THE COURTS.

The Tragedy at the St. Lawrence Hotel.

Trial of Thomas Washington Smith for the Murder of Richard Carter.

SECOND DAY'S PROCEEDINGS.

[Reported for the Press.]

COURT OF OYER AND TERMINER—Judges Allison and Ludlow—Yesterday morning the case of Thos. Washington Smith, Jr., the murder of Richard Carter, was proceeded with. The prisoner preserve the same demeanor as the day previous, and immediately on entering the dock, relapsed into a state of apparent lethargy. The court-room was even more crowded, if possible, than it was on Tuesday, and the proceedings seemed to excite the highest degree of interest. Mr. Thayer's opening for the defence, which we give substantially in our report, was an eloquent and impressive effo t, and we observed several of the ladies in court affected even to tears at some of the more pathetic passages. The prisoner evinced by no sign of emotion that he was aware of what was passing around him; but on the expressive face of his devoted sister might be read all the alternations of hope and fear as the testimony appeared to be favorable or unfavorable to her unhappy brother.

After hearing Mr. Thayer's opening, there was much sympathy expressed for the prisoner. The case will probably occupy the whole of the week, as there are some eighty witnesses to be examined for the defence.

Hugh S. Fleming, affirmed.—I live in Allegheny City, Pa.; was in Philadelphia on the 4th of November; was stopping at the St. Lawrence Hotel; remember the occurrence in which Mr. Carter was shot; was sitting in front of the fire-place, in the front room; a couple of gentlemen came in and sat down on the sofa, on the east side of the parlor; the sofa was on the south side of the fire-place, between the fire-place and the folding-doors; after sitting there a while, a third party came in; understood after the occurrence that the two gentlemen were the two Messrs. Carter; the third person came in apparently to join them; Mr. Carter's nephew rose, turned round to his uncle, and said: "How long will you be here—half an hour?" and then withdrew; did not hear any remark by the third party as he came up; did not hear Mr. Carter's reply to his nephew; sat on a chair for at least 15 minutes; while these two gentlemen, Mr. O. and the third person, were conversing there, the latter was seated opposite the prisoner at the bar; sat about 8 or 10 feet from them; while they were conversing, could not hear their conversation; they were talking in an under tone; after I had sat there fifteen or twenty minutes, Mr. McClendes came in and immediately joined me in the parlor; after passing the compliments of the day, I handed him the evening paper; he sat down at the table to read it, and in a moment or two withdrew to the back parlor, or reading room, where there was a drop light; I then got up off my seat, and walked to a Chestnut-street window, and stood there a few minutes looking out on to Chestnut street; I then returned back to where the parties were sitting, through the back parlor to the office; I looked at the hotel register for a moment, and then entered the front parlor; I then went to my room 15 minutes elapsed from the time I arose from my chair to this time; when I got about three paces into the front parlor, the parties had risen to their feet; I recognized deceased and the prisoner; my attention was then immediately directed to them from the crack of a pistol; at a glance I saw the prisoner in the act of shooting; his cocked his pistol and shot again immediately; the pistol was within a few inches of his body—the left breast; Mr. Carter threw up his hands and fell forward on the floor; after Mr. Carter fell the prisoner stepped forward one step, cocked his pistol and shot again, and then again; he immediately put his pistol in his pocket and pulled out his bowie knife, held it up to his breast, and said, "I'll submit to the officers of the law and no one else;" he didn't appear to address it to any one; I suppose he meant every one to hear it; he spoke loud enough; his face was turned towards the office; he then turned towards me, I gave way to him a couple of steps, and he walked very deliberately out of the back parlor door into the hall; I can't say whether the prisoner was in the hall or not; I heard a fling when firing the last two shots his eyes were riveted on me, but at no other time; Mr. Carter, when falling, gave a kind of exclamation; I followed the prisoner into the hall; I recollect I had no hat on, and I returned to get my hat; my hat was on the table in the front parlor; I got my hat on and turned to come out, and met Mr. Carter's nephew face to face, and I said, "who are you, sir, you were here talking to these men a while ago?" I grabbed him then by the wrist; he replied, "I haven't been in here" at first; in a moment he said, "I am Mr. Carter's nephew;" I soon discovered he was so much agitated he did not know what he was doing; I let him go then, and turned my attention to the deceased, and found he was dead; the body was carried to Mr. Carter's room; in the front parlor, upon examining, I saw a bullet hole in the left breast; I would say it was the first shot inflicted this wound; the prisoner's hand fell very much at the second shot; the knife the prisoner had in his hand was naked; I did not follow the prisoner farther than the door, and would not go for my hat.

