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CONFESSIONS OF A Q. C.

The Tragedy In the Third Smoker. :: ::

BY CUTCLIFFE HYNE.

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"I ABOMINATE detective stories," said the queen's counsel, laying down his cue along the corner of the billiard table and going across to the shelf where the cigar boxes stood. "You see, when a man makes a detective story to write down on paper he begins at the butt end and works backward. He notes his points and manufactures his clews to suit 'em, so it's all bound to work out right. In real life it's very different"—he chose a Partaga, looking at it through his glasses thoughtfully—"and I ought to know. I've been studying the criminal mind for half my working life."

"But," said O'Malley, "a defending counsel is a different class of animal to the common detective."

"Oh, is he?" said the queen's counsel. "That's all you know about it." He dragged one of the big chairs up into the deep chimney corner and settled himself in it after many luxurious shruggings. Then he spoke on between whiffs at the Partaga:

"Now, I'll just state you a case, and you'll see for yourselves how we sometimes have to ravel out things. The solicitor who put the brief in my hands was, as solicitors go, a smart chap. He had built up a big business out of nothing, but criminal work was slightly out of his line. He had only taken up this case to oblige an old client, and I must say he made an uncommonly poor show of it. I never had such a thin brief given me in my life.

"The prisoner was to be tried on the capital charge, and if murder really had been committed it was one of a most cold blooded nature. Hanging would follow conviction as surely as night comes on the heels of day, and a client who gets the noose given him

"Walker was found on the floor stone dead."

always damages his counsel's reputation whether he deserves it or not.

"As my brief put it, the case fined down to this:

"Two men got into an empty third class smoking compartment at Addison road. One of them, Guide, was a drain contractor; the other, Walker, was a foreman in Guide's employ. The train took them past the Shepard's Bush and Grove Road Hammersmith stations without anything being reported, but at Shaftesbury road Walker was found on the floor stone dead, with a wound in the skull, and on the seat of the carriage was a small miner's pickax with one of its points smeared with blood.

"It was proved that Guide had been seen to leave the Shaftesbury road station. He was disheveled and agitated at the time, and this made the ticket collector notice him specially among the crowd of outgoing passengers. After it was found out who he was inquiries were made at his home. His wife stated that she had not seen him since Monday, the morning of Walker's death. She also let out that Walker had been causing him some annoyance of late, but she did not know about what. Subsequently—on the Friday, four days later—Guide was arrested in the West India dock. He was trying to obtain employment as coal trimmer on an Australian steamer, obviously to escape from the country. On being charged he surrendered quietly, remarking that he supposed it was all up with him.

"That was the gist of my case, and the solicitor suggested that I should enter a plea of insanity.

"Now, when I'd conned the evidence over—additional evidence to what I've told you, but all tending to the same end—I came to the conclusion that Guide was as sane as any of us are and that as a defense insanity wouldn't have a leg to stand upon. 'The fellow,' I said, 'had much better enter a plea of guilty and let me pile up a long list of extenuating circumstances. A jury will always listen to those and, feeling grateful for being excused a long and wearisome trial, recommend to mercy out of sheer gratitude.' I wrote a note to this effect. On its receipt a solicitor came to see me. By the way, he was Barnes, a man of my own year at Cambridge.

"'My dear Grayson,' said he, 'I'm not altogether a fool. I know as well as you do that Guide would have the best chance if he pleaded guilty, but the difficult part of it is that he flatly refuses to do any such thing. He says he no more killed this fellow Walker than you or I did. I pointed out to him that the man couldn't very conveniently have slain himself, as the wound was well over at the top of his head and had obviously been the result of a most terrific blow. At the p. m. it was shown that Walker's skull was of abnormal thickness, and the force required to drive through it even a heavy sharp pointed instrument like the pickax must have been something tremendous.

"'I tell you, Grayson, I impressed upon the fellow that the case was as black as ink against him and that he'd only irritate the jury by holding out, but I couldn't move him. He held doggedly to his tale—he had not killed Andrew Walker.'

"'He's not the first man who's stuck to an unlikely lie like that,' I remarked.

