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Chapter 17 - Second Question--Who Poisoned Her?

THE evidence of the doctors and the chemists closed the proceedings on the first day of the Trial.

On the second day the evidence to be produced by the prosecution was anticipated with a general feeling of curiosity and interest. The Court was now to hear what had been seen and done by the persons officially appointed to verify such cases of suspected crime as the case which had occurred at Gleninch. The Procurator-Fiscal--being the person officially appointed to direct the preliminary investigations of the law--was the first witness called on the second day of the Trial.

Examined by the Lord Advocate, the Fiscal gave his evidence, as follows:

"On the twenty-sixth of October I received a communication from Doctor Jerome, of Edinburgh, and from Mr. Alexander Gale, medical practitioner, residing in the village or hamlet of Dingdovie, near Edinburgh. The communication related to the death, under circumstances of suspicion, of Mrs. Eustace Macallan, at her husband's house, hard by Dingdovie, called Gleninch. There were also forwarded to me, inclosed in the document just mentioned, two reports. One described the results of a postmortem examination of the deceased lady, and the other stated the discoveries made after a chemical analysis of certain of the interior organs of her body. The result in both instances proved to demonstration that Mrs. Eustace Macallan had died of poisoning by arsenic.

"Under these circumstances, I set in motion a search and inquiry in the house at Gleninch and elsewhere, simply for the purpose of throwing light on the circumstances which had attended the lady's death.

"No criminal charge in connection with the death was made at my office against any person, either in the communication which I received from the medical men or in any other form. The investigations at Gleninch and elsewhere, beginning on the twenty-sixth of October, were not completed until the twenty-eighth. Upon this latter date--acting on certain discoveries which were reported to me, and on my own examination of letters and other documents brought to my office--I made a criminal charge against the prisoner, and obtained a warrant for his apprehension. He was examined before the Sheriff on the twenty-ninth of October, and was committed for trial before this Court."

The Fiscal having made his statement, and having been cross-examined (on technical matters only), the persons employed in his office were called next. These men had a story of startling interest to tell. Theirs were the fatal discoveries which had justified the Fiscal in charging my husband with the murder of his wife. The first of the witnesses was a sheriff's officer. He gave his name as Isaiah Schoolcraft.

Examined by Mr. Drew--Advocate-Depute, and counsel for the Crown, with the Lord Advocate--Isaiah Schoolcraft said:

"I got a warrant on the twenty-sixth of October to go to the country-house near Edinburgh called Gleninch. I took with me Robert Lorrie, assistant to the Fiscal. We first examined the room in which Mrs. Eustace Macallan had died. On the bed, and on a movable table which was attached to it, we found books and writing materials, and a paper containing some unfinished verses in manuscript, afterward identified as being in the handwriting of the deceased. We inclosed these articles in paper, and sealed them up.

"We next opened an Indian cabinet in the bedroom. Here we found many more verses on many more sheets of paper in the same hand-writing. We also discovered, first some letters, and next a crumpled piece of paper thrown aside in a corner of one of the shelves. On closer examination, a chemist's printed label was discovered on this morsel of paper. We also found in the folds of it a few scattered grains of some white powder. The paper and the letters were carefully inclosed, and sealed up as before.

"Further investigation of the room revealed nothing which could throw any light on the purpose of our inquiry. We examined the clothes, jewelry, and books of the deceased. These we left under lock and key. We also found her dressing-case, which we protected by seals, and took away with us to the Fiscal's office, along with all the other articles that we had discovered in the room.

"The next day we continued our examination in the house, having received in the interval fresh instructions from the Fiscal. We began our work in the bedroom communicating with the room in which Mrs. Macallan had died. It had been kept locked since the death. Finding nothing of any importance here, we went next to another room on the same floor, in which we were informed the prisoner was then lying ill in bed.

"His illness was described to us as a nervous complaint, caused by the death of his wife, and by the proceedings which had followed it. He was reported to be quite incapable of exerting himself, and quite unfit to see strangers. We insisted nevertheless (in deference to our instructions) on obtaining admission to his room. He made no reply when we inquired whether he had or had not removed anything from the sleeping-room next to his late wife's, which he usually occupied, to the sleeping-room in which he now lay. All he did was to close his eyes, as if he were too feeble to speak to us or to notice us. Without further disturbing him, we began to examine the room and the different objects in it.

"While we were so employed, we were interrupted by a strange sound. We likened it to the rumbling of wheels in the corridor outside.

"The door opened, and there came swiftly in a gentleman--a cripple--wheeling himself along in a chair. He wheeled his chair straight up to a little table which stood by the prisoner's bedside, and said something to him in a whisper too low to be overheard. The prisoner opened his eyes, and quickly answered by a sign. We informed the crippled gentleman, quite respectfully, that we could not allow him to be in the room at this time. He appeared to think nothing of what we said. He only answered, 'My name is Dexter. I am one of Mr. Macallan's old friends. It is you who are intruding here--not I.' We again notified to him that he must leave the room; and we pointed out particularly that he had got his chair in such a position against the bedside table as to prevent us from examining it. He only laughed. 'Can't you see for yourselves,' he said, 'that it is a table, and nothing more?' In reply to this we warned him that we were acting under a legal warrant, and that he might get into trouble if he obstructed us in the execution of our duty. Finding there was no moving him by fair means, I took his chair and pulled it away, while Robert Lorrie laid hold of the table and carried it to the other end of the room. The crippled gentleman flew into a furious rage with me for presuming to touch his chair. 'My chair is Me,' he said: 'how dare you lay hands on Me?' He first opened the door, and then, by way of accommodating him, gave the chair a good push behind with my stick instead of my hand, and so sent it and him safely and swiftly out of the room.

"Having locked the door, so as to prevent any further intrusion, I joined Robert Lorrie in examining the bedside table. It had one drawer in it, and that drawer we found secured.

"We asked the prisoner for the key.

"He flatly refused to give it to us, and said we had no right to unlock his drawers. He was so angry that he even declared it was lucky for us he was too weak to rise from his bed. I answered civilly that our duty obliged us to examine the drawer, and that if he still declined to produce the key, he would only oblige us to take the table away and have the lock opened by a smith.

"While we were still disputing there was a knock at the door of the room.

"I opened the door cautiously. Instead of the crippled gentleman, whom I had expected to see again, there was another stranger standing outside. The prisoner hailed him as a friend and neighbor, and eagerly called upon him for protection from us. We found this second gentleman pleasant enough to deal with. He informed us readily that he had been sent for by Mr. Dexter, and that he was himself a lawyer, and he asked to see our warrant. Having looked at it, he at once informed the prisoner (evidently very much to the prisoner's surprise) that he must submit to have the drawer examined, under protest. And then, without more ado, he got the key, and opened the table drawer for us himself.

"We found inside several letters, and a large book with a lock to it, having the words 'My Diary' inscribed on it in gilt letters. As a matter of course, we took possession of the letters and the Diary, and sealed them up, to be given to the Fiscal. At the same time the gentleman wrote out a protest on the prisoner's behalf, and handed us his card. The card informed us that he was Mr. Playmore, now one of the Agents for the prisoner. The card and the protest were deposited, with the other documents, in the care of the Fiscal. No other discoveries of any importance were made at Gleninch.

"Our next inquiries took us to Edinburgh--to the druggist whose label we had found on the crumpled morsel of paper, and to other druggists likewise whom we were instructed to question. On the twenty-eighth of October the Fiscal was in possession of all the information that we could collect, and our duties for the time being came to an end."

This concluded the evidence of Schoolcraft and Lorrie. It was not shaken on cross-examination, and it was plainly unfavorable to the prisoner.

Matters grew worse still when the next witnesses were called. The druggist whose label had been found on the crumpled bit of paper now appeared on the stand, to make the position of my unhappy husband more critical than ever.

Andrew Kinlay, druggist, of Edinburgh, deposed as follows:

"I keep a special registry book of the poisons sold by me. I produce the book. On the date therein mentioned the prisoner at the bar, Mr. Eustace Macallan, came into my shop, and said that he wished to purchase some arsenic. I asked him what it was wanted for. He told me it was wanted by his gardener, to be used, in solution, for the killing of insects in the greenhouse. At the same time he mentioned his name--Mr. Macallan, of Gleninch. I at once directed my assistant to put up the arsenic (two ounces of it), and I made the necessary entry in my book. Mr. Macallan signed the entry, and I signed it afterward as witness. He paid for the arsenic, and took it away with him wrapped up in two papers, the outer wrapper being labeled with my name and address, and with the word 'Poison' in large letters--exactly like the label now produced on the piece of paper found at Gleninch."

The next witness, Peter Stockdale (also a druggist of Edinburgh), followed, and said:

"The prisoner at the bar called at my shop on the date indicated on my register, some days later than the date indicated in the register of Mr. Kinlay. He wished to purchase sixpenny-worth of arsenic. My assistant, to whom he had addressed himself, called me. It is a rule in my shop that no one sells poisons but myself. I asked the prisoner what he wanted the arsenic for. He answered that he wanted it for killing rats at his house, called Gleninch. I said, 'Have I the honor of speaking to Mr. Macallan, of Gleninch?' He said that was his name. I sold him the arsenic--about an ounce and a half--and labeled the bottle in which I put it with the word 'Poison' in my own handwriting. He signed the register, and took the arsenic away with him, after paying for it."

The cross-examination of the two men succeeded in asserting certain technical objections to their evidence. But the terrible fact that my husband himself had actually purchased the arsenic in both cases remained unshaken.

The next witnesses--the gardener and the cook at Gleninch--wound the chain of hostile evidence around the prisoner more mercilessly still.

On examination the gardener said, on his oath:

"I never received any arsenic from the prisoner, or from any one else, at the date to which you refer, or at any other date. I never used any such thing as a solution of arsenic, or ever allowed the men working under me to use it, in the conservatories or in the garden at Gleninch. I disapprove of arsenic as a means of destroying noxious insects infesting flowers and plants."

The cook, being called next, spoke as positively as the gardener:

"Neither my master nor any other person gave me any arsenic to destroy rats at any time. No such thing was wanted. I declare, on my oath, that I never saw any rats in or about the house, or ever heard of any rats infesting it."

Other household servants at Gleninch gave similar evidence. Nothing could be extracted from them on cross-examination except that there might have been rats in the house, though they were not aware of it. The possession of the poison was traced directly to my husband, and to no one else. That he had bought it was actually proved, and that he had kept it was the one conclusion that the evidence justified.

The witnesses who came next did their best to press the charge against the prisoner home to him. Having the arsenic in his possession, what had he done with it? The evidence led the jury to infer what he had done with it.

The prisoner's valet deposed that his master had rung for him at twenty minutes to ten on the morning of the day on which his mistress died, and had ordered a cup of tea for her. The man had received the order at the open door of Mrs. Macallan's room, and could positively swear that no other person but his master was there at the time.

The under-housemaid, appearing next, said that she had made the tea, and had herself taken it upstairs before ten o'clock to Mrs. Macallan's room. Her master had received it from her at the open door. She could look in, and could see that he was alone in her mistress's room.

The nurse, Christina Ormsay, being recalled, repeated what Mrs. Macallan had said to her on the day when that lady was first taken ill. She had said (speaking to the nurse

at six o'clock in the morning), "Mr. Macallan came in about an hour since; he found me still sleepless, and gave me my composing draught." This was at five o'clock in the morning, while Christina Ormsay was asleep on the sofa. The nurse further swore that she had looked at the bottle containing the composing mixture, and had seen by the measuring marks on the bottle that a dose had been poured out since the dose previously given, administered by herself.

On this occasion special interest was excited by the cross-examination. The closing questions put to the under-housemaid and the nurse revealed for the first time what the nature of the defense was to be.

Cross-examining the under-housemaid, the Dean of Faculty said:

"Did you ever notice when you were setting Mrs. Eustace Macallan's room to rights whether the water left in the basin was of a blackish or bluish color?" The witness answered, "I never noticed anything of the sort."

The Dean of Faculty went on:

"Did you ever find under the pillow of the bed, or in any other hiding place in Mrs. Macallan's room, any books or pamphlets telling of remedies used for improving a bad complexion?" The witness answered, "No."

The Dean of Faculty persisted:

"Did you ever hear Mrs. Macallan speak of arsenic, taken as a wash or taken as a medicine, as a good thing to improve the complexion?" The witness answered, "Never."

Similar questions were next put to the nurse, and were all answered by this witness also in the negative.

Here, then, in spite of the negative answers, was the plan of the defense made dimly visible for the first time to the jury and to the audience. By way of preventing the possibility of a mistake in so serious a matter, the Chief Judge (the Lord Justice Clerk) put this plain question, when the witnesses had retired, to the Counsel for the defense:

"The Court and the jury," said his lordship, "wish distinctly to understand the object of your cross-examination of the housemaid and the nurse. Is it the theory of the defense that Mrs. Eustace Macallan used the arsenic which--her husband purchased for the purpose of improving the defects of her complexion?"

The Dean of Faculty answered:

"That is what we say, my lord, and what we propose to prove as the foundation of the defense. We cannot dispute the medical evidence which declares that Mrs. Macallan died poisoned. But we assert that she died of an overdose of arsenic, ignorantly taken, in the privacy of her own room, as a remedy for the defects--the proved and admitted defects--of her complexion. The prisoner's Declaration before the Sheriff expressly sets forth that he purchased the arsenic at the request of his wife."

The Lord Justice Clerk inquired upon this if there were any objection on the part of either of the learned counsel to have the Declaration read in Court before the Trial proceeded further.

To this the Dean of Faculty replied that he would be glad to have the Declaration read. If he might use the expression, it would usefully pave the way in the minds of the jury for the defense which he had to submit to them.

The Lord Advocate (speaking on the other side) was happy to be able to accommodate his learned brother in this matter. So long as the mere assertions which the Declaration contained were not supported by proof, he looked upon that document as evidence for the prosecution, and he too was quite willing to have it read.

Thereupon the prisoner's Declaration of his innocence--on being charged before the Sheriff with the murder of his wife--was read, in the following terms:

"I bought the two packets of arsenic, on each occasion at my wife's own request. On the first occasion she told me the poison was wanted by the gardener for use in the conservatories. On the second occasion she said it was required by the cook for ridding the lower part of the house of rats.

"I handed both packets of arsenic to my wife immediately on my return home. I had nothing to do with the poison after buying it. My wife was the person who gave orders to the gardener and cook--not I. I never held any communication with either of them.

"I asked my wife no questions about the use of the arsenic, feeling no interest in the subject. I never entered the conservatories for months together; I care little about flowers. As for the rats, I left the killing of them to the cook and the other servants, just as I should have left any other part of the domestic business to the cook and the other servants.

"My wife never told me she wanted the arsenic to improve her complexion. Surely I should be the last person admitted to the knowledge of such a secret of her toilet as that? I implicitly believed what she told me; viz., that the poison was wanted for the purposes specified by the gardener and the cook.

"I assert positively that I lived on friendly terms with my wife, allowing, of course, for the little occasional disagreements and misunderstandings of married life. Any sense of disappointment in connection with my marriage which I might have felt privately I conceived it to be my duty as a husband and a gentleman to conceal from my wife. I was not only shocked and grieved by her untimely death--I was filled with fear that I had not, with all my care, behaved affectionately enough to her in her lifetime.

"Furthermore, I solemnly declare that I know no more of how she took the arsenic found in her body than the babe unborn. I am innocent even of the thought of harming that unhappy woman. I administered the composing draught exactly as I found it in the bottle. I afterward gave her the cup of tea exactly as I received it from the under-housemaid's hand. I never had access to the arsenic after I placed the two packages in my wife's possession. I am entirely ignorant of what she did with them or of where she kept them. I declare before God I am innocent of the horrible crime with which I am charged."

With the reading of those true and touching words the proceedings on the second day of the Trial came to an end.

So far, I must own, the effect on me of reading the Report was to depress my spirits and to lower my hopes. The whole weight of the evidence at the close of the second day was against my unhappy husband. Woman as I was, and partisan as I was, I could plainly see that.

The merciless Lord Advocate (I confess I hated him!) had proved (1) that Eustace had bought the poison; (2) that the reason which he had given to the druggists for buying the poison was not the true reason; (3) that he had had two opportunities of secretly administering the poison to his wife. On the other side, what had the Dean of Faculty proved? As yet--nothing. The assertions in the prisoner's Declaration of his innocence were still, as the Lord Advocate had remarked, assertions not supported by proof. Not one atom of evidence had been produced to show that it was the wife who had secretly used the arsenic, and used it for her complexion.

My one consolation was that the reading of the Trial had already revealed to me the helpful figures of two friends on whose sympathy I might surely rely. The crippled Mr. Dexter had especially shown himself to be a thorough good ally of my husband's. My heart warmed to the man who had moved his chair against the bedside table--the man who had struggled to the last to defend Eustace's papers from the wretches who had seized them. I decided then and there that the first person to whom I would confide my aspirations and my hopes should be Mr. Dexter. If he felt any difficulty about advising me, I would then apply next to the agent, Mr. Playmore--the second good friend, who had formally protested against the seizure of my husband's papers.

Fortified by this resolution, I turned the page, and read the history of the third day of the Trial.