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The Hermit of Turkey Hollow

Arthur Train

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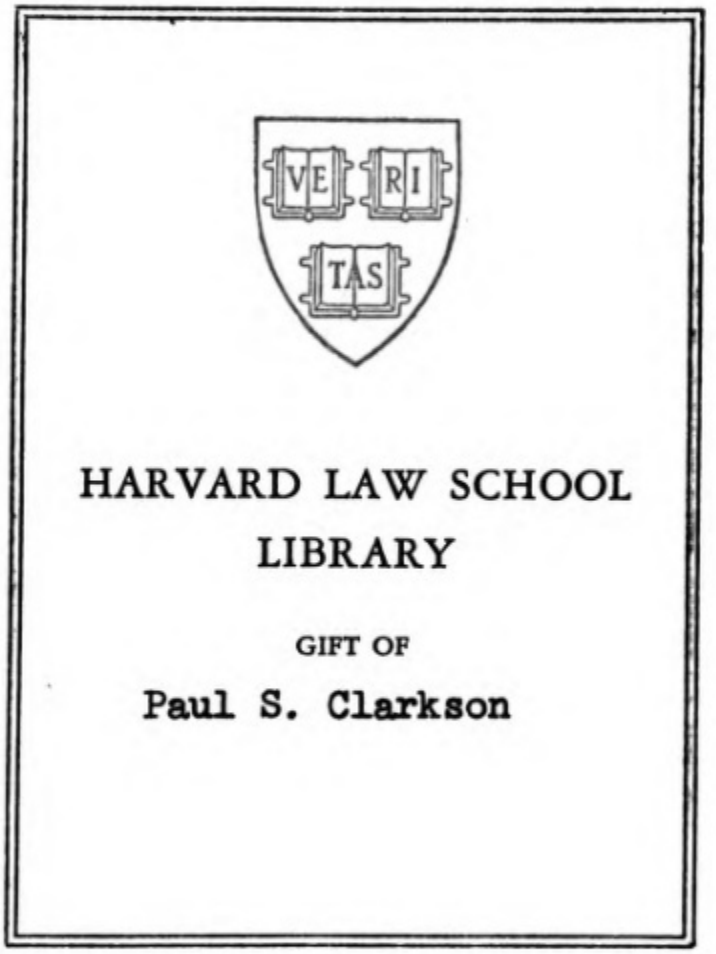

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The Hermit of Turkey Hollow

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BY ARTHUR TRAIN

THE HERMIT OF TURKEY HOLLOW
BY ADVICE OF COUNSEL
AS IT WAS IN THE BEGINNING
TUTT AND MR. TUTT
THE EARTHQUAKE
THE WORLD AND THOMAS KELLY
THE GOLDFISH
THE PRISONER AT THE BAR
COURTS, CRIMINALS AND THE CAMORRA
TRUE STORIES OF CRIME
McALLISTER AND HIS DOUBLE
THE CONFESSIONS OF ARTEMAS QUIBBLE
C. Q., OR IN THE WIRELESS HOUSE
THE BUTLER'S STORY
THE MAN WHO ROCKED THE EARTH
MORTMAIN

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The Hermit of Turkey Hollow

The Story of an Alibi

Being an Exploit of

Ephraim Tutt

Attorney & Counselor at Law

By

Arthur Train

New York
Charles Scribner's Sons
1921

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To

Dean Kirkham Worcester.

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"O my grandfather's clock was too high for the shelf,
So it stood ninety years on the floor.
It was taller by half than the old man himself,
Though it weighed not a pennyweight more.
It was bought on the morn of the day he was born,
And was always his treasure and pride,
But it—stopped—short—never to go again——
When—the old—man—died."

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Alibi.

"Alibi (al'-i-bi) n. I. In law, a plea of having been elsewhere at the time an offense is alleged to have been committed. Hence.—a. The fact or state of having been elsewhere at the time specified; as, "he attempted to prove an alibi."—Cent. Dict.

"If it (alibi) appeared to be founded in truth, it is the best negative evidence that can be offered. It is really positive evidence which in the nature of things necessarily implieth a negative." Foster, J. Crown Law, 3rd Ed. p. 368 (1762).

"If any one fact necessary to the conclusion is wholly inconsistent with the hypothesis of the guilt of the accused, it breaks the chain of circumstantial evidence, upon which the inference depends; and, however plausible or apparently conclusive the other circumstances may be, the charge must fail. Of this character is the defense usually called an alibi; that is, that the accused was elsewhere at the time of the offense is alleged to have been committed. If this is true, it being impossible that the accused could be in two places at the same time, it is a fact inconsistent with that sought to be proved, and excludes its possibility," Shaw, C. J., in Commonwealth *vs.* Webster, 5 Cush. 299, 318 (1850).