Cross examined by Brown.—When I first came into the room I found Carter and nephew sitting on a sofa; chairs are the chairs into the dining room; I passed the door into front parlor, I think, is always locked; did not know Smith; Smith approached the sofa very quietly; my attention was first attracted to them when the nephew was leaving; the nephew went out into the back parlor; where else he went after I do not know; from that time till I seized him by the wrist I did not see him at all; I may have been there if he was, I didn't see him; couldn't say I did see him walking to and fro; to my recollection, the back and front room were both lighted; when Mr. McClendes came in I handed him a paper; don't recollect seeing the nephew there; don't recollect seeing any party there but the two gentlemen on the sofa after the nephew withdrew; when they arose I was in the back parlor; don't know the manner in which they rose up; I thought they were speaking in a suppressed tone; there was nothing there attracted my attention more than usual; I sat within eight or ten feet of them; my chair occupied the corner seat on the sofa, Mr. Smith the next the third; I was sitting facing the fire, the middle of the fire; I paid no attention to them at all; they were as close as they could get together, for there was an arm of the sofa between them; there are five winged seats in the sofa; the prisoner took the seat the nephew left; I didn't take notice of any sitting any place but on the sofa; I did not particularly observe Smith's appearance during the two first shots, but during the firing of the two latter I considered Mr. McClendes and Mr. Campbell more excited than he was; I thought he was very cool under all the circumstances, taking into account the tragedy; I should say his face wore the ordinary appearance of excitement any man would show under the same circumstances; he came towards me a step or two; not in a hostile way; did not see him again until I met him in the Mayor's office; didn't look after him; I think I have stated all I heard him say or saw him do.

Re-examined.—I think if the nephew had been there I would have seen him; I am not positive; persons in a hotel don't see everybody passing to and fro; my face was to the east as I sat at the fire; a person might possibly have walked between the table and the door, and may not recollect; to the best of my recollection, I was sitting right opposite the fire; my back was toward the back parlor door; a person might pass from that door a few steps into the front room and not be seen by me.

Re-cross examined.—I did not hear any one.

Mr. Campbell, re-called.—The front parlor was carpeted; the back one has oilcloth.

Wm. B. Hitchcock, sworn.—I have taken a drawing of the room at the St. Lawrence Hotel. [Plan produced and shown to the jury.]

William W. Kay, sworn.—I reside in North Third street, below Green; I am a gunmaker; I have the pistol with me that has been handed to me; it was handed to me with one load in it; there were spilled in it; I have drawn the contents of that barrel—one ball and a load of powder, and a cap on it; no wadding; in loading a pistol of that kind; that ball is in the condition it was when I drew it; if it had been discharged, it would have assumed the position of the cone; [the ball found in the body of Carter produced.] This is not a self-cocking pistol; by pulling the trigger full the pistol will not cock; not a difficult thing to cock it; this pistol is loaded in the cylinder; requires care and attention to load it.

Mr. Campbell recalled and re-cross-examined.—I find that Mr. Carter stayed at my house from the 1st of June till the 6th; came back on the 9th, and stayed till the 10th; returned 22d of June, and left on the 30th; he returned July 7th, and left on the 9th; returned July 22d, left on the 24th; returned August 4th, left on the 6th; returned August 13th, left on the 16th; returned 21th of August, left 7th; returned September 8th, left on the 10th; returned September 21st, left on the 24th; returned October 5th, left October 12th; had his wife in company with him at that time.

Charles Fox, sworn.—I am turnkey at the station house, Sixth and Chestnut streets; was so on the 4th November last; the officer gave in charge to me the weapons he took from the prisoner—a revolver and a knife; I gave them up to Mr. Buckley.

James Henry Buckley, sworn.—I am a Lieutenant of Police; was on 4th November the Chief of the Criminal Detective Department; I received the pistol and bowie knife from Mr. Fox. [The knife and pistol here put in evidence.]

The Commonwealth here closed.