"'The curious part of it is,' said Barnes, 'I'm convinced that the man believes himself to be telling the absolute truth.'

"'Then what explanation has he to offer?'

"'None worth listening to. He owns that he and Walker had a fierce quarrel over money matters, which culminated in a personal struggle. He knows that he had one blow on the head which dazed him and fancies that he must have had a second which reduced him to unconsciousness. When next he knew what was happening, he saw Walker lying on the floor stone dead, though he was still warm and supple. On the floor was the pickax, with one of its points slimy with blood. How it came to be so he couldn't tell. He picked it up and laid it on a seat. Then in an instant the thought flashed across him how terribly black things looked against himself. He saw absolutely no chance of disproving them and with the usual impulse of crude minds resolved at once to quit the country. With that idea he got out at the Shaftesbury road station and, being an ignorant man and without money, made his way down to the Ratcliffe highway. Using that as a center, he smelled about the docks at Limehouse and Millwall trying for a job in the stokehold, but as that neighborhood is one of the best watched spots on earth it is not a matter of surprise that he was very soon captured. That's about all I can tell you.'

"'I'm afraid it doesn't lighten matters up very much.'

"'I never said it would. The gist of this is down in your brief, Grayson. I only came around because of your letter.'

"'Still,' I persisted, 'you threw out a hint that Guide had offered some explanation.'

"'Oh, yes, but such a flimsy, improbable theory that no sane man could entertain it for a minute. In fact, he knew it to be absurd himself. After pressing him again and again to suggest how Walker could have been killed, with the view of extorting a confession, he said in his slow, heavy way: "Why, I suppose, Mr. Barnes, some one else must have done it. Don't you think as a man could have got into the carriage while I was lying there stupid and hit Walker with the pick and got out again afore I come to? Would that do, sir?"

"'I didn't think,' added Barnes dryly, 'that it was worth following that theory any deeper. What do you say?'

"I thought for a minute and then spoke up. 'Look here, Barnes. If in the face of this cock and bull story Guide persists in his innocence, there may be something in it after all, and if by any thousand to one chance we could bring him clear it would be a red feather in the caps of both of us. Do you object to my seeing the man personally?'

"'It's a bit irregular,' said Barnes doubtfully.

"'I know it is a bang in the teeth of etiquette. But suppose we compromise and you come with me?'

"'No, I won't do that. My time's busy just now, and, besides, I don't want to run up the costs of this case higher than necessary. But if you choose to shove your other work aside and waste a couple of hours just go and interview him by yourself, and we'll waive ceremony. I'll get the necessary prison order and send it around to you tomorrow.'

"Next afternoon I went down to see Guide in the waiting room at the Old Bailey. He was a middle aged man, heavy faced and evidently knocked half stupid by the situation in which he found himself. He was perhaps as great a fool to his own interests as one might often meet with. There was no getting the simplest tale out of him except by regular question and answer cross examination. What little he did tell seemed rather to confirm his guilt than otherwise, though, strange to say, I was beginning to believe him when he kept on assuring me between every other sentence that he did not commit the murder. Perhaps it was the stolid earnestness of the fellow in denying the crime which convinced me. One gets to read a good deal from facial expression when a man has watched what goes on in the criminal dock as long as I have done, and one can usually spot guilt under any mask.

"'But tell me,' I said, 'what did you quarrel about in the first instance?'

"'Money,' said Guide moodily.

"'That's vague. Tell me more. Did he owe you money?'

"'No, sir; it was t'other way on.'

"'Wages in arrear?'

"'No; it was money he had advanced me for the working of my business. You see, Walker had always been a hard man, and he'd saved. He said he wanted his money back, he knowing that I was pinched a bit just then and couldn't pay. Then he tried to thrust himself into partnership with me in the business, which was a thing I didn't want. I'd good contracts on hand which I expected would bring me in a matter of £9,000, and I didn't want to share it with any man, least of all him. I told him so, and that's how the trouble began. But it was him that hit me first.'

"'But,' I persisted, 'Walker couldn't very conveniently have murdered himself.'