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The Hermit of Turkey Hollow

I

ALL the same," affirmed "Skinny the Tramp," "some one o' these days them bugs 'll wiggle themselves off'n their pins—an' do for ye!"

The "Hermit of Turkey Hollow" laughed derisively as he paused in pinning a large gray moth against the wall of the shanty.

"That's all bunk!" he asserted with a show of bravado which, however, concealed a certain uneasiness. "When a thing's dead—it's dead! And that's the end of it!" he added, pushing in the pin firmly until the moth, giving a final flutter, remained motionless.

Skinny shook his head.

"No, it ain't!" said he with conviction. "Nuthin' ever really dies—or, if it does, that ain't the end of it by any manner o' means! Your body kin die—like a cocoon—but somethin' goes on after—like the butterfly."

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The Hermit threw a nervous glance in the direction of the moth, and then, evidently reassured, nonchalantly removed a piece of cut plug from his trousers pocket, bit off an end and held it out to the tramp, who bisected the remainder.

"But the butterfly dies—" concluded the Hermit decisively, "and then that's the end of it—for good an' all!"

Skinny wiped his mouth with the back of his hand and looked round the smelly little shanty, the sides of which were decorated with a heterogeneous collection of defunct beetles, moths and butterflies.

"The butterfly don't die—no more'n the cocoon!" declared he. "Nuthin' dies. The moth flies away out o' the cocoon, and then—when the moth dies—somethin' flies away out o' the moth."

"But you can't see nuthin'," remarked the Hermit with significance.

"I don't know whether ye can or not!" replied the tramp noncommittally. "Some says ye can an' some says ye can't. Some claim they've photographed the human soul!"

"What do them as claim ye can see it say it's

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like?" inquired the Hermit in a tone of incredulity, in which nevertheless were mingled awe and curiosity.

"Mostly like a butterfly—somethin' with wings—so's it kin fly, I s'pose."

"Húh!" retorted the Hermit. "Just pure bull! That moth, now—how can you say it ain't dead?"

Skinny's jaws relinquished their extreme vigor of motion, as he leaned forward earnestly towards the Hermit.

"Listen, Bo!" he adjured him. "You think you know all about bugs, an' worms, an' snakes, an' yerbs, an' trees, an' weather. An' I reckon you do, too! But you don't ponder none compared to me. I don't do nuthin' but think, 'cause I ain't got nuthin' else to do. I lie an' meditate most all the time. And I hear things—and sense 'em. Sometimes I sit harkenin' all night long. I know a lot more'n most folks about things you can't see."

"I don't say you don't, Skinny!" admitted the Hermit politely. "I don't deny it!"

"There's two worlds," affirmed the tramp.

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One you kin see an' smell an' touch and one that you ordinarily can't—right alongside t'other. But sometimes—dependin' on circumstances—you can catch a glimpse of what's goin' on there—see 'em an' hear 'em. You've seen ghosts!"

"Sure, I've seen ghosts. Everybody's seen 'em!" readily assented his companion.

"Well," continued the tramp, "everythin' has a ghost—walkin' right along beside it all the time—only it's in that other world—the one you don't see."

"But things don't have ghosts!" declared the Hermit. "A thing must have been alive sometime to have a ghost."

"Everything's alive!" asserted the tramp. "Rocks an' trees an' flowers an' water an' fire an' bugs an' beasts as well as folks,—an' they all have ghosts an' none of 'em ever die. An' they all have a right to live in the world they're in until they naturally pass on into the other. Now, when they go—maybe they go one way, maybe another; but they all do go; and some folks claim to have seen 'em. An' mostly they go with

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wings—flyin'—shaped like a moth or somethin' like that."

The Hermit spat disdainfully through the open doorway.

"Huh!" he remarked with sarcasm. "An' I s'pose,—you'd say,—when I die I'll go flyin' away like a big gray moth?"

"Like as not!" returned Skinny cheerfully. "Like as not! You got to go somehow, ain't ye?"

"All bull!" repeated the Hermit. "You're just a nut!"

"Just the same!" returned Skinny the Tramp, "leavin' out entirely me bein' a nut, I wouldn't kill anythin' that's alive an' can feel—for money! I hate even to put an axe to a tree an' see the sap ooze out. How do we know it ain't sufferin'? An' when it comes to live things—I'd be skeert!"

