

## *THE CULPRIT JUDGE*

### A TALE OF THE BENCH AND BAR

In one of the Western States I was once a prosecuting attorney. The settler's axe was then familiar music, and the prairies away from the woodland had not yet heard the scream of the steam-whistle. All branches of society, of trade, business, and professions were in a transition state. Of course the judges were not men of vast learning or of rare character; and, lest I appear vain, I may add, that the lawyers were by no means Chief-Justice Taney's!

The Judge who traveled circuit with us in the counties round about the city of — had been in early life a horse-jockey, and had picked up a large amount of tact, knowledge of men, and of human nature, and of social motives that was of much use to him in his legal walk. At the West he had been a member of the first Constitutional Convention in our State, and, being a good talker and of quick natural intellect, had shone in the debates. Of course it was natural that, as he made the law, he should claim to be able to expound it. And at the first election after the State was admitted he was chosen a Judge.

I never liked him. With all his affability and apparent deference of manner, there was in his composition an understrata of cunning that I suspected and became wary of. When I was chosen peoples' solicitor he sought my confidence, but I repelled it, and, except in court, we were little together. Many a time on the civil side has he given me a favorable charge on facts, or acquiesced in my law when I felt that I was wrong. Nor could I fathom why he thus sought to get the winning side of me.

I suspected him of knavery. When prisoners were convicted, and he had the discretion of punishment, his sentences were oddly inconsistent. He fined when he should have imprisoned, and confined when a nominal punishment would have answered the justice of the case. But I never could get any clew, and with the populace he was regarded as a man of rare integrity and firmness of mind.

One night, at the inn in the little village of Washington, where a week's court was to be held, I went to my "boarded off" bedroom for an afternoon nap, and was soon fast asleep. I was awakened by a confused murmuring, that, after I was thoroughly aroused, I perceived to come from the adjoining room—one appropriated to Judge C—.

"He is committing his Grand Jury charge," said I to myself, when I heard a strange voice say, "The boodle is most used up of the old stripe."

Now "boodle" is a flash term used by counterfeiters, and it instantly attracted my "prosecuting" attention. As I sat up on the bedside a ray of light came through a chink of the boarded partition. As a man, honor would have forbidden a "peep;" as an officer of the law, prudence commanded it. So drawing myself noiselessly and closely to the "wall," or the boarded separation, I looked through the "crack" and saw Judge C— seated at a table with a sinister-looking man, who wore a pair of remarkably black whiskers; and the two were counting quite a pile of new bank-bills. I listened, but not another word was spoken

for some time. I saw the money divided into three piles, and the Judge placed one in his pocket, the whiskered man took the other, and then drawing off his boots, divided the third pile between each boot in the inside of it, and then again placed them on his feet. Next the Judge said: "Be careful and send it to the proper place." His sinister companion gave a meaning smile; they shook hands; the stranger left the room cautiously; and the Judge then sat down to some papers. I continued to look for several minutes, but he appeared absorbed in his duties, when, just as I was about quitting my point (literally a point) of observation, he arose, and taking out his roll of bills placed them up the chimney and then continued his reading.

I must say my blood ran cold, for a grave suspicion had often crossed my mind that he was a rascal; but I never suspected him of being concerned with the drovers, trappers, and traders who occasionally made bad money their commodity. Nor, as I sat collecting my thoughts, could I conceive it possible, when I remembered how severe he had always been upon the passers of counterfeit money, and how earnestly and solemnly he always in his charges in such cases declaimed against the enormity of offenders who substituted a spurious currency for a good one. I therefore concluded that the word "boodle," and the suspicious "boot stuffing," must relate to some other kind of offense, connected with which I now felt assured he must be.

Stealthily going out, I carefully descended the stairs and entered the bar-room. The heavily-whiskered man was seated at a table reading the last Cincinnati paper, as calm and placid as if he were the Methodist minister of the riding. I sat down, and pulling out a law-paper pretended to read it, but I was glancing over its top at the stranger. His eye did not wander from a particular point of the paper, nor did the sheet after several minutes turn; I therefore concluded he was not reading but was reflecting. I endeavored to catch his eye, but could not. I next thought of trying the demeanor of the Judge; so making in my mind some excuse relating to my official duties, I again went up stairs and knocked at his door.

His pleasant voice, in an unembarrassed tone, cried, "Walk in," and I entered.

After getting through my excuses and business, I said, in a careless tone, "What have you been doing all the afternoon, Judge?"

He answered, just as carelessly, "Going through my charge, and a decision or two I have to make on to-morrow. As yet, I have not seen any one since I arrived."