Mr. Thayer opened for the defence as follows: May it please your Honors, and you gentlemen of the jury: We have passed through one stage of this case; we have heard the dreadful charge against this unfortunate man; you have heard the learned opening of the Attorney General, and you have seen the bloody witnesses; it is my your lot to listen to my tale—to listen to the features in his case. The learned District Attorney did not wish you would show you a case of illegal and premeditated murder; but I will disprove it by 80 witnesses who came here to speak in favor of this unfortunate man.

I will be compelled to speak briefly, though plainly, in giving this narrative. Richard Carter has gone to his long account, and I would not say a word derogatory of his forgiving life if it were not necessary to explain this poor young man's conduct. I will assert the truth at all hazards, no matter what the consequences. The defendant, Thomas Washington Smith, is well known to many of you, gentlemen, though to many in the courtroom who come here to behold him, he is well known.

He was born in October, 1827, in the little village of Northeast, in Cecil county, Maryland, on the borders of Pennsylvania. He is, therefore, thirty years of age. [Here one of the witnesses corrected Mr. Thayer as to the birthplace of the prisoner. I stand corrected. He was born in Delaware, of highly respectable parents; people highly esteemed by the community in which they lived. At five years of age he lost his father—in no ordinary manner—in no common way his father fell under that worst of human afflictions—he became insane; he wandered away from his home, and was never heard of more. The shock was thus left on the entire charge of his mother. She was a very remarkable woman; extraordinary sweetness of character, beloved by all who knew her. In her tender charge her son grew up, being brought up by his mother, in her own lap, in the most tender, gentle, careful, and religious manner. She was a pious mother as well as an exemplary woman; and when he was thrown upon her sole attention, she devoted her life to him, to make him an upright, honest, and useful member of society. She died when he was but sixteen or seventeen years old; he was left, therefore, alone in the world. The father had left in a fit of insanity—the mother was in her silent grave. There remained to him an only sister, who, now at the hour of his great trial, adheres to him in affliction—who has braved herself in the eyes of iron to uphold her brother; here by the witnesses she has brought; had however black the charge hanging over him, she has stood by him. She is no mere sister in sentiment, and she will prove it.

This young man then went to his uncle, then for a short time to Dickinson College, at Carlisle. He left there and returned to Delaware, to Dover, where he was employed by Mr. Carter. He was a short time in Philadelphia. He was erratic in his movements, but his behavior in his employer's house was always to his own desire. I will show you that this young man has by everybody had but one character; he was an upright, amiable, whole-souled man; he had not an obvious vice; he was a young man of perfect moral character—a kindness and gentleness of heart extraordinary—a simplicity of character seldom seen in man, although we often see it in woman—an almost total ignorance of evil. He was an unprotected man; depended on himself; he looked round to see what he could do for himself and sister's support. In 1856 or 1857, I think 1856, he took from Mr. Bedow, in Washington, an office under him as traveling agent for South East to West. Mr. Bedow liked this young man, and took an interest in him. He met him in Charleston; he saw of what the young man was made.

This occupation was in accordance with this young man's taste. This occupation compelled him to carry arms. Long before his connection with Mr. Carter he was accustomed so to do. In 1856, while in the employ of Mr. Bedow, this young man went to Delaware to see his sister; she was a teacher in the Methodist Female College in that place. While on this visit to his sister, young Smith accidentally fell in with a young lady, whose name was Elizabeth Jane McGinley, a young lady of brilliant spirit and personal attractions, who was there as a student.

He conceived a fondness for her. He went away again, however, and perhaps would have forgotten Miss McG., had she not recalled herself to his recollection. He saw her first in May, 1856, and did not again see her until October of the same year. I am emphatic about that. He had, however, in the meantime addressed the lady; he answered it; a correspondence sprung up, and they became engaged, never having seen each other, but once in their lives.