He let his eyes wander over the shanty walls thickly populated with tiny corpses and shuddered slightly.

"Yus! I'd be skeert to live in this house! Sometime they'll have their vengeance!—An'—

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just as I said,—one o' these days, they'll come wigglin' off'n them pins an'—do fer ye!"

"An' then," mocked the Hermit of Turkey Hollow, "I'll flutter off out the winder like I was a moth! Bull, Skinny! All bull!"

II

As may be inferred from the foregoing conversation the Hermit of Turkey Hollow lived in the world of Fact, while Skinny the Tramp dwelt in that of Faith,—which is to say, of Truth. Yet, as odd sticks, there was little to choose between them. As being a house dweller—and not a mere vagrant open to all the insidious imputations of vagabondage—the Hermit may of the two have been entitled to greater social recognition, but being a recluse, although something of a curiosity and hence in the nature of a local asset,—he was practically negligible as a factor in the life of the neighborhood. Skinny the Tramp, on the other hand, was a sociable sort of being who lived in the open, not because he loved

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his fellows less but because he loved nature more.

Turkey Hollow lies three miles to the north and east of the thriving town of Pottsville in the Mohawk Valley of the Empire State, surrounded by low hills still thickly covered with second growth timber; in spots, especially where Chasm Brook flows down into the westerly end of Turtle Pond, wet and marshy; and elsewhere filled with a tangled growth of Getchel birch, swamp maple, and alder, save for the acre or so of cleared upland above the lake where stands the Hermit's now deserted shanty.

On the whole, the original turkeys having for several decades been entirely extinct, the hollow offered no attractions to anybody, save possibly to naturalists impervious to mosquito bites. It was in truth a dank sort of place, full of underbrush, and inaccessible except by the wood road leading to the Hermit's abode, which some years he cleared out and some he didn't, and where you had to go afoot anyway.

Nevertheless, once you got there, you found that the hermit was a genuine up-to-date her-

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mit, with most of the modern improvements. For he was neither a hundred years old with a bald pate and long white whiskers like William Cullen Bryant or Father Time; nor did he mutter incantations over a seething caldron like the witches in Macbeth, or meander aimlessly about prattling to himself as conventional hermits are supposed to do. And his shanty was no cave, but on the contrary a comfortable enough one-story shack, with windows of glass which, while they were nailed down tight and hence could not be opened, allowed plenty of light to stream in. By the door usually stood a butterfly net, a fish rod, and a hoe and spade,—for he had a small garden where he raised such vegetables as he needed,—and on one side of the shanty was a table, on the other his cot, over which by day was thrown a discolored "comfortable," while directly "on ax" with the door and between the two rear windows was a tall, old-fashioned clock—the only article of any value in the place.

This was, indeed, rather a strange object to be in the middle of the woods and as it was of shining mahogany, its face decorated with the sun, moon

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and stars, ships, savages and zodiacal signs, it was an object of comment and surmise to the few who visited the place. No one ventured to ask where it had come from or how the hermit had acquired it, but he had been once heard to say that it made less noise than a woman, talked no nonsense, and was all the company anyone had need of. Even those who had never seen the hermit himself knew that he had a clock. That is the way of things. People will refer for years to a man as "the old chap who always wears that pair of gray trousers" and then accidentally discover that he is a world famous civil engineer or retired statesman who has swayed the fate of nations. So the hermit was known by his clock; although regularly once a week he walked to Pottsville to get his mail and buy groceries. For being an up-to-date hermit he was not without an occupation, —he drank; and he did it very well.

He was a large, lumbering man of about sixty years, full-bearded, bent, frankly ungiven to washing and generally a shade woozy in the upper story; and nobody could remember Turkey Hollow when he had not been there.

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He was reputed to be possessed of mysterious, ill-gotten wealth hidden in and about the clearing, and, in spite of his squalor, the rumor acquired a certain *cachet* owing to the fact that his correspondence, regularly inspected by Constable Higgins out of abundant caution, consisted almost entirely of get-rich-quick-circulars and similar catch-penny advertisements. His name, which otherwise might never have been known, was Wilbur Drake,—although he was never referred to as anything but the "Hermit of Turkey Hollow." That was his sum total—to the world at large.

Yet sometime and somewhere, he had perhaps been somebody; and nailed over his cot in a tarnished oaken frame was a dingy photograph of a dumpy little girl in pigtails. Why this sick soul had sought seclusion nobody knew and nobody cared, yet afterwards, although he was morose, taciturn and brutal in his manners, the Pottsville folk were sorry for him and regretted that they had not been kinder to him.

