

A CHAPTER,

FROM THE NOTE BOOK OF A DECEASED LAWYER.

In the year 17—, John Smith was indicted for the wilful murder of Henry Thomson. The case was one of a most extraordinary, and the interest excited by it was almost unparalleled. The accused was a man of considerable property, residing on his own estate, in an unfrequented part of —shire. A person, supposed to be an entire stranger to him, had late in a summer's day, requested and obtained shelter and hospitality for the night. He had, it was supposed, after taking some slight refreshment, retired to bed in perfect health, requesting to be awakened at an early hour the following morning. When the servant appointed to call him, entered his room for that purpose, he was found in his bed perfectly dead; and from the appearance of the body, it was obvious that he had been so for many hours. There was not the slightest mark of violence on his person, and the countenance retained the same expression which it had borne during life. Great consternation was, of course excited by this discovery, and inquiries were immediately made—first, as to who the stranger was—and secondly, as to how he met with his death. Both were unsuccessful.—As to the former, no information could be obtained—no clue discovered to lead to the knowledge either of his name, his person, or his occupation. He had arrived on horseback, and was seen passing through a neighbouring village about an hour before he reached the house where his existence was so mysteriously terminated, but could be traced no farther. Beyond this all was conjecture.

Two months after the death of the stranger, a gentleman arrived at the place impressed with the belief that that he was his brother, and seeking for information either to confirm or refute his suspicions. The horse and clothes of the unfortunate man still remained, and were instantly recognized; one other test there was, though it was uncertain whether that would lead to any positive conclusion; the examination of the body. The test was tried; and although decomposition had gone on rapidly, yet enough remained to identify the body, which the brother did most satisfactorily. As soon as it was known that there was a person authorized by relationship to the deceased, to inquire into the cause of his death, and, if it should appear to have been otherwise than natural, to take steps for bringing to justice those who had been concerned in it, the reports which had been previously floating idly about, and circulated without having any distinct object, were collected into his ear! What these reports were and what they amounted to, is not necessary here to mention; suffice it to say, that the brother laid before the magistrates of the district such evidence as induced them to commit Mr. Smith to gaol, to take his trial for the wilful murder of Henry Thomson. As it was deemed essential to the attainment of justice, to keep secret the examination of the witnesses who were produced before the magistrates, all the information of which the public were in possession of before the trial took place, was that which I have here narrated.

The counsel for the prosecution opened the case to the jury in a manner that indicated very little expectation of a conviction. The deceased, Henry Thomson, was a jeweller, residing in London, wealthy, and in considerable business; and, as was the custom of his time, in the habit of personally conducting his principal transactions with the foreign merchants with whom he traded. He had travelled much in the course of his business in Germany and Holland; and it was to meet at Hull a trader of the latter nation, of whom he was to make a large purchase, that he had left London a month before his death. It would be proved by the landlord of the inn where he had resided, that he and his correspondent had been there; and a wealthy jeweller of the town, well acquainted with both parties, had seen Mr. Thomson after the departure of the Dutchman, and could speak positively to there being in his possession jewels of large value, and gold, and certain bills of exchange, the parties to which he could not describe. This was on the morning of Thomson's departure from Hull, on his return to London, and was on the day but one preceding that on which he arrived at the house of the prisoner. What had become of him in the interval could not be ascertained, nor was the prisoner's house situated in the road which he ought to have taken.

He had not been seen from the time of his leaving Hull till he reached the village next adjoining Smith's house, and through which he passed without even a momentary halt. He was seen to alight at Smith's gate, and the next morning was discovered dead in his bed. He now came to the most extraordinary part of the case. It would be proved beyond the possibility of a doubt, that the deceased died by poison—poison of a most subtle nature, most active in its operation, and possessing the wonderful and dreadful quality of leaving no external mark or token by which its presence could be detected. The ingredients of which it was composed were of so sedative a nature, that, instead of the body on which it had been used exhibiting any contortions or marks of suffering, it left upon the features nothing but the calm and placid quiet of repose. Its effects, and indeed its very existence, were but recently known in this country, though it had for some time been used in other nations of Europe; and it was supposed to be a discovery of the German chemists, and to be produced by a powerful distillation of the seed of the wild cherry tree, so abundant in the Black Forest.

The prisoner's family consisted only of himself, house-keeper, and one servant. The man-servant slept in an out-house adjoining the stable, and did so on the night of Thomson's death. The prisoner slept at one end of the house, and the house-keeper at the other, and the deceased had been put into a room adjoining the house-keeper's. It would be proved by a person who happened to be passing by the house on the night in question, about three hours after midnight, that he had been induced to remain and watch, from having his attention excited by the circumstance, then very unusual, of a light moving about the house at that late hour. The person would state, most positively, that he could distinctly see a figure, hold-

ing a light, go from the room in which the prisoner slept, to the house-keeper's room; that two persons came out of the house-keeper's room, and the light disappeared for a minute. Whether the two persons went into Thomson's room, he could not see, as the window of that room looked another way; but in about a minute they returned, passing quite along the house to Smith's room again; and in about five minutes the light was extinguished, and he saw it no more.