The last lie was an unnecessary one, as I knew its falsity, for he needed not to have asserted the fact—an immaterial one. This, therefore, the more confirmed my suspicions; because I had found these immaterial assertions to be always made by witnesses when they are committing perjury, just as cowards whistle to keep up their courage.

We continued chatting until the bell rang for tea, but not a tone nor an act betrayed that the Judge was troubled or uneasy. We went down stairs together and began our meal. The whiskered stranger sat opposite, but he and the Judge were to each other as if they had never met. One or two table civilities passed between them, but they were accompanied with freezing politeness,

somewhat unusual in our Western way of life. All this satisfied me there was something out of the way, and I resolved while at the table to furnish myself with some evidence. I finished the meal first, and went up stairs into the Judge's room, and groping to the chimney in the dark felt for a loose brick, found it, and discovered a roll of paper. I took off one or two pieces, and replaced the balance hastily and left the room.

Nothing more occurred that night worth narrating, but the next day in Court I found on the calendar the case of a man who had been indicted some months before for counterfeiting, and had been out on bail.

“What does this mean?” I asked of the clerk. “I did not authorize the trial, nor am I prepared with witnesses.”

“Judge C— ordered it on last term for this day,” answered the clerk, “and produced your request.”

“My request!” stammered I.

“Yes; and here it is,” as he handed me a piece of paper bearing in my writing the words, “Give Judge C— his request.” I remembered, now I saw it, that I had written the paper, but could not recall the apparently trivial circumstance which had prompted it.

Just then Judge C— entered, and Court business began. The case in question being called, I arose to postpone it on the ground of not being prepared.

A stranger arose from among the lawyers, and said he was counsel for the prisoner, and had come from Cincinnati to try the case, at much trouble, and, as he understood, because it had been ordered on for to-day. The counsel was the black-whiskered companion of the Judge!

The latter, with a bland smile, and dipping his pen in ink ready for a memorandum, asked, “What is your name, Sir?”

I was so astounded by this cool impudence that I did not hear the answer, but proceeded to deny any understanding, and to charge that there was some trick.

My opponent warily rejoined, and moved, if the case was not tried, that his client be discharged from bail. This was giving him liberty to run if he pleased, and I opposed this motion. My adversary again rejoined, and to my utter astonishment Judge C— granted the request, and ordered the clerk to cancel the bail-bond.

At this juncture I sat down, amidst the titters of my brethren, who were ready enough to laugh at W— being caught napping, as they phrased it. While I was meditating my wrath and my revenge, the clerk announced that the panel of Grand Jurors was now complete, and they were ready for business. Judge C— arose to address and charge them. He was as cool and placid as the morning itself.

“Oh, you hypocrite!” I muttered through my teeth, as the black-whiskered counsel—and confederate, as I fully knew him now to be—slyly sneered at me and drew his chair close to the Bench in an attitude of deferential listening.

The charge was an elaborate one. It was an essay on crime and its enormities, and seemed dramatically worked up. Its adjurations to the Grand Jury to fearlessly investigate were very pathetic. Its encomiums on virtue were touchingly true.

Scarcely had the Jury retired than, in my capacity as prosecuting officer, I followed the members to their chamber. To the formal question,

“What was their first business?” I answered,

“To investigate a charge of malfeasance in office against the Judge!”

The foreman and his fellows looked at each other in astonishment. Finally one of them said, with a smile, “Take care, Brother W—, that your professional rivalry does not get you into trouble!”

I replied by telling my story, and narrating all the suspicious circumstances of the past twenty-four hours; and concluded by requesting that the black-whiskered counsel be called and examined. Amidst the astonished silence of the Grand Inquest, the constable in attendance went after and returned with the stranger.

He entered easily and unabashed, saying, as he took chair, “I am told you desire me to be a witness!”

“Perhaps culprit!” I exclaimed, in passion, entirely losing my control. And then, not heeding the hand of the foreman on my shoulder in restraint, I said to the constable who had lingered by the door, “Take off his boots!”

The stranger made two bounds, and was at the window which led into the garden of the jail. But the grip of the constable caught him securely. In an instant one of the jurors took his arm and another his leg, and before any one had time to speak the boots were off, and two rolls of bills on the floor.

The firmness and presence of mind of the stranger forsook him; he trembled in every muscle; and as I whispered to him, “Villain, not even your friend, Judge C—, can save you!” he turned ghastly pale.

He was seated on the chair.

“Is this good money or bad?” said the foreman, breaking the dull silence that had succeeded the struggle.

“Am I a witness, or am I accused?” he stammered, looking toward me.

