passion, during which he was capable of violence. This was supported by testimony. The mood that possessed him when he set out to overtake Mahorn was clearly pictured by the witness Johnson. The view of the State was that Williams had formed the plan to murder Mahorn as he stood and watched the man march away, partly for the sake of his money, partly in revenge for his taunts and partly in resentment against the enforced travel. In the deepening twilight he had dropped back a step and struck the other a swinging blow with his staff. After robbing the body and changing coats with it he had dragged it into the woods. The remarkable position of the skeleton, fastened by the belt in the tree was explained as a vagary of a morbid mind, possessed by some vague idea that possible pursuit could be thrown upon the blind trace of an imaginary secret band and the dark mysteries of a criminal's heart. Many similar cases were adduced to support this theory. Into which the crossbone emblem on the trunk was fitted. It was shown clearly that the half belt and the silver mounted pipe were the property of the prisoner.

There was a stir in the court room. The jury entered, each man marked by a grave and preoccupied air. The question was put and the verdict of "guilty" was pronounced against Daniel Williams for the murder of Henry Mahorn. All eyes were turned upon the convicted man. He was looking toward the door. The insistence of his gaze made first one and then another glance in that direction. Soon judge, jury, counsel and spectators were staring at a figure that stood back of the last row of seats. It was Henry Mahorn in the flesh.

The only light that was ever thrown upon the pressure of the skeleton in the woods was obtained from the story told by Mahorn. Making a round of the bars on the night of his arrival at the county seat, he had been set upon, beaten into insensibility and robbed of all his possessions. Before parting with Mahorn he had bought his companion's pipe and the half of the belt, his own having broken. These articles had been taken from him by the robbers. The sole explained how Williams came to have some money with him at the small hotel. On recovering consciousness next morning Mahorn had taken shame at his disgrace of the night before and had enlisted under an assumed name. He believed the skeleton to be that of one of the robbers, killed by the others during a quarrel in the woods. The gold braid and the resemblance the skeleton bore to his own peculiarities he could only explain as two of those strange coincidences that fill the annals of circumstantial evidence.