Skinny the Tramp was a totally different type of bird,—a "character" as they all said, beloved

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of the village children and regarded with good-natured tolerance by their elders. He was tall, lean, hawkish, with the traditional stubble about his chin and neck, which a Byronic negligée exposed to wind and weather. He belonged to Pottsville in his own way quite as much as did the hermit, for in spite of his peripatetic sojournings, he was a native of the town and, as James Hawkins, had passed those earlier days—before manual labor had been abhorrent to him—in its vicinity, having been even at one time admitted to the lowlier degrees of the Brotherhood of Abyssinian Mysteries. This famous order, however, he had ultimately abandoned in favor of the Hibernating Hoboes of Hesperides, of which he was now a member in good standing.

The reader will, of course, appreciate that for various reasons,—including that we may sometime run for public office—the foregoing names and titles are fictitious; but the organizations themselves are not, and each in its own way exerts an influence not lightly to be disregarded, whether one be a yokel on the one hand, or a yegg on the other. Twice yearly, once on his annual autumn

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trip to the Golden West and again on his return therefrom in the spring, Hawkins, emaciated, hairy, black from coal dust, dropped lightly off the truck of some fast freight and revisited the scenes of his youth.

Sitting upon a cracker barrel in Colson's Grocery—so that nutriment might be the more easily accessible—Skinny the Tramp, like some wandering scop, bard, or friar of medieval days—would fill the wagging ears of the countryside with the narrative of his later wanderings in search of the treasure that somehow always just managed to elude his grasp. For Skinny believed absolutely that at the foot of every rainbow there was a Crock of Gold, and he would have gladly died for his belief—as any gentleman and sportsman would have done, and as he came very near to doing in this case.

However, while Skinny chased rainbows he declined to do so afoot—preferring the artificial and speedier means of transportation afforded by the transcontinental railroad systems, from the trains of which he was habitually—and at divers times and places, ignominiously,—hurled, to his great

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physical and temperamental detriment. Yet, albeit that he was a high officer of the Hibernating Hoboes of Hesperides and had once been an Abyssinian Brother of that elevation known as the "Order of the Sacred Camel of King Menelik," from which noble association he had been swiftly dropped for non-payment of dues, he was, like a multitude of his fellow wanderers, merely a harmless child of good-nature, nearly a half-wit, essentially a devotee of Zoroaster, who spent his life following the sun. On these biennial visits Skinny hung about the town, spending a goodly portion of his time—both by night and by day—sleeping in a lean-to on the hillside above Turkey Hollow, and part of it wandering through the woods,—but always looking for the rainbow that should empty a hoard of gold into his tattered lap.

Twice yearly also passed through Pottsville the "Sons and Daughters of the Southland"—the Zingara Gipsies,—in auto trucks and flivvers—camping for a time on the end of the old, deserted racetrack,—a sinister crew, surreptitious panderers to credulity and lust, the men surly and

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brutal, the women insolent and dirty, but attracting the imaginative and susceptible bumpkins as a trickle of molasses will draw a swarm of flies. When in the night they folded their tents and stole silently away the citizens of Pottsville invariably discovered that many of their most cherished personal possessions were unaccountably missing. But no one cared to pursue and prosecute them. They were too dangerous. Besides, they could have told things.

In the case of Skinny the Tramp there was, however, a practical as well as a sentimental reason for these half-yearly stop-overs, the legal necessity of his putting in a personal appearance to claim and receipt for the one hundred dollars of income which accrued to his account every six months from the trust fund created by his mother in her last will and testament, of which the Honorable—or "Squire"—Hezekiah Mason was executor. And as Squire Mason is one of the central figures in this legal tragi-comedy it may perhaps be worth while to stop for a moment at this point and give him what might be called the "literary once-over."

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Let us state frankly, without circumlocution or evasion, that while Hezekiah was known as "honorable" and "squire," this grim visaged, tight-lipped country attorney was neither. He was "honorable" only in a Pickwickian sense; and a "squire" only by courtesy; but why or how any courtesy should have been extended to him remained a mystery, since he was the most unpopular man in the county,—evidenced by the fact that he alone of Pottsville's masculine élite—which included the barber, druggist, sheriff and dentist—was not one of the Sacred Camels of King Menelik, and needless to say it rankled in his dried peapod of a soul.

