

# The Bloomfield Times.

FRANK MORTIMER,  
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## The Bloomfield Times.

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## THE VOLUNTEER COUNSEL.

A True Story of the Albany Bar.

ALL lawyers of much practice have more or less singular cases brought to their knowledge, and probably no attorney ever had more such cases than George P. Barker at one time a noted practitioner in the State of New York.

The following is one of the many circumstances which occurred in his professional life, which indeed renders truth stranger than fiction, and which exhibits the generosity of his nature.

In October, 1832, Mr. Barker was detained at Albany for a few days awaiting the arrival of certain persons with whom he had important business. At this time a court of Oyer and Terminer was in session at that city, at which the late James Vanderpool presided. The next morning after the arrival of the young lawyer, he sought the court room for the purpose of whiling away the time in observing the proceedings of the court. His route led him by the old Albany jail. The morning sun shone sadly on its dismal front and gleamed playfully through its iron-grated windows. Just before reaching the front door of that grim receptacle of crime and misery, it opened, and two officers having a pale young man apparently about twenty-one years of age, in charge, issued from it, and stepped upon the walk directly before the lawyer. The officers with their prisoner, for such the young man was, moved in the same direction he was going. The prisoner was middling size, slender in form, with a pleasant and attractive face. As he reached the street, the beautiful sunlight, the pure, soft air of that October morning, seemed to exhilarate him, and his dark eyes glanced with something like happiness, as he lifted them to the clear sky, "where all things are free." The three persons walked with rapid pace toward the court house, Mr. Barker following; they had proceeded but a short distance, when they were met by a respectable, appearingly, decently clad woman, about forty years of age. The moment her eyes fell upon the prisoner, she sprang forward and clasped him in her arms, exclaiming:

"O, George! George! My son! My son!" The sudden appearance of the woman caused the officers to halt.

"Mother, why did you not wait for me at the court house?" said the prisoner, endeavoring to conceal his emotions.

"Because I did not see you there, my son, and I thought perhaps you might not have your trial here to-day, after all, and so I started to see you at the jail, for I could wait no longer! My only hope! My darling!" said the poor woman, her voice broken with sobs; "are they going to try you now?"

"Yes, mother, I am to be tried to-day; but calm yourself, I trust all will be well with me, for God above us knows that I am not guilty," said the young man.

"You guilty, George! You guilty! O, no, no, no! You are not guilty! You can not be guilty, you were always so good, so true so kind," said she, taking off his hat and pushing his hair from his forehead.

"There, there," she continued, "you look just as you used to when on your knees I taught you your first little prayer, in our dear old—"

"Come, come, woman, stand aside, and don't hinder us any longer; the young man is wanted up yonder," said one of the officers, pointing toward the court house.

"O, sir," said the woman, turning to the speaker, "do see that he is not injured, for he is good—O, so good, he is innocent. I know he is."

"How do you know that, woman?" gruffly asked the officer, "may be you can swear for him."

"Because—because I am his mother, and—and yes I can swear for him, because

I taught him his prayers, to love the Lord, and to be truthful, and—"

"Yes, yes, we know all about that sort of thing, but while you were about such good things, why didn't you teach him not to break into people's stores and shops, when honest folks were asleep, eh?" said one of the officers. "Come on, my covey!" he continued, addressing himself to George, "twelve men will soon have something to say about your case, and the judge will fix matters to the satisfaction of the people, I guess, if he don't to yours, so come on."

Barker's progress was arrested by this pathetic scene, and he became a silent and deeply interested witness of it.—Touched by it, he followed the group to the court house. Just before ascending the stairs which led to the court room, the young man paused a moment, and turning to his mother, inquired of her if Mr. Aikin was to defend him.

"He will not defend you, George, unless we pay him in advance, but we have no money, and he—"

"And he refuses," said the young man in heart-broken accents, "O, God, have mercy on me! What shall I do? No one to save me from an unjust doom?" he continued, losing all control of himself in his mental agony.

"Come along; don't stop to blubber here. The judge, he'll appoint some one to defend you. Come, come," said one of the constables, seizing the prisoner by the collar, and urging him up the stairs, followed by his weeping, trembling mother. He was soon seated in the prisoner's box to await the proceedings of the court.