"'No, sir; no, no, he couldn't! I thought of that myself since I been in here, and I said to Mr. Barnes that perhaps somebody come into the carriage when I was knocked silly and killed him, but Mr. Barnes he said that was absurd. Besides, who could have done it?'

"'Don't you know anybody, then, who would have wished for Walker's death?'

"'There was them that didn't like him,' said Guide drearily.

"That was all I could get out of him, and I went away from the prison feeling very dissatisfied. I was stronger than ever in the belief that Guide was in no degree guilty, and yet for the life of me I did not see how to prove his innocence. He had not been a man of any strong character to begin with, and the shock of what he had gone through had utterly dazed him. It was hopeless to expect any reasonable explanation from him. He had resigned himself to puzzlement. If he had gone melancholy mad before he came up to trial, I should not have been one whit surprised.

"I brooded over the matter for a couple of days, putting all the rest of my practice out of thought, but I didn't get any forwarder with it. I hate to give anything up as a bad job, and in this case I felt that there was on my shoulders a huge load of responsibility. Guide, I had thoroughly persuaded myself, had not murdered Andrew Walker. As sure as the case went into court on its present grounding the man would be hanged out of hand, and I persuaded myself that then I, and I alone, would be responsible for an innocent man's death.

"At the end of those two days only one course seemed open to me. It was foreign to the brief I held, but the only method left to bring in my client's innocence.

"I must find out who did really murder the man. I must try to implicate some third actor in the tragedy.

"To begin with, there was the railway carriage, but a little thought showed me that nothing was to be done there. The compartment would have been inspected by the police and then swept and cleaned and garnished and coupled on to its train once more and used by unconscious passengers for weeks since the uproar occurred in it.

"All that I had to go upon were the notes and relics held at Scotland Yard.

"The police authorities were very good. Of course they were keen enough to bring off the prosecution with professional eclat, but they were not exactly anxious to hand over a poor wretch to the hangman if he was not thoroughly deserving of a dance on nothing. They placed at my disposal every scrap of their evidence and said that they thought the reading of it was plain beyond dispute. I thought so, too, at first. They sent an inspector to my chambers as their envoy.

"On one point, though, after a lot of thought, I did not quite agree with them. I held a grisly relic in my hand, gazing at it fixedly. It was a portion of Walker's skull, a disk of dry bone with a splintered aperture in the middle.

"'And so you think the pickax made that hole?' I said to the inspector.

"'I don't think there can be any doubt about it, Mr. Grayson. Nothing else could have done it, and the point of the pick was smeared with blood.'

"'But would there be room to swing such a weapon in a third class metropolitan railway carriage?'

"'We thought of that, and at first it seemed a poser. The roof is low, and both Guide and Walker are tall men, but if Guide had gripped the shaft by the end, so, with his right hand pretty near against the head, so, he'd have had heaps of room to drive it with a sideways swing. I tried the thing for myself. It acted perfectly Here's the pickax. You can see for yourself.'

"I did see, and I wasn't satisfied, but I didn't tell the inspector what I thought. It was clearer to me than ever that Guide had not committed the murder. What I asked the in-

"But Walker couldn't very conveniently have murdered himself."

spector was this: 'Had either of the men got any luggage in the carriage?'

"The inspector answered with a laugh, 'Not quite, Mr. Grayson, or you would see it here.'

"Then I took on paper a rough outline of that fragment of bone and an accurate sketch of exact size of the gash in it, and the inspector went away. One thing his visit had shown me. Andrew Walker was not slain by a blow from behind by the pickax.

"I met Barnes while I was nibbling lunch and told him this. He heard me doubtfully. 'You may be right,' said he, 'but I'm bothered if I see what you have to go upon.'

"'You know what a pickax is like?' I said.

"'Certainly.'

"'A cross section of one of the blades would be what?'

"'Square, or perhaps oblong.'

"'Quite so; rectangular. What I want to get at is this: It wouldn't even be diamond shape, with the angles obtuse and acute alternately.'

"'Certainly not. The angles would be clean right angles.'

"'Very good. Now look at this sketch of the hole in the skull and tell me what you see.'