Nevertheless, the Hon. Hezekiah was a power for he had mortgages on a majority of the farms of Somerset County already and his tentacles were reaching out along the county highways and byways after the others. Moreover, he was the only lawyer practising in either Pottsville or Somerset Corners so that, in one way or another, he managed to be mixed up in almost everything that went on. However, he couldn't break into the mystic circle of The Abyssinian Brotherhood,

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which has a distinct bearing on our narrative. As Sheriff Moses Higgins,—who was the Grand Supreme Exalted Patriarch and Ruler of the Sacred Camels of King Menelik—had said at the lodge meeting held three months before in the P. of H. (No. 769) Hall when Hezekiah had made his final attempt to become one of the genus dromedary and had been flatly and contumaciously turned down, refused, rejected, rebuffed and repudiated—I repeat, as Sheriff Higgins had said on that well known occasion, it made no difference how big a feller's bank account was if he was a stinker, and everybody who had an atom of brains fer fifty miles 'round knew all-fired well what kind of a cuss Mason was. Get a feller like that into the Camels and you never could get rid of him—"once a Camel always a Camel"—the whole herd would be contaminated. He'd sooner take in "Nigger" Jo, the colored ostler over to the Phoenix House stable. He spoke fifteen minutes and there wasn't a white ball in the box when it was passed.

So Squire Mason nursed his antique grudge and took his revenge in coin of the realm. Then

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came the turn of the wheel and Hezekiah found himself in a position where by the adroit application of five thousand dollars where it would do most good he could get a strangle hold on one of the leading politicians of the county. The fact that the only funds available were those he held as trustee for James Hawkins was the merest incident and did not disturb him even momentarily. They were at hand and he used them. Skinny was only a tramp. He might get run over any day, just as, fortunately for Hezekiah, was Lawyer Tompkins, of Felchville, the public prosecutor of Somerset, for whose vacant job the Honorable Squire Mason instantly applied. As he had a cinch on the local political boss, and as the attorney general needed the influence of the boss in his own business, and as the attorney general had a cinch on the governor—he won in a walk and duly became, by official appointment and designation, for Tompkins' unexpired term, district attorney of Somerset County, and having, after forty years of plodding obscurity, suddenly found himself elevated to office he instantly became consumed by the fire of ambition. While Cicero says

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that "the noblest spirit is most strongly attracted by the love of glory," we do not intend by this mere statement of fact to entwine with any wreath of bay or laurel the perspiring brow of Hezekiah. Objectively Mason was a bombastic, old-fashioned country lawyer, acrid, dry as dust, entirely unscrupulous, and, while superficially shrewd, on the whole rather dull. Noise was his strong point, and there was not a tougher pair of leather lungs in the Mohawk Valley, down which he now looked with longing eyes towards the capital at Albany, hoping perhaps to roar loud enough so that he could be heard there, which at times seemed by no means impossible. Once ambition stirs a man's soul no height appears too high for him to scale.

"On the summit see,
The scales of office glitter in his eyes:
He climbs, he pants, he grasps them! At his heels,
Close at his heels, a demagogue ascends,
And with a dexterous jerk soon twists him down,
And wins them, but to lose them in his turn."

And now, having had one piece of luck, the lightning of fortune, as sometimes happens, struck him again.

Pottsville is the kind of "hick" town where

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the girls bob their hair and the boys wear the very latest "pineapple" cut, where you can buy "college ices" and "sundaes" at the drug store, but where the movies run only twice a week and the barber shop is open only after four o'clock on Saturdays. There is a smutty little wooden railroad station, a memorial library of funereal granite, a brick business block bearing date 1879, an octagonal horse-trough right in the middle of Main Street, and the rickety old Phoenix Hotel, run by "Ma" Best, *née* Louisa Barrows, whose dad, "Old Doc Barrows," was sent up to Sing Sing for high-financing the countryside.

There are, in addition, two churches, Baptist and Methodist, each white with green shutters and a steeple,—a court house, the Mohawk Palace Theater (celluloid), the P. of H. Hall, the "Pottsville Dry Goods Emporium" belonging to "Toggery Bill" Gookin, Meachem's Notion Store and Colson's Grocery. The street is unpaved and from February to April is ankle high with mud. Such towns still survive even in the Empire State. But while Pottsville will refer to Somerset Corners five miles away as a "hick"

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town, it remains serenely oblivious of its own hickitude.

It was here that on a soft Saturday afternoon towards the end of April, Squire Mason's great moment came—that opportunity knocked upon his office door and beckoned to him. And Hezekiah did not hesitate.

He had been more than usually sour all day, for he had quarