

INNOCENCE ON THE GALLOWS

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Do you believe in circumstantial evidence in murder cases? ¶ That is a question we hear hotly debated whenever a sensational murder trial is being featured in the public press. Many people stoutly declare that circumstantial evidence is utterly unworthy of credit where a human life is at stake. Eye witnesses, they contend, should be produced, or else the accused person should never be condemned to death.

It would, perhaps, pay us to examine the true nature of circumstantial evidence - oh no, not in a technical way, but in ordinary terms of human understanding.

If, for instance, we get up in the morning in the winter time and find in the snow a man's footprints circling the house; find that he has paused at every window, and that one of the windows bears marks of a jimmy, we may safely conclude that a burglar tried to break in last night. Then if we see evidence of hasty flight - a dog's tracks in pursuit of the burglar, and we remember to have heard a dog's clamor in the night, we have a fairly complete story of what happened. ¶ If, then, we follow that man's tracks to a shanty in a field - tracks leading to it, and none from it, and then, to cap the climax, we find the man there, suffering from a dog bite, we know beyond a question of doubt that we have found the culprit. ¶ Yet, every bit of this proof is circumstantial evidence. No sane person could question the value of evidence such as this.

¶ Finger prints are now accepted as unquestioned proof of a person's identity - yet, a finger print is circumstantial evidence.

So, perhaps, we should say that everybody accepts certain types of circumstantial evidence as conclusive proof of guilt. What they really mean when

they condemn circumstantial evidence is that accusing circumstances that can by possibility be explained away, should not be accepted as conclusive proof.

Police officers and detectives are fallible. They are sometimes misled by their own zeal to maintain an unsound theory of guilt. ¶ This is where the danger comes. ¶ This is how innocent people are sometimes wrongfully convicted, even of murder - by circumstantial evidence mistakenly analyzed and applied.

Music - Followed by Playlet

Scene: A Variety Shop On An Obscure Street In A Small City

Time: Early Morning - Shop Deserted - Street Door Open -
Door to Back Room Ajar.

(Enter Blake and Carter, somewhat dubiously.)

Blake: "Strange - strange, this door open so early in the morning. ^{For} Forty years old Hannah Beasles has kept this shop, and nary a once have I seen the place open at this hour. She sleeps here on the premises, they tell me."

Carter: "I told you something was wrong when we come up the street, and I still think so. Hello! Hello! Anyone in - well, nobody answers. But see, here's a door open. Let 's look in here. (Goes to door, peering in cautiously.) Good Lord Amighty! Look! Look!"

Blake: "Why, this is murder - blood all over the bed - Old Hannah with her throat cut. Help! Police! Police!"

(Both men rush out of the shop into the street. They can be heard going up the street, shouting "Murder!" An old clock in the corner ticks loudly, the only sound in the shop.)

(Faint music of a death march, growing louder and then mingling with an excited babble of voices as police, and others, enter the store.)

Police Captain: "Don't let anybody else in until the Medical Examiner arrives.

Where is the body?"

Carter: "In that room - on the bed. "

(Police Captain approaches door cautiously and looks in.)

Captain: "Well, well, I thought I had seen bloody sights - but this beats 'Em all. Poor old Hannah - throat cut from ear to ear. Now, remember, everybody - don't touch anything. We must'nt disturb a thing. Where's the boy that works here? Does anybody know where he is?"

"Teddy": (Barber's Assistant) (eagerly) "Tom Collins is a friend of mine. I know for a fact he sleeps on the third floor of this building."

Captain: "Go rout him out. "

(Barber's Assistant and Police Officer go out street door)

Captain: "Can anyone tell me about this boy Collins? "

Barber: "Only that he's a good lad - an orphan nephew that Hannah took in years ago. She has been a mother to him ever since. My shop being next door, I've seen Tom a lot. He gets his hair cut in my shop. He and my helper, Teddy, used to be great pals."

Captain: "Not good friends now? "

Barber: "Oh, yes - but ever since they began to have girls - well, you know, they ain't together so much."

Captain: "Collins have a girl?"

Barber: "Oh, yes, Tommy is engaged to be married to Bill Carter's oldest girl."

Carter: "And Tommy is a fine chap, he is."

(Enter Police Officer, Barber's Assistant, Tom Collins; the latter excited, disheveled, and half dressed.)

Tom: "No, no, there must be some mistake. Aunt Hannah can't be dead."

Captain: "Well, look for yourself young man." (Tom approaches the door, but cries out in horror at the sight.) (Police Officer restrains him from going into the death chamber.)

(Enter Medical Examiner. He and Police Captain go into the bedroom together.)