Now let me pause a moment to take up another thread of the story. In March, 1856, there lived in Wilkesbarre a modest, upright man, a pastor of the Methodist Church, whose name was John McCauley. He had some business relations with Richard Carter; a further acquaintance with Carter, in Wilkesbarre, was imperfect; McCauley, Carter was frequently at Wilkesbarre; McCauley's family was there; he frequently seen Miss McG.; and she was the day when he first did see her. Carter seemed to take a fancy to this young girl. He was a man of wealth; he offered to furnish money to McCauley to take this daughter of his under his protection, and put her under care of an academical institution, that she might return to her parents a finished lady; I use Mr. Carter's language. Mr. Carter, in company with McCauley, came to Philadelphia; Miss McG. was at Dover; Carter came to McCauley's room, and proposed to him that he should write to her, and offer to consent to Carter's proposal. This was in May, 1856. Carter came to Wilkesbarre in July or August, 1856, accompanied by the very nephew who has been upon the stand, and who was cognizant of every detail of this affair. He took back this virtuous girl, who had been promising to return to her disabled lady. He sent her to the academy at Delaware—acted, he said, as her guardian—her father's forsooth. She, while there, occasionally came to the city to see Mr. Carter—evidently looking upon him as the light of a child trying to see her guardian or father, and nobody suspecting wrong.

But, gentlemen, my position here compels me to tell you, in defence of my client, that Richard Carter, in one of these visits, for ever ruined this innocent count—all—without a suspicion on the part of her friends her father—with the fatal secret locked in her own breast and the breast of her destroyer. That happened in the summer of 1856, between the time when Smith first saw her in the spring of '55 and October, when he again returned, while this loving correspondence was daily passing between them.

He returned, and the day was fixed for their nuptials Carter was made acquainted with the fact; he came down and was introduced to Mr. Smith. They had a festival at the Madison House, Mr. Carter sitting by his side—and all went merry as a marriage bell. Carter there, with this awful and fatal secret locked in his bosom—my client as innocent as a child. Carter consented to the proposed marriage; but simply asked (on the 20th November) that it might be postponed to Christmas, in order that he might come down from Tamaqua to witness the ceremony.

That marriage was celebrated by the Rev. Dr. Wadsworth, on the 16th December, 1856. Afterwards the bride went to pay a visit in Delaware; then he returned to Philadelphia; lodged at the Ashland House. He then went to live with his wife at Mr. Lonker's, the Farmers' Inn. He went there for two considerations: 1st, Mrs. D. was a connexion of his wife; 2nd, as a matter of economy. He was frequently absent from the city in New York. While away, Leonard, who was in Eights, and Mrs. Smith accompanied them. From the marriage till April they were extremely happy; his devotion to her was extraordinary; he worshiped the very earth on which she trod; he was happy nowhere but in her society.

On the morning of April 10, 1857, it was Good Friday, gentlemen, but an awful Friday for this young man; his wife was taken ill with those symptoms which ordinarily precede child-birth. Mr. Smith went for a doctor; told him to come immediately—that his wife was about to have a miscarriage; he also went for a nurse. Mrs. Leonard was spoken to by Smith as to how this child should be disposed of, not knowing the real state of affairs. Mrs. Leonard hinted the cause, as best she might, but his sudden change of appearance stopped her, and she feared to tell him more. He said, you know that no child born after a marriage of four months can live "How can we dispose of it?"

But the child lived, and the physician will tell you was a fully-developed, nine-months child. This they struck my client down, when communicated to him, like a thunderbolt from heaven. Naturally nervous and excited, he rolled in agony upon the floor, and tore out his hair in shreds, and was the most sorrowful picture of human despair and misery ever witnessed.

Mr. Leonard, in the kindness of his heart, and apprehensive of this young man's destroying himself, locked him up in a room. He remained in that room all night. The following morning he was somewhat more composed; still in the the most harrowing picture of human misery. He sent for his friends; he wrote to his sister. "For God sake come up! God have mercy on me. My wife has had a child, but I am a stranger to a father's joy." The sister came to console and pacify him. He did not know then that Richard Carter was the author of his ruin, and in the innocence of his heart he wrote a letter to Mr. Carter. He still watched over his wife, not for days breathing a word of the terrible conviction that had come over his soul.

He slept none at nights; he wandered about Mr. Leonard's house, walked into his wife's room, asked the nurse to leave the room, and obtained the confession of his wife that Richard Carter was the father of her dishonor. He sought the counsel of his friends, who advised him to leave one who had proved false to him, lest she might err again. The parting, gentlemen, I can't describe; you can't picture; none but those who saw it could conceive its despairing agonies. He tore himself away in sobs and moans, and as he said himself, felt the loss as though it was the loss of part of his own body.

He went to New York and remained there in June, 1857; he came then to Philadelphia, and met his employer, Mr. De Bow. Mr. D. was surprised and shocked at his altered condition. He saw he was utterly incapable of attending to his business; that he was but the wreck of his former self. He offered, in the kindness of his heart, to buy him a horse and send him to Virginia. He went to Virginia, but grew no better; in fact, he grew worse.

I will show you, gentlemen, how this misfortune had unsettled his very reason, and how he was no longer the Thomas Washington Smith he once was; I will show you he had fits of absence of mind, seeing and hearing things that were not. In this frame of mind he travelled from Virginia to Baltimore, from thence northeast, and crowds of gentlemen come from the latter places to tell you what he was there. He came back haggard and careworn; so altered that Mrs. Leonard did not know him.

He went to the Madison House. Everybody noticed his altered appearance; even the visitors at the house noticed his altered appearance. They pressed him to make him sleep, but no drug was sufficiently potent to hush his restless spirit. He roamed about the public bright. He perceived among other things that Richard Carter was *hunting him*. He would ask who so-and-so was in the hotel, and being told, he would say: "that's one of Carter's spies, and I have my eye on him.

He told a gentleman that "I saw a person in a carriage driving up the street from Walnut-street wharf, say shoot, shoot, and I stood straight up to receive the shot, but he let me pass that time."

"Gentlemen will tell you on their solemn oaths that they saw him in the same hour of this tragedy, and that he was a deranged man. He goes to the St. Lawrence Hotel and meets the reality of the spectre that had been haunting him for so many days. He sits down by him; talks in aquiet under-tone;—this is most singular, we admit;—they both rise, and this unfortunate occurrence takes place.

The question for you to decide is then: Was this young man in a responsible state of mind? We will show you that four of his mother's family were lunatics, two of them inmates of lunatic asylums; that his father was deranged; and in that state left his home; that he himself was of the most nervous and excitable nature; and that before May, and since this unfortunate transaction, this young man has been totally bereft of reason.

Let no man make light of the defence I have set up, by reason of the abuse which it has suffered in courts of justice. I ask you, in the name of Justice, in the name of obedience to the will of Divine Providence in inflicting this unfortunate young man as he has done, to save him from condemnation for his misfortunes. The District Attorney has told you that human life is the most and greatest blessing God has vouchsafed to mankind, but I tell you there is one thing that is far, far, very far happier to the possessor—I mean a pure and spotless name.

Blemish not the fair fame and name of this unfortunate young man by the name of assassin. Call him not a murderer. Rather (though also an appellation hard to bear) point at him as a madman. But let not the reproach of assassin hurl him to the grave. Look upon that living ruin—verily a life in death, to which death is far preferable, if not tainted with a most foul condemnation.

Whatever may be said of pity, whatever may be said of sympathy, I do not expect it for myself, but I do ask and may it retribution, to meet out to that man the punishment which the law reserves for the guilty. God only should punish him; He who overthrew that reason should also overthrow that life.

I will now proceed to call the witnesses for the defence.

James De Bow, sworn.—I reside in Washington city; I am an editor of a work which bears my name; I have sickness in my family, and am obliged to return home; I became acquainted with Mr. Smith in Charleston, in January, 1856.

Q. Under what circumstances? Objected to, but admitted qualifedly.

A. In consequence of an advert ement I saw in a Charleston paper, I had an interview with Mr. Smith in January or February, '56; I engaged Mr. Smith in consequence of what took place at that interview as collecting agent; that was I did his to travel extensively; he went to New Orleans after that engagement; from there he returned to Washington, from Washington to Baltimore, Philadelphia, and New York; he was in Washington about April or May, 1856; he went from there to Baltimore Philadelphia, and New York; he was in New York in July; I think he was there also in June; he spent the month of July in New York; he left there about the 1st of August; he went somewhere; into the south; I believe; I do know he went to Virginia. He went to Virginia, but grew no better; in fact, he grew worse.

I will show you, gentlemen, how this misfortune had unsettled his very reason, and how he was no longer the Thomas Washington Smith he once was; I will show you he had fits of absence of mind, seeing and hearing things that were not. In this frame of mind he travelled from Virginia to Baltimore, from thence northeast, and crowds of gentlemen come from the latter places to tell you what he was there. He came back haggard and careworn; so altered that Mrs. Leonard did not know him.

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