Barker followed the officer and the prisoner into the court room, and seated himself within the bar. He had a better opportunity to observe the young man, who, in a measure, had recovered his composure. The pallor which had overspread his countenance, had given place to a slight flush; his clear eye, delicate and finely moulded features, bespoke intelligence, but not guilt. It was a face to be studied, and it was closely studied by the young lawyer.—"If that young man is guilty of any crime, then I am no judge of the human face," he thought.

Court had not yet opened for the day; a few lawyers were in the bar; the officers in attendance were lounging carelessly on the benches; some of the jurymen had found their way into their seats, and were conversing with one another in a low tone, occasionally glancing at the prisoner's box; while the spectators present, regarded its inmate as a being whose trial was, perhaps, to afford them some amusement. The circumstances by which he was surrounded, the place he occupied, the very badges of guilt which often surround an innocent person, caused them to regard him as a felon who only waited a trial to be sent to a felon's doom. Presently a loud rap announced the approach of the judge; the usual proclamation was made, and the court was ready for business.

"Sheriff," said the district attorney, "is George Ames in court?"

"He is," was the reply.

"I now move the trial of George Ames, indicted for burglary in the first degree," said the attorney for the people.

"Has the prisoner counsel?" asked the judge.

"Have you counsel, Ames?" asked the district attorney, turning to the young man.

"No, sir; I expected Mr. Aikin to defend me, but he refuses."

"Why does he refuse?" asked the judge.

"Because—because I have no money to pay him."

"Then as you have no means to employ counsel, the court will see that you have some one to defend you."

Judge Vanderpool then asked a respectable appearing lawyer present if he would undertake the defense of Ames, but the attorney declined; he then applied to another, who also declined; finally there was no lawyer present who was willing to appear as counsel for the accused.

"Gentlemen," said the judge, "I do not desire to compel any one of you to defend this man. He must have counsel—"

Just at this moment, a small-sized, sharp featured, shrewd appearing lawyer entered the bar.

There was a kind of adroverpous manner about him; his eyes were black, round, piercing, and projecting, giving him the sly and cautious appearance of a rat. His eyebrows appeared like a pair of nicely balanced scales; he raised and lowered them as if weighing the amount of money which a client happened to have with him.

They seemed to say, "Ah, yes, he's got money his case is good, he must be taken care of," or "Oh, he has only a—Ah, let me see," balancing his scale-like eyebrows, "Oh, yes, I see now, he's only a very little, a very little, the man amounts to just nothing at all, and he has a shocking bad case." He was well known to the Albany bar forty years ago. He possessed some ability as a lawyer; his chief characteristics, however, were acquisitiveness, sharpness, and a perfect familiarity with the old system of special pleading, the technicalities of which he used with the subtlety and craft of an experienced card player.—He was well skilled in controversy, and possessed a copious, rapid, and vehement flow of language. The badinage of his fellow members of the bar was often directed against him; but his impudence and conceit rendered him invulnerable to such attacks.

"Mr. K." said the judge, addressing this individual, "the court desires you to undertake the defense of George Ames, the prisoner at the bar."

"Ah, yes; your honor can always command my poor services in that way, but I have seen the prisoner before, and I think in view of his circumstances—his means—that is his ability to pay; I mean, the nature of his great offense, and I think him guilty—that is, I think perhaps he had better plead guilty and have done with it."

A sob of deep, heart-broken anguish, resounded through the court-room; it was from the mother who heard in those words the knell of her son's doom.

Barker, who had been entirely absorbed in the scene could control himself no longer; he arose and said to the court:

"If your honor please, I will undertake the defense of that young man."—The tone of his voice and the quiet dignity of his manner attracted the attention of all present.

"The court is unacquainted with you sir, and we desire that the prisoner should be ably defended," said the judge in a tone that clearly indicated his surprise.

"If your honors please, I said I would undertake his defense, and now I say more, he shall not be convicted unless his guilt be made apparent. I at least will compel the people to make it apparent," said Barker.

"Do you desire the assistance of Mr. K.?" asked the judge.

"No; if your honor please, I will assume the entire responsibility of the defense."