Tom: "O'Lordy! Lordy! Who could have done it? Poor Aunt Hannah, and she was so kind to everybody. "

Blake: "The feller that done that job deserves the worst kind o'punishment there is."

(Music of death march again.)

(Medical Examiner and Police Captain return from death chamber.)

Captain: "Collins, how long have you worked for this woman?"

Tom: "Nearly seven years, sir."

Captain: "I don't suppose you know this handkerchief - it seems to be a man's handkerchief."

Tom: "Good Lord, that's one of mine. But how did all that blood get on it?"

Captain: "Don't ask me. Perhaps I should warn you, young feller, that whatever you say in answer to questions may be used against you."

Tom: "Against me? What do you mean - that you think - I - had - anything - to do - with that horrible business in yonder?"

Captain: (coldly) Melodrama won't help a bit, young man. Of course, you're suspected. In cases like this, everybody who could have had access to this place is suspected. But now tell me, have you any idea how this handkerchief of yours got in there?"

Tom: "Well, Aunt Hannah always kept track of my handkerchieves - washed 'em and ironed 'em herself."

Captain: (sarcastically) So you think she had one there and used it to wipe the blood after she was murdered?"

Medical Examiner: "Did you ever see this penknife before?"

Tom: "For Heaven sake! That's mine. That's my knife. I haven't seen it for some time. I thought I had lost it."

Medical Examiner: (sternly) Do you see the blood on that knife? That's the blood of your Aunt Hannah. Your knife it was that cut her throat. How did you do it? Why did you do it? "

Tom: "I kill Aunt Hannah! No! No! I didn't do it. I swear to God I didn't do it."

(Commotion at door - female voice heard.)

Police Officer: "This is no place for you, miss. Please go away."

Voice: "No, No, I must come in"

Police Officer: "Chief, this girl is the sweetheart of Tom Collins."

Police Captain: "All right, let her in."

Stella Carter: "Oh, Tom, Tom, they tell me your Aunt is murdered."

Tom: "Yes, yes, dear. Somobody killed her this morning."

Police Captain: "And we're trying to get this beau of yours to tell who done it."

Tom: "But I don't know anything at all about it."

Medical Examiner: "Come over here to the window, Collins. Now then, let's see how this matches. Identical! Well, here's another thing for you to explain. In that woman's death struggles, she pulled some hair from the head of the man who murdered her. I just took that hair from her dead hand. That hair matches yours. We have you dead to right young man. Better come across with the facts."

Stella: "But Tom didn't do it. Tom couldn't do it. He has told you so."

Police Captain: "Sorry Miss, but you'll have to keep out of this, or be put out of the store. We want his explanation, not yours."

Tom: "But there's no explaining I can do. This horrible business! I didn't do it. I don't know who did it. I don't know anything about it. I went to bed before eleven last night, right after I got back from calling on this girl - she's my promised wife."

Police Captain: "The old story over again -- nephew wants to marry. Rich aunt won't let him. Nephew kills aunt."

Stella: "You horrible, horrible man, to say that! It's a lie. Tom worshipped his aunt. She was the first one we told when we became engaged. She kissed me. She cried over me. She wanted us to get married soon."

Police Captain: "Officer, take this girl away. I won't have her interfering." (Stella is escorted from the store.) "Now then, you told us that you went to bed at eleven. What time did you get up?"

Tom: "Not until the Police Officer began to bang on my door a few minutes ago. I was on the third floor, sound asleep, all night. But how did the murderer get in?"

Captain: "With a key. No breaking and entering. Who had keys to this store?"

Tom: "My aunt had a key, and so did I. Nobody else had one, so far as I know."

Captain: "And where is your key?"

Tom: "Right here. (Produces key from pocket.)

Captain: "So that's the way the door was opened."

Tom: "No! No! I didn't do it."

Captain: (sarcastically) "And you expect me to believe that?"

Tom: "That is God's truth, whether you believe it, or not."

Captain: "Did your aunt keep any amount of money on the premises?"

Tom: "Yes. She didn't trust the banks. She kept it hid in an earthen jar in a pile of rugs in her room."

(Captain hurries into room and immediately returns.)

Captain: "The rugs have been pulled apart. The old jar is on top of the pile - on its side - empty!"

Medical Examiner: "And that's the money you expected to get married on."

Tom: (glaring at inquisitor) "You would say that! No! No! No! Aunt Hannah loved me and I loved her. I would not have harmed her for all the money in this world."

