

**INVOLUNTARY
CONFESSIONS.
A MONOGRAPH**

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Involuntary Confessions. A Monograph by Francis Wharton

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BY

FRANCIS WHARTON.



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1860.

THE following pages are taken from the closing chapter of the second edition of a treatise on Medical Jurisprudence, now issuing from the press, under the editorship of Dr. ALFRED STILLÉ and myself. They are placed in the present shape for independent distribution, as bearing on one or two branches of study distinct from that of the book in which they primarily appear.

F. W.

SEPTEMBER 10, 1860.



INVOLUNTARY CONFESSIONS.

MR. RAWLINSON, as his motto to the Bampton Lectures of 1859, takes the following from Aristotle :—

Τῷ μὲν γὰρ ἀληθεὶ πάντα συνέδει τὰ ὑπάρχοντα, τῷ δὲ ψευθεὶ ταχὺ διαφανεὶ τὰ ληθεῖς.
(FOR WITH THE TRUE ALL THINGS THAT EXIST ARE IN HARMONY; BUT WITH THE FALSE
THE TRUE AT ONCE DISAGREES.)

This conflict between the true and false arises in all cases where guilt is attempted to be screened by human contrivance. The mind involuntarily becomes its own prosecutor. It drops at each point evidence to prove its guilt. Each statement that it makes—each subterfuge to which it resorts—each pretext it suggests—is a witness that it prepares and qualifies for admission on trial. In this, and in the universality of the psychological truth that guilt cannot keep its counsel, we may find an attribute of divine justice by which crime is made involuntarily its own avenger. Man cannot conceal the topic of a great crime, either anticipated or committed. It sometimes leaps out of him convulsively in dreams; sometimes a false cunning leads him to talk about it to know what suspicions may be afloat; sometimes that sort of madness which impels people to dash themselves from a high tower, forces him to the disclosure. Even his silence tells against him; and when it does not, the tremor of the body supplies the place of the tremor of the mind. Nor can he keep peace with his associates. There is a disruptive power in a consciousness of common guilt, which produces a hatred so demonstrative, that if it does not supply the proof, it attracts the suspicion of a great wrong having been done.

In the preparation for crime the most astute fail. Poison has to be obtained somewhere. For domestic purposes it might be boldly purchased; but the poisoner, in a vast majority of cases, is impelled to a more circuitous course. He buys it to kill vermin, and then gives a false excuse—as in a case where the prisoner pointed to a mouse which he said was killed by the poison, when in fact, it turned out that the mouse was not so killed. He places a loaded pistol on his person on a pretext which he takes care to announce, but which turns out in like manner to be false. There is, in almost every kind of crime, a swelling of the upper soil which shows the subterranean road which the criminal travelled. It would seem as if it were a germinal element of guilt that it cannot work without such memorials. The most adroit hand may get witnesses away from the intended spot—the greatest caution may be shown in the purchasing, the collecting or the fashioning of

instruments—but still the traces remain, ready to increase the presumption, if not the positive material for conviction.

At the Shrewsbury races, in November, 1856, appeared two young men, each of whom had large stakes involved—in each case those of life and death. Polestar, one of the horses entered, belonged to John Parsons Cook; a sporting character and spendthrift, and not much besides. He had inherited a considerable estate, but a large portion of this had gone in dissipation, and now, the result of the race was to decide whether the remnant was to be doubled or destroyed. Watching him pretty closely, though with an off-hand familiarity which required an experienced eye to penetrate, was William Palmer, a man several years his senior, whose fortune, which had also been considerable, was now entirely gone. The "Chicken" was Palmer's horse, and on this he had ventured enormous bets. But he had a double game. Ruin, it is true, was imminent, but there was a method of escape. He was a medical man, and he had discovered the fatal properties of strychnine—how that it produced a disease scarcely to be distinguished from lock-jaw—how it could be administered without exciting the victim's attention—what was the minimum dose necessary to take life, and how, when this dose alone was administered, the poison was dispersed, leaving no traces behind. He had a book in which these points were stated, and to make himself certain, he not only turned down the book at the place, but made a memorandum giving the substance in his note-book. He was a man of the world, and he made himself, without appearing to do so, thoroughly master not only of Cook's confidence, but of his secrets. He knew that Cook had a disease which produced sores on the tongue which might be considered, if talked about in the right light, as the cause of lock-jaw, so he proceeded to talk about them in this light. He knew how to imitate hand-writing. So he wrote a paper by which Cook acknowledged himself his debtor in a sum sufficient to absorb all Cook's effects. "Polestar" won and "Chicken" was beaten. Palmer, in his careless, sporting way, borrowed Cook's winnings to pay his losses. Then everything was ready to poison Cook, and the work was done with complete coolness and success. A little preliminary sickness was induced, during which nothing could be more kind and yet less officious than Palmer's attentions. It is true the strychnine had to be bought, but this was done in a circuitous way, and under a false color. Then it had to be administered, but two medical men, of undoubted probity, were called in, and as they recommended pills, it was very easy to substitute pills of strychnine for pills of rhubarb. So Cook was killed, and this so subtly, that the attending physician gave a certificate of apoplexy. As to the *post-mortem*, Palmer knew it would not amount to much, nor did it. No strychnine was discovered, but here the nerves of Palmer gave way. He showed an undue fidgetiness while the examinations were going on. He tried to tamper with the vessels in which the parts to be examined were placed. Then, also, the note he produced to show Cook's indebtedness to him was suspected; and then Cook's betting book could not be found. This led to Palmer's arrest. The first medical authorities in England proved that Cook's death came from strychnine and nothing else. The apothecaries from whom the strychnine was bought, attracted by the discoveries,

identified Palmer. In a dark passage he had been seen to drop something into a glass for the sick man, but the passage was not so dark but that he was observed. Then his note-book turned up, showing how acquainted he was with the poison. And upon these facts, skilful as he was, and completely as he had covered up his guilt from the superficial eye, he was convicted and executed.