“Witness,” said I, “if you will tell all you know about Judge C—, who is far better game than you.”

“I—know—nothing—about Judge—C—,” he stammered; “I never saw him until to-day.”

“Liar!” I shouted, forgetting my official dignity in my rage at his falsehood. “Last night you and he were together exchanging money, and in his presence you concealed your ‘boodle’ in your boots.”

Immediately he stood up in an attitude of defiance—then sat down—half rose again; turned red, and then pale; while huge drops of sweat stood on his face.

He saw he was by some means cornered; and, in a moment, recovering himself, answered, “I will be witness—the Judge is guiltier than I.”

I have not space for his story; but its amount was, that long before the Judge removed to the West they had been confederates at the East in circulating counterfeit money while horse-jockeying. They were connected with a well-organized and secret band. The leaders were the manufacturers and bankers of the “boodle.” Middlemen bought it and dispensed it to the underlings, who purchased it at a discount of fifty cents, to pass it off at par. As fast as the last counterfeit was discovered a new one was made. Judge C—, while upon the bench, was able to be as moral and as severe as he pleased with the underling classes, whomever knew the haunts and ways and companionships of those above them. But the man whose trial was for that day, and for whom Judge C— had interceded, happened to be one of the upper-class, and hence the necessity of the action.

“It is time now to see to the Judge!” I said, turning to the Grand Jurymen, who were petrified at the tale they had just heard.

No one answered.

“I will go and prepare him for your action,” I next said; “for to indict him in his own court, while he is upon the bench, will be a scandal upon justice.”

As I entered the courtroom he was announcing the noon recess. There was a little room off, containing a few law-books and a desk, into which he usually retired, and thither I followed him.

“Judge,” said I—and my voice trembled like the voice of a man under severe ague, so terribly was I wrought up by the excitement of the morning's accusation and confession—“Judge, I have very, very bad news for you!”

“For me!” said he, with the utmost nonchalance, notwithstanding the peculiarity and mystery of my manner.

“Yes, for you: the Cincinnati lawyer has told all,” I shook out rather than spoke.

He still smiled. It was awful to see his hypocrisy and calmness of demeanor, and for a moment I knew not what to say. Then taking from my vest pocket two of the bills unrolled from his chimney deposit, I held them before him, and said: "He has told all about these; and I myself, last night, saw you place the counterfeit money in the fireplace when he placed his in the boots."

His composure was instantly gone. He wilted like a scorched weed on the prairie, and his manhood gave way as if he had been afflicted with sudden paralysis. The room rather swam around before my own eyes, for the sighs of a culprit judge was not an everyday one; and when I recovered my full attention I found him at my knees groveling on the floor like a dog.

He tore his hair, he wrenched his hands, his eyes glared, and his powerful frame quivered in every part. Indeed I was unmanned myself to behold so sudden and wretched a sight.

"Oh, good W—! dear W—! don't betray me! Consider how dreadful! And I a Judge! Oh the disgrace! My poor wife and children! What will they say? Don't—don't betray me! I was to be next Governor—you knew that! Oh—oh—oh—how dreadful!" and he rocked himself on his knees to and fro, as if bursting with agony.

These were some of the heart-harrowing incoherencies, which I can now remember over all the dreadful scenes that followed.

I raised him from the floor and placed him in a chair, and then said, "Alas! Judge C—, appeals to me are too late. Your confederate has told all, and the Grand Jury have taken his testimony."

His eyeballs glared at me like those of a maniac. Then, as if wrung by some wonderful impulse, he became calm. Indeed that calmness was more dreadful to behold than had been his excitement, imprecations, and agonizing entreaty.

"Well, if it must be so, it must. But let me see the foreman only for a moment; bring him up—go for him—leave the room; go—do go—go!"

His excitement was returning; and without reflecting, as I should have done, I turned and left the room. I had just crossed the court-room, amidst the curious looks of the crowd who had now gathered—for in those Western settlements secrecy was of no moment about Grand Jury matters, and half the village already knew the story—I had just crossed the court-room, I repeat, when I heard a dreadful groan and a simultaneous pistol report.

It was succeeded by an instant of terrible silence, and then the crowd burst into the room.

Judge C— lay upon the floor, with his blood and brains shockingly scattered about the little chamber. When I retired, he had drawn his pistol, and to his other crimes added that of self-murder. He was a ghastly sight to see; nor shall I ever forget the memories of that dreadful day when I was compelled to behold the living agony and the dying woes of a "Culprit Judge," in sight of that bench and bar whereat he had so often presided in convicting and sentencing villains less guilty than he had really been all the while!

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