- Music -

Gleason L. Archer: (resumes) But this young man was placed on trial for the murder of his aunt. He had able counsel to defend him. He was tried before a jury of twelve men. Despite his blameless life, and the fact that a will was found in which his Aunt Hannah left her entire fortune to her "loving nephew" Thomas Collins, thus testifying to the affection existing between them, yet the jury found the young man guilty of murder in the first degree. The judge sentenced him to die on the gallows. He was, of course, convicted on circumstantial evidence.

But, at the last minute, through the pluck and perseverance of the girl who

loved him, Tom Collins was saved from a shameful death. Stella Carter knew all too well that Tom had a mortal enemy - one who had been his rival for her hand. When she had accepted Tom's proposal of marriage, Teddy, the Barber's Assistant had threatened to cut her throat "from ear to ear", as he expressed it.

Knowing Teddy's violent nature, the girl had at once suspected him of killing Tom's aunt. By her insistence, she had won the interest of a clever police detective. Bit by bit, by a new chain of circumstantial evidence, this intelligent officer built up an unassailable case against the suspected barger. ¶ Then he arrested him for another crime. While the man was in custody, he confronted him with the evidence in the case just pictured.

The young demon, knowing that his secret was surely out, then glories in his crime, confessing with great apparent relish what he perversely regarded as evidence of his superior mental ability.

Now let me picture for you what he confessed, and what really happened.

- Music -

Scene: Police Headquarters.

Detective: "Now, Teddy, you have admitted a great deal that I already know.

But, tell me, when did you first form the plan to kill Hannah Beasley?"

Teddy: "I donno. I never liked that old woman. I never liked Tom. Tom got the girl I was after. I wanted to get even with him, and I knew I was smart enough to do it."

Detective: "Precisely. You didn't like Hannah, and you didn't like Tom. So you figured that by killing Hannah, and framing Tom for the crime, you would get even with both of them. But when did you decide to take her money?"

Teddy: "Oh, I always had that in mind. I'm a tough guy, I am."

Detective: "Sure, I know you are. But I have the cake of soap in which you made an impression of the key to Hannah's store. How did you get that key?"

Teddy: "Oh, it dropped out of Tom's pocket one day when he was in the Barber

Chair. I made the impression at that time and give the key back. Then I made a key of my own."

Detective: "How did you get the pen knife?"

Teddy: "Oh, one day, when Tom was in the shop. But I didn't give that back to him. I kept it. That Medical Examiner is a fool. I used a razor to kill Old Hannah. I didn't use that knife - just smeared it with blood."

Detective: "You're a clever devil all right. But now about the hair."

Teddy: "That was a pip. I just saved what I found in the brush, after I had brushed Tom's hair - a few spears at a time, until I had enough."

Detective: "And that handkerchief. I suppose you framed that up too?"

Teddy: "Sure, I did. Sneaked it out of Tom's pocket a long time ago. Why that job was easy, that was. That key I made worked like a charm. Old Hannah didn't know what happened to her. Zip --- and she was all finished. Then I hunted up her coin. Lot of it. More than I expected. So then I just daubed the handkerchief in blood and left it on the bed. Smeared the pen knife and left that. Then all I had to do was put the hair in the old lady's hand, and beat it for home with my swag. "

Detective: "The most amazing story I ever heard. But what did you do with the money?"

Teddy: "Say, now, what do you take me for?" "Huh! Do you think I'd tell you that? No, Sirree. That dough is safe and it'll stay safe'till I get out."

- Music -

Gleason L. Archer: (resumes) " But, Teddy, the young demon, was wrong. He was never destined to use his ill gotten gains. After his death on the gallows, the old woman's treasure was shortly discovered and turned over to her nephew, now its legal owner.

Thus we find that circumstantial evidence may work for, as well as against, an accused person. By circumstantial evidence young Collins was wrongfully

~~by circumstantial evidence~~ also he was saved from the gallows. Stupidity in reasoning convicted him. Intelligence in reasoning saved his life. ⁹ There, after all, is the test of the value of circumstantial evidence - intelligence and logic in its analysis and application.

In the first place, the very completeness of the chain of damning circumstances against young Collins should have put the authorities on their guard. The frame-up was altogether too obvious. A razor gash in the throat is quite a different matter from a cut inflicted by a pen knife. The Medical Examiner did not use his brains.

He was likewise at fault in not examining the suspected man's head for scratches, or his hair, for evidence of having been torn in the supposed struggle. The handkerchief and the knife would have been the most unlikely evidence of guilt for the real original to leave behind him.

The fault was therefore with the stupidity of the Medical Examiner and Police Officials - not with circumstantial evidence. In the hands of a man of real ability, it became an effective safeguard of an innocent defendant.

not convincing

not convincing regarding scratches which could naturally be done by his own irritations.