"Barnes put on his glasses and gazed attentively for a minute or so and then looked up. 'The pick point has crashed through without leaving any marks of its edges whatever.'

"'That is to say, there are none of your right angles showing.'

"'None. But that does not go to prove anything.'

"'No. It's only about a tenth of my proof. It gives the vague initial idea. It made me look more carefully, and I saw this.' I pointed with my pencil to a corner of the sketch. Barnes whistled.

"'A clean arc of a circle,' said he, 'cut in the bone as though a knife had done it. You saw that pickax. Was it much worn? Were the angles much rounded near the point?'

"'They were not. On the contrary, the pick, though an old one, had just been through the blacksmith's shop to be resharpened and had not been used since. There was not a trace of wear upon it. Of that I am certain.'

"Barnes whistled again in much perplexity. At length said he: 'It's an absolutely certain thing that Walker was not killed in the way they imagine. But I don't think this will get him off scot free. There's too much other circumstantial evidence against him. Of course you'll do your best, but'—

"'It would be more than a toss up if I could avoid a conviction. Quite so. We must find out more. The question is: How was this wound made? Was there a third man in it?'

"'Guide may have jabbed him from behind with some other instrument and afterward thrown it out of the window.'

"'Yes,' said I, 'but that is going on the assumption that Guide did the trick, which I don't for a moment think is the case. Besides, if he did throw anything out of the window, it would most assuredly have been found. They keep the permanent way very thoroughly inspected upon the Metropolitan. No, Barnes, there is some other agent in this case, animate or inanimate, which so far we have overlooked completely, and an innocent man's life depends upon our raveling it out.'

"Barnes lifted his shoulders helplessly and took another sandwich. 'I don't see what we can do.'

"'Nor I very clearly, but we must start from the very commencement and go over the ground inch by inch.'

"So wrapped up was I in the case by this time that I could not fix my mind to anything else. Then and there I went out and set about my inquiries.

"With some trouble I found the compartment in which the tragedy had taken place, but learned nothing new from it. The station and the railway people at Addison road, Kensington, were similarly drawn blank. The ticket inspector at Shaftesbury road, who distinctly remembered Guide's passage, at first seemed inclined to tell me nothing new either until I dragged it out of him by a regular emetic of questioning.

"Then he did remember that Guide had been carrying in his hand a carpenter's straw bass as he passed through the wicket. He did not recollect whether he had mentioned this to the police; didn't see that it mattered.

"I thought differently, and with a new vague hope in my heart, posted back to the prison. I had heard no word of this hand baggage from Guide or any one. It remained to be seen what he had done with it.

"They remembered me from my previous visit and let me in to see the prisoner without much demur. Guide owned up to the basket at once. 'Yes,' he said, 'I had some few odd tools to carry from home, and as I couldn't find anything else handy to put them in I used the old carpenter's bass. I had an iron eye to splice on to the end of a windlass rope, a job that I like to do myself, to make sure it's done safe. I never thought about telling you of that bass before, sir. I didn't see as how it mattered.'

"'Where is the bass now?'

"'In the left luggage office at Shaftesbury road station. Name of Hopkins. I've lost the ticket.'

"'Where did you put your basket on entering the carriage at Addison road?'

"'On the seat, sir, in the corner by the window.' And with that I left him.

"Now, thought I to myself, I believe I can find out whether you murdered Andrew Walker or not, and drove back to Hammersmith.

"I inquired at the cloakroom. Yes, the carpenter's bass was there, beneath a dusty heap of other unclaimed luggage. There was demurrage to pay on it, which I offered promptly to hand over, but as I could produce no counterfoil bearing the name of Hopkins, the clerk with a smile said that he could not let me have it. However, when he heard what I wanted he made no objection to my having an overhaul.

"The two lugs of the bass were threaded together with a hammer. I took this away and opened the sides. Within were a ball of marline, another of spun yarn, a grease pot and several large iron eyes. Also a large marline spike. It was this last that fixed my attention. It was brand new, with a bone handle and a bright brass ferrule. Most of the iron also was bright, but three inches of the point were stained with a faint dark brown. From a casual inspection I should have put this down to the marline spike having been last used to make a splice on tarred rope, but now my suspicions made me think of something else.

