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FROM THE SENTIMENTAL AND MORAL MAGAZINE.

A REMARKABLE ACCOUNT OF A MURDER,

For which an innocent Man was nearly
condemned upon circumstances.

IN the reign of Queen Elizabeth, a person was arraigned before Sir James Dyer, lord chief justice of the court of common pleas, upon an indictment for the murder of a man, who dwelt in the same parish with the prisoner. The first witness deposed, That on a certain day mentioned by the witness, in the morning as he was going through a close, which he particularly described, at some distance from the path, he saw a person lying, seeming to be either dead or drunk: that he went, and found him actually dead, two wounds appearing in his breast, and his shirt and cloaths much stained with blood: that the wounds appeared to have been given by the puncture of a fork or some such instrument; and looking about he discovered a fork, lying near the corpse, which he took up, and observed it to be marked with the initial letters of the prisoner's name. The witness at the same time produced the fork in court, which the prisoner owned to be his.

A second witness deposed, That on the morning of the day on which the deceased was killed, he had risen early with an intention to go to a neighbouring market town; and as he was standing in his house, the door being open, he saw the prisoner go by, dressed in a suit of cloaths, the colour and fashion of which he described; that he (the witness) was prevented from going to market, and afterwards the first witness brought notice to the town of the death and wounds of the deceased, and of the prisoner's fork being found near the corpse; that upon this report the prisoner was apprehended, and carried before a justice of the peace, who was then present in court; that he (the witness) followed the prisoner to the justice's house, and attended his examination, during which he observed the change of raiment which the prisoner had made since the time he had first seen him in the morning: that at the time of examination, the prisoner was dressed in the same cloaths which he had on at the trial; and that on the witness's charging him with having changed his cloaths, he gave several evasive answers, and would have denied it: that upon his mentioning this circumstance of the change of dress, the justice granted a warrant to search the prisoner's house for the cloaths described by the witness, as having been put off since the morning: that after a diligent search, the very cloaths which the witness had described were discovered all bloody, concealed in a straw bed. He then produced the bloody cloaths in court, which the prisoner owned to be his, and to have been thrust into the straw bed, with an intention to conceal them on account of their being bloody.

The prisoner, being called upon to make his defence, gave the following narrative to the court, as containing all he knew concerning the manner and circumstances of the death of the deceased, viz. "That he rented a close in the same parish with the deceased, and that the deceased rented another close adjoining to it: that the only way to his own close was through that of the deceased, and that on the day when the murder was committed, he rose early in the morning, to go to work in his close, with his fork in his hand; and passing through the ground of the deceased, he observed a man at some distance from the path, lying as if dead, or drunk; that he went to see what condition the person was in, and found him in the last extremity, with two wounds in his breast, from which a great deal of blood had issued; that in order to relieve him, he raised him up, and with

great difficulty set him in his lap: that he told the deceased he was greatly concerned at his unhappy fate, and the more so, as there seemed too much reason to apprehend he had been murdered; that he entreated the deceased to discover, if possible, the occasion of his misfortune, assuring him he would use his utmost endeavours to bring the murderer to justice: that the deceased seemed to be sensible of what he said, and in the midst of his agonies, attempted to speak, but being seized with a rattling in his throat, after a hard struggle, he gave a dreadful groan, and vomiting a great deal of blood, some of which fell on his (the prisoner's) cloaths, he expired in his arms; that the shock he felt on account of this accident was not to be expressed; and the rather, as it was well known there had been a difference between the deceased and himself, on which account he might possibly be suspected of the murder; that he therefore thought it advisable to leave the deceased in the condition he was, and to take no farther notice of the matter; that in the confusion he was in, when he left the place, he took away the fork of the deceased, and left his own in the room of it, by the side of the corpse; that being obliged to go to work, he thought it best to shift his cloaths; and that they might not be seen, he confessed he had hid them in the place where they were found: and that it was true, he had denied before the justice to have changed his cloaths, being conscious that this was an ugly circumstance that might be urged against him; and being unwilling to be brought into trouble, if he could help it, and concluded his story with a solemn declaration that he had related nothing but the truth, without adding or diminishing one tittle, as he should answer it to Almighty God." Being called upon to produce his witnesses, the prisoner answered, with a steady composed countenance and solemn tone of voice, that he had no witnesses but God and his own conscience.

The judge then proceeded to deliver his charge to the jury, in which he pathetically enlarged on the heinousness of the crime, and laid great stress on the force on the evidence, which, although circumstantial only, he declared he thought to be irresistible, and little inferior to the most positive proof; that the prisoner had indeed contrived a very plausible story; but if such allegations were admitted in a case of this kind, no murderer would ever be brought to justice, such bloody deeds being generally perpetrated in the dark, and with the greatest secrecy; that the present case was exempted, in his opinion, from all possibility of doubt, and that they ought not to hesitate one moment about finding the prisoner guilty.

The foreman begged his Lordship, as it was a case of life and death, that the jury might be at liberty to withdraw, and upon this motion, an officer was sworn to keep the jury. This trial came on in the morning, and the judge having sat till nine at night, expecting the return of the jury, at last sent an officer to enquire if they were agreed in their verdict; for, his Lordship would wait no longer for them. Some of them answered that eleven of them had been of one mind from the first; but their foreman was of a different opinion, and was unalterably fixed in it.

The Messenger no sooner returned, but the complaining members alarmed at the thought of being confined all night, and despairing of bringing their dissenting brother over to their way of thinking, agreed to accede to his opinion, and having acquainted him with their resolution, they sent an officer to detain his Lordship a few minutes, and then went into Court, and by their foreman brought in the prisoner not guilty. His Lordship could not help expressing the greatest surprize and indignation at this unexpected verdict,

and, after giving the jury a severe admonition, he refused to record their verdict, and sent them back again, with directions that they should be locked up all night without fire or candle. The whole blame was publicly laid on the foreman by the rest of the members, and they spent the night in loading him with reflections, and bemoaning their fate in being associated with so hardened a wretch; but he remained quite inflexible; constantly declaring he would suffer death, rather than change his opinion.