Such was the evidence upon which the magistrates had committed Smith; and singularly enough, since his committal, the house-keeper had been missing, nor could any trace of her be discovered. Within the last week, the witness who saw the light had been more particularly examined; and, in order to refresh his memory, he had been placed at dark, in the very spot where he had stood on that night, and another person was placed with him. The whole scene, as he had described it, was acted over again; but it was utterly impossible from the cause above mentioned, to ascertain, when the light disappeared, whether the parties had gone into Thomson's room. As if, however, to throw still deeper mystery over this extraordinary transaction, the witness persisted in adding a new feature to his former statement: that after the person had returned with the light into Smith's room, and before it was extinguished, he had twice perceived some dark object to intervene between the light and the window, almost as large as the surface of the window itself, and which he described by saying, it appeared as if a door had been placed before the light. Now, in Smith's room there was nothing which could account for this appearance; his bed was in a different part; and there was neither cup-board nor press in the room, which, but for the bed, was entirely empty, the room in which he dressed, being at a distance beyond it. He would state only one fact more, (said the learned counsel) and he had done his duty; it would then be for the jury to do theirs.—Within a few days there had been found, in the prisoner's house, a stopper of a very singular description; it was apparently not of English manufacture, and was described, by the medical men, as being of the description used by chemists to preserve those liquids which are most likely to lose their virtue by exposure to the air. To whom it belonged, or to what use it had been applied, there was no evidence to show.

I need not detail the evidence that was given for the prosecution; it amounted, in substance, to that which the counsel stated; nor was it varied in any particular. The stopper was produced, and proved to be found in the house; but no attempt was made to trace it to the prisoner's possession or even knowledge.

When the case was closed, the learned Judge, addressing the counsel for the prosecution, said he thought there was hardly sufficient evidence to call upon the prisoner for his defence; and if the jury were of the same opinion they would at once stop the case. Upon this observation from the Judge, the jury turned round for a moment, and then intimated their acquiescence in his lordship's view of the evidence. The counsel folded up their briefs, and a verdict of acquittal was about to be taken, when the prisoner addressed the court. He stated, that having been accused of so foul a crime as murder, and having had his character assailed by suspicions of the most afflicting nature, that character could never be cleared by his acquittal, upon the ground that the evidence against him was inconclusive, without giving him an opportunity of stating his own case, and calling a witness to counteract the impressions that had been raised against him, by explaining those circumstances which at present appeared doubtful. He urged the learned Judge to permit him to state his case to the jury, and to call his housekeeper with so much earnestness, that Lord Mansfield, though contrary to his usual habit, gave way, and yielded to the request.

The prisoner then addressed the Jury, and entreated their patience for a short time. He repeated that he never could feel satisfied to be acquitted, merely because the evidence was not conclusive; and pledged himself, in a very short time, by the few observations he should make and the witness whom he should call, to obtain their verdict upon much higher ground—upon the impossibility of his being guilty of the dreadful crime.

One fact, and one only had been proved, to which it was possible for him to give an answer, the fact of his having gone to the bed room of his housekeeper on the night in question. He had been subject for many years of his life, to sudden fits of illness; he had been seized with one on that occasion, and had gone to her to procure her assistance in lighting a fire. She had returned with him for that purpose, he having waited for a minute in the passage while she put on her clothes, which would account for the momentary disappearance of the light; and after she had remained in his room a few minutes finding himself better, he dismissed her, and retired again; from which he had not risen when he was informed of the death of his guest. It had been said, that, after his committal to prison, his house-keeper had disappeared. He avowed that, finding his enemies determined, it possible to accomplish his ruin, he had thought it probable they might tamper with his servant, he had, therefore, kept her out of their way; but for what purpose? Not to prevent her testimony being given, for she was now under the care of his solicitor, and would instantly appear for the purpose of confirming, as far as she was concerned, the statement he had just made.

Such was the prisoner's address, which produced a powerful effect. It was delivered in a firm, impressive and apparently candid manner, and its simplicity and artlessness gave to it an appearance of truth. The house-keeper was then put into the box, and examined by the counsel for the prisoner. According to the custom at that time almost universal, of excluding witnesses from court until their testimony was required, she had been kept at a house near at hand, and had not heard a single word of the trial. She repeated, almost in the prisoner's own words, the story that he had told of his having called her up, and her having accompanied him to his room adding that, after leaving him, she had retired to her own

room, and been awakened by the man-servant in the morning, with an account of the traveller's death. She had now to undergo a cross-examination; and I may as well state here, that which, though not known to me till afterwards, will assist the reader in understanding the following scene:

The counsel for the prosecution had, in his own mind, attached considerable importance to the circumstance mentioned by the witness who saw the light, that while the prisoner and the house-keeper were in the room of the former, something like a door intervened between the candle and the window, which was totally irreconcilable with the appearance of the room when examined; and he had half persuaded himself that there must be a secret closet which had escaped the search of the officers of justice, the opening of which would account for the appearance alluded to, and the existence of which might discover the property which had so mysteriously disappeared. His object, therefore, was to obtain from the housekeeper (the only person except the prisoner who could give any clue to this) such information, as he could get, without alarming her by any direct inquiry on the subject, which, as she could not help seeing its importance, would have led her at once to a positive denial.—After some few unimportant questions, he asked her in a tone and manner calculated rather to awaken confidence than to excite distrust—

During the time you were in Mr. Smith's room, you stated that the candle stood on the table, in the centre of the room?—Yes. Was the closet, or cupboard, or whatever you call it, opened once or twice, while it stood there? A pause: no answer.

I will call it to your recollection: After Mr. Smith had taken the medicine out of the closet, did he shut the door, or did it remain open?—He shut it.

Then it was opened again for the purpose of replacing the bottle, was it?—It was.

Do you recollect how long it was open the last time?—Not above a minute.

The door when open, would be exactly between the light and the window, would it not? It would.

I forgot whether you said the closet was on the right, or left hand side of the window?—The left.

Would the door of the closet make any noise in opening?—None.

Can you speak positively to that fact? Have you ever opened it yourself, or only seen Mr. Smith open it?—I never opened it myself. Did you never keep the key?—Never. Who did? Mr. Smith always.

At this moment the witness chanced to turn her eyes towards the spot where the prisoner stood, and the effect was almost electrical. A cold damp sweat stood upon his brow, and his face had lost all its color; he appeared a living image of death. She no sooner saw him than she shrieked and fainted. The consequences of her answers flashed across her mind. She had been so thoroughly deceived by the manner of the advocate, and by the little importance he had seemed to attach to her statements, that she had been led on by one question to another, till she had told him all that he wanted to know.—A medical man was immediately directed to attend her; and during the interval occasioned by this interruption to the proceedings, the solicitor for the prosecution left the court. In a short time the gentleman who had attended the witness returned into court, and stated that it was impossible that she could at present resume her place in the box; and suggested that it would be much better to allow her to wait for an hour or two. It was now about twelve in the day: and Lord Mansfield, having directed that the jury should be accommodated with a room where they could be kept by themselves, adjourned the court for two hours. The prisoner was taken back to gaol, and the witness to an apartment in the gaoler's house; and strict orders were given that she should be allowed to communicate with no one, except in the presence and hearing of the physician. It was between four and five o'clock when the judge resumed his seat upon the bench, the prisoner his station at the bar, and the house-keeper hers in the witness-box; the court in the interval had remained crowded with the spectators, scarce one of whom had left his place, lest during his absence it should be seized by some one else.

The cross-examining counsel then addressed the witness—I have very few more questions to ask of you; but beware that you answer them truly, for your own life hangs upon a thread. Do you know this stopper?—I do.

To whom does it belong?—To Mr. Smith.

When did you see it last?—On the night of Mr. Thomson's death.

At this moment the solicitor for the prosecution entered the court, bringing with him, upon a tray, a watch, two money-bags, a jewel case, a pocket-book, and a bottle of the same manufacture as the stopper, and having a cork in it; some other articles were in it, not material to my story. The tray was placed on the table in sight of the prisoner and the witness; and from that moment not a doubt remained in the mind of any man of the guilt of the prisoner. A few words will bring my tale to its close. The house where the murder had been committed was between nine and ten miles distant. The solicitor, as soon as the cross-examination of the house-keeper had discovered the existence of the closet, and its situation, had set off with two sheriff's officers, and, after pulling down part of the wall of the house, had detected this important place of concealment. Their search was well rewarded; the whole of the property belonging to Mr. Thomson was found there, amounting, in value, to some thousand pounds; and to leave no room for doubt, a bottle was discovered, which the medical men instantly pronounced to contain the very identical poison which had caused the death of the unfortunate Thomson. The result is too obvious to need explanation.

The case presents the, perhaps, unparalleled instance of a man accused of murder, the evidence against whom was so slight as to induce the judge and jury to concur in a verdict of acquittal; but who, persisting in calling a witness to prove his innocence, was, upon the testimony of that very witness, convicted and executed.