Intimations are to be tested by the character of the party from whom they emanate. In the present connection, they may be divided into three classes.

Direct intimations are the least frequent. The coarse old feudal baron, over whom there was no law which would interfere to make a threat defeat itself—whose importance depended upon the emphasis with which he pursued his enemies—to whose temper deceit was intolerable—threatened dashingly, and performed implacably. So the Scotch clansman followed his hereditary vengeance until the last of the tribe he hated was extinguished.

Now in these cases there was neither parsimony nor insincerity in the threat, and no reserve in the execution. What was said was meant. It is only, however, in the rudest and most lawless states of society that we now find this phase. In a community where there is a justice of the peace, to threaten life is followed by a binding over to keep the peace; and such a threat, therefore, is rarely heard except as a bluster. Civilization, it is true, has not extracted the venom from homicide, but it has silenced its rattle.

There are cases, however, where the rattle is still heard. A purpose of vengeance may be whispered in a friend's ear. Among men over whom there is no law, in the mountain slopes or prairie sweeps to which no jurisdiction except that of the vigilance committee has reached—among the hunters of the wilderness who have preceded law, or the wreckers of the coast who have defied it, or the outcasts of the city who have been rejected by it—in those cases of domestic outrage where social usage seems to permit vengeance being taken into private hands—here threats may be the precursors of deeds. Desperation, also, gives out the same warning; and in such cases the warning uttered is of real consequence.

Then again a threat which may be meant merely as bravado, may afterwards become a real and desperate purpose. Provocation—opportunity—the desire to save the character from the imputation of mere bullying—may stiffen the attempt to frighten into an attempt to destroy. Or again, a settled animosity may be produced which may lead, though circuitously, to secret mischief.

Taking out these exceptions, however, and assuming the case to be one of a man of ordinary prudence, where there is no proved settled purpose of revenge, and in a community where the usual restraints of the law are applied, it becomes very unsafe to connect threats previously uttered by such a party with a recent homicide. "The tendency of such a prediction," says Mr. Bentham, "is to obstruct its own accomplishment. By threatening a man, you put him upon his guard, and force him to have recourse to such means of protection as the force of the law, or any extra-judicial powers which he may have at command, may be capable of affording him." In the case last put, it is not likely that the one who really accomplished a deed which would lead to condign punishment, was the one who publicly threatened it.

Then, however, comes the *ambuscade* intimation. The more refined society becomes, the more likely is this kind of preparation to precede crime. It may be adopted to lull the victim. When the massacres of St. Bartholomew were planned, the Huguenot chiefs were invited to Paris on the pretence of the wedding between Henry of Navarre and Margaret of Valois. "This politeness of the Italian Queen is very suspicious," said the more wary of them; "she kisses whom she would betray." But they went, were caressed, and were massacred.

The Admiral Coligny had been wounded by an assassin under the pay of the Duke of Guise. He lay helpless on his sick-bed, when Charles IX., then a boy of only nineteen, but thoroughly schooled by his malign mother, was announced. The Huguenots were thoroughly aroused by the attack on the admiral. The preparations for crushing them, however, were not then complete. It was necessary that they should be quieted and kept together. So Charles entered into the admiral's chamber, and throwing his arms around the aged warrior, said, "Father, *you* received the wounds, but *I* the sorrow." Two or three nights afterwards, Coligny, hacked and helpless as he was, was torn from his bed and cut to pieces. Then his body was dragged through the streets, and at last his trunk was kicked about like a foot-ball in the presence and for the diversion of the young king, who had shortly before embraced it. "Had it been the mother," said the survivors, "we would have had suspicion; but it was only the boy." Here was the Medicean mask—the very luxury of artifice in which Catharine of Medicis enveloped herself when about to commit a crime; and yet, from its very excess, it was a premonition. So it is that subtle guilt, in the very degree to which its subtlety is refined, gives its own warning, and at all events invokes its own retribution. For the recoil of St. Bartholomew's night destroyed the House of Valois far more effectually than did the massacre the Huguenots. Charles IX. died only a few years after, of a disease in which nervous horror, if not remorse, was the prime agent, and so did men turn from him, even in Catholic Paris, that his body was deserted when on its way to the grave, and was followed to St. Denis by only three private gentlemen. His brother, Henry III., who succeeded him, was the last of his race.

Cowardice may work in the same way, from the fear of being struck back, if a face-to-face blow be attempted. So it was with James I.:

"Willing to wound, and yet afraid to strike."

When he was rolling the execution of the Earl of Somerset as a sweet morsel in his mouth, he hung about the neck and slabbered over the face of that unfortunate favorite. It is not that he wanted to entrap—Somerset was caught already. Nor did he want to prevent detection, for he afterwards never shrank from the moral consequence of the deed. It was merely because he was physically afraid to face a collision.

Then come *precautionary* intimations. Of these the following may be taken as illustrations. Captain Donellan was tried in Warwick, in 1781, for poisoning Sir Theodosius Boughton, on whose estates his wife had a reversionary interest. The defendant had no doubt long formed a plan by which the deceased