As soon as his Lordship came into Court the next morning, he sent again to the jury, on which all the eleven members joined in requesting their foreman to go again into Court, assuring him they would adhere to their former verdict, whatever was the consequence; and on being reproached for their former inconstancy, they promised never to desert or recriminate their foreman any more. Upon this, they proceeded into Court, and again brought in the prisoner not guilty. The Judge, unable to conceal his rage at a verdict which appeared to him in the most iniquitous light, reproaching them with the severest censures, and dismissed them with this cutting reflection, "That the blood of the deceased lay at their door."

The prisoner on his part fell on his knees, and with uplifted eyes and hands, thanked God for his deliverance, and addressing himself to the Judge, cried out; "You see, my Lord, that God and a good conscience are the best of witnesses." These circumstances made a deep impression on the mind of the judge, and when he had retired from the Court, he entered into discourse with the high Sheriff, upon what had passed and particularly examined him, as to his knowledge of the leader of the jury.

This gentleman said, he had been acquainted with him many years: that he had an estate of his own of above fifty pounds per annum, and that he rented a very considerable farm besides; that he never knew him charged with an ill action, and that he was universally esteemed in his neighbourhood. For further information his Lordship sent for the minister of the parish, who gave the same favourable account of his parishioner, with this addition, that he was a churchman, and a devout communicant.

These accounts rather increased his Lordship's perplexity; therefore he desired a conference in private with the only person who could give him satisfaction; and desired the Sheriff to procure the desired interview. The juryman being introduced to the judge, his Lordship retired into a closet, where he opened his reasons for desiring that visit, and conjured his visitor frankly to discover his reasons for acquitting the prisoner. The juryman answered that he had sufficient reasons to justify his conduct, and that he was neither afraid nor ashamed to reveal them; but as he had hitherto kept them to himself, and was under no compulsion to disclose them, he expected his Lordship would engage, upon his honor, to keep what he was about to unfold, as secret as he himself had done; which his Lordship having promised to do, the juryman then proceeded to give him the following account. "The deceased being titheman of the parish where he (the juryman) lived, he had, the morning of his decease, been in his (the juryman's) grounds amongst his corn, and had done him great injustice by taking more than his due, and acting otherwise in a most arbitrary manner; when he complained of his treatment, he was not only abused with scurrilous language, but the deceased likewise struck at him several times with his fork, and actually wounded him in two places, the scars of which wounds he then shewed his Lordship. The deceased seemed bent on mischief, and he (the

juryman) having no weapon to defend himself, had no way to preserve his own life, but by closing in with the deceased, and wrenching the fork out of his hands; which having effected, the deceased attempted to recover the fork, and, in the scuffle received the two wounds; which had occasioned his death.

He said he was inexpressibly concerned at the accident, and especially when the prisoner was taken up on suspicion of the murder; that the former affixes being but just over, he was unwilling to surrender himself, and to confess the matter, because his farm and affairs would have been ruined by his laying in a goal so long: that he was sure to have been acquitted on his trial, for he had consulted the ablest lawyers upon the case, who had all agreed, that as the deceased had been the aggressor, he would only be found guilty of manslaughter: it was true he had suffered greatly in his own mind on the prisoner's account; but being well assured that imprisonment would be of less ill consequence to the prisoner than to himself, he had suffered the law to take its course. And, in order to render the prisoner's confinement as easy as possible, he had given him every kind of assistance, and had wholly supported his family ever since; but to get him cleared of the charge laid against him, he could think of no other expedient than procuring himself to be summoned on the jury, and set at the head of them; which, with great labour and expence, he had accomplished, having all along determined in his own breast, rather to die himself, than to suffer any harm to be done to the prisoner."

His Lordship expressed great satisfaction at this account, and after thanking him for it, and making this further stipulation, that in case his Lordship should happen to survive him, he might then be at liberty to relate this story, that it might be delivered down to posterity, the conference broke up. The juryman lived fifteen years afterwards; the judge enquired after him every year, and happening to survive him, delivered the above relation.

FROM THE SENTIMENTAL AND MORAL MAGAZINE.

AN AFFECTING HISTORY.

[Concluded from our last.]

The following day the Abbe called upon his brother, and with great complacency in his countenance, enquired after the officer's health. The Inn-keeper told him that the officer was well, and had set out early in the morning on his return to the army. It is impossible, rejoined the Abbe with a smile. That very officer will most assuredly dine with you to-day, and will give you such a history of your son, as must be productive to you of a degree of joy, very little inferior to rapture. The landlord was astonished at these mysterious words, and asked his brother, if he was formerly acquainted with the gentleman. To which the minister answered in the affirmative. Who is he? said the inn-keeper with great emotion. The whole secret, returned the Abbe, shall be revealed to you at dinner. Hereupon the inn-keeper appeared extremely agitated, and peremptorily asserted the departure of his guest at break of day. Indeed it cannot be so, replied the priest. There is an happiness in reserve for you, my dear brother, which my heart struggles to disclose. But the obligations I am under of secrecy, will not permit me to unfold this interesting riddle.

The master of the inn, whose face abundantly bespoke the perturbation of his breast, stared upon the minister with a peculiar wildness in his eyes, and seemed entirely deprived of all power of utterance. Ah! my brother cried the Abbe, this is too much. I cannot any longer keep you in this painful kind of suspense. I beseech