"I raised the stained point to my nose. There was no smell of tar whatever. On the bright part there was the indefinable odor of iron. At the tip that the coat of brown varnish had blotted this scent completely away.

"I think my fingers trembled when I turned to the bass again.

"Yes, there, opposite to where the point of the marline spike had been lying—it was tilted over the ball of spun yarn—was a closed up gash in the side of the bass. The spike had passed through there and then been withdrawn. Round the gash was a dim discoloration, which I knew to be dried human blood.

"In my mind's eye I saw the whole ghastly accident clearly enough now. The two men had been standing up, struggling. Guide had gone down under a blow, knocked senseless, and Walker had stumbled over him. Pitching forward, face downward, on to the seat before he could recover, his head had dashed violently against the carpenter's bass. The sharp marline spike inside, with its heel resting against the solid wall of the carriage, had entered the top of his skull like a bayonet. No human hand had been raised against him, and yet he had been killed on the instant without a struggle.

"Then he had rolled off on the floor, and the blood from his wound had dripped on to the point of the pickax lying beneath him.

"Now, I know that for a barrister to go about ferreting out these items of

"I raised the stained point to my nose."

evidence for himself is a matter open to censure. To begin with, it takes up time which might be used to greater financial profit in other ways; also it is undignified.

"So I kept my own particular ramblings in this case remarkably quiet and in court led up to my facts through ordinary cross examination.

"Mind you, it wasn't a short case or a simple case when it came up for trial. Counsel for the crown had anticipated an easy conviction, and when they saw that they were going to be fought they thrashed through their briefs like men. Perhaps I did let them have an undue length of tether, but the temptation was too big to be resisted. But at the proper psychological moment I called attention to the shape of the puncture in Walker's skull and then dramatically sprang the bass and the marline spike upon them unawares. After that, as the papers put it, 'there was applause in court, which was instantly suppressed.'"

"Oh, the conceit of the man!" said O'Malley, laughing.

Grayson laughed too. "Well," he said, "I was younger then, and I suppose I was a trifle conceited. The crown didn't throw up. They fought through to the finish. And the judge gave the worst summing up I ever heard—silly old fool! But the jury chucked us a 'Not guilty' without leaving the box, and then leading counsel for the other side came across and congratulated me on having saved Guide from the gallows. 'Now, I'd have bet anything on hanging that man,' said he."

No Character In Shoes.

"I used to try to connect men's feet with their characters," said the cobbler as he pounded away at his lapstone, "but finally gave it up as a bad job. Only about one man in 50 wears the heels of his shoes off square. About half the other 49 wear the outsides off first and the other half the insides. Where one foot is a trifle the larger it is always the left one. Nine times out of ten the right foot has the more corns. I know of men who will wear a suit of clothes a whole year, and yet their shoes will go in four months. There are others who will make a pair of shoes last two years. A man with a short step always runs his heels over quickest, but the man with a long, easy stride will wear a round hole through the middle of the sole. No; you can't tell a mean man from a good one by the way he wears his shoes. I used to think that feet of such and such a shape belonged to honest men or to rogues and that the wear on the heels betrayed the difference between a sinner and a believer, but after a few 'honest' men had bilked me out of their footwear and a few 'rascals' had paid cash on the nail I ceased to study character through shoe leather. I cement on a patch, put a lift on the heel, and after I've got my money I do no worrying."

He Rose to the Occasion.

There was a bit of fence opposite Rowley's drug store in T., Kan., and, as it proved convenient to loungers, it was broken down more than once. The owner, after putting it in order a second time, fastened a barbed wire on the top. There was fun for the clerks for awhile watching those who when just about to sit down suddenly concluded that business called them elsewhere.

One day a farmer in from the country lounged up to the fence and, without noticing the barbed wire, drew himself up and sat down squarely. He didn't jump; he didn't swear; he merely got up and remarked coolly, "I think I've dwelt on that point long enough!" —Harper's Bazar.