The court signified its assent.

Edward Livingstone was then district attorney of Albany county. He was learned and eminent in his profession, eloquent at the bar, a pleasing speaker in the popular assembly, a politician of rare capacity, and a formidable prosecuting officer. Such was the man with whom Mr. Barker, with a little over two years' experience at the bar, was to contend.

The court granted a postponement of the trial until the next morning, to enable the young lawyer to consult with the prisoner and prepare for the trial. Language cannot describe the surprise, joy and gratitude of Ames and his mother, at this unexpected appearance of a defender. A short consultation with them convinced him that the young man was not guilty, although surrounded by a train of circumstances which seemed to point with almost indubitable certainty to him, as a young but hardened criminal. He was the only son of the poor woman present, and she was a widow. Their residence was at Fort Ann, in the county of Washington. A few days before the commission of the crime with which he was charged, the young man came to Albany for the purpose of obtaining employment. Here he soon made the acquaintance of a very friendly appearing man, who seemed to take much interest in him, and kindly offered to assist him in obtaining employment. One evening he was invited by his friend to accompany him, and examine some personal property which was then in a certain building which he had rented in the city. Although it was quite late when this proposal was made, George assented. On their way they overtook two persons with whom his friend was acquainted. The latter invited these persons to accompany him; they assented; and in a few minutes George and his companions found themselves in the rear of a large building. His friend now informed him that he greatly desired to enter that building, which was his store, but as he had forgotten the key, he must force an entrance, and produced a small iron bar, which he handed to George, directing him to pry open the shutters to one of the windows

with it, and force his way into the building, promising to reward him very liberally for his trouble. In a moment the young man understood that he was in the presence of burglars, and horror-stricken at the thought he attempted to rush from their presence; but before he had made three steps, he received a heavy blow upon the head, which felled him insensible to the ground. When he returned to consciousness, he was in the police office, with a bandage about his head. As soon as he was able to be moved, he was conducted before a magistrate, and his examination took place. From the testimony he learned the building was broken open and entered, that he was one of the persons charged with the offense. All of the wretches succeeded in making their escape, excepting one, who was arrested the next morning. Turning "State's evidence," he insisted that young Ames was the principal in the affair, alleging that he entered the store; that while in it he stumbled over some object and fell, his head striking the corner of a counter, wounding him and rendering him insensible; that when his accomplices made their exit from the store, they removed their wounded companion, intending to convey him to a place of secrecy until he recovered; but when they had proceeded a short distance, they were alarmed, and hastily fled, leaving him on the ground, where the officers discovered him. Such was the evidence of the alleged accomplice of George before the magistrate, and such was the story which the latter related to his counsel. Soon after his incarceration he wrote to his mother, the poor woman, overcome with grief, went to the city and employed the lawyer who has been referred to; but because they had no funds to pay him he abandoned the defence. By a singular intervention of Providence, George P. Barker became his defender. The story of the young man carried conviction with it, and aroused all the sympathy of the lawyer. Ascertaining the name of the surgeon who dressed the wound of Ames, he immediately called upon him; the surgeon proved to be a gentleman of intelligence and skill; he distinctly recollected the circumstances of dressing the prisoner's wound and its nature, and did not hesitate to state that it could not have been inflicted by a fall; but from its peculiar position and shape, it must have been the result of a blow from a club or some heavy instrument.

The next morning the trial commenced. Mr. Livingstone conducted the prosecution with his usual ability and skill; he firmly believed the prisoner guilty, and therefore omitted nothing that tended to his conviction. Entering upon the trial without any introduction to the young stranger, who had himself sought the contest, he did not stop to consider or care whom what he was. The case, however, had not proceeded but a short time before he was aware that he had no common intellect to contend with and he began to conceive a high respect for his opponent.

The cross-examination of the convict witness was most searching and effectual. At first he sustained himself with a balance and composure which seemed to baffle his interrogator, but at length he stumbled, hesitated, and became confused, and when he left the witness box, it was evident that his testimony had been materially shaken.

The cross-examination of the proprietor of the store which had been entered, elicited the fact that no blood was found in it; that the corner of the counter against which the witness testified Ames had fallen did not exhibit the least appearance of any such occurrence. The officer who first discovered the prisoner, on his cross-examination, testified that a large pool of blood had gathered under the head of the young man on the ground where he was found.

At length the district attorney rested. Barker, in a short, plain and concise statement, presented the theory of the defence to the jury. The only witness whom he called was the surgeon, whose evidence corresponded with the statement he had previously made, establishing the fact that the wound on the head of Ames could not have been made by falling against the counter, that it must have bled copiously the moment it was received, that as no blood was found in the store it could not have been given there, that it was inflicted by a club or some instrument of that nature; and he gave the reasons on which his opinion was founded, and they were cogent and convincing.

With this evidence the young lawyer rested his case, and commenced his address to the jury. In his whole subsequent professional career, he never made a more successful or a more brilliant effort. In the language of one of the papers of the day,

"Mr. Barker's address to the jury was a splendid and successful effort. He is a young lawyer belonging to the Buffalo bar, a graduate of Union College, and was for some time a student in the office of Alonzo C. Paige, Esq. of Scenectady. He was admitted to the bar, we believe, in the class of October, 1830. He undertook the defence of Ames, prompted alone by the sympathy which he felt for the young man, whom he believed to be innocent." Many of the jurors were present when he made his generous offer to defend the prisoner, and they were conscious he acted from sympathy and generosity. They therefore believed him sincere and honest in his efforts for his client. Those who knew Mr. Barker can well understand the character and nature of his address, and its effect upon the jury.

Mr. Livingstone's reply was all that could be expected from a lawyer so distinguished; but the defense of his opponent took him by surprise; and he saw that it had made a deep impression upon the jurors. After a very able charge from the judge they retired. After an absence of one hour they returned into court with a verdict of not guilty. The great, the rich reward of Barker was the almost frantic joy with which the verdict was received by the mother and boy.

"The God of the widow and the orphan has sent you to us, sir, in our distress, and his blessing will descend upon you through all your days. We have no money to reward you with, but my prayers, my blessings shall follow you. I have seen better days, but now I can only thank you from my heart of hearts," said Mrs. Ames, as she was taking leave of her son's defender.

"Some time I shall reward you, Mr. Barker, for what you have done for me. You have given me liberty, life, reputation, every thing. It will be the happiest day of my life when I can do something more than thank you," said young Ames, and the glittering drops which stood in his eyes evinced the depth of his gratitude; and thus he took his leave of his benefactor.

Years passed away, and this event was nearly forgotten by Barker, in the vicissitudes of his professional and political life. One morning, in the winter of 1839, while representing the county of Erie in the Legislature of the State, a well dressed, gentlemanly appearing young man called at his room in Albany.

"Do you remember me, Mr. Barker?" said he.

"I do not."

"My name is Ames—George Ames, whom you once defended against a serious charge in this city."

Another glance at his visitor convinced Mr. Barker that the prisoner whom he volunteered to defend for burglary was before him, "I am delighted to see you, Ames," said he extending his hand to him. "How is your mother? I trust she is well and happy."

"She is, sir, and has not forgotten your kindness and generosity to me. Learning that you were in the city this winter, I have taken this opportunity to call upon you. I know you are engrossed with business, but I will not detain you long," said the young man. In a few words he informed Barker that by the death of an uncle his mother had inherited considerable property, that he himself through her assistance and his own industry had become a well to do farmer. As he was about to take his leave, he said:

"Here is a small package which my mother, my wife, and myself have made up for you; it is a slight token of our gratitude to you. Do not open it until I am gone. I trust it will convince you that my words to you, spoken when you restored me to liberty, have not been forgotten by me."

He took his leave, and Barker opened the package; to his surprise he found that it contained bank notes to the amount of two hundred and fifty dollars. Ames and his defender have both passed beyond the trials of earth; but a son of the former still survives, who treasures the name of George P. Barker with a sort of poetic reverence.

The trial which has been described, resulted in a life-long friendship between Livingstone and Barker. In after years, circumstances frequently brought them together, often they met at the bar, but never again under circumstances so interesting as those which characterized their first meeting.

Why are books your best friends? Because you can shut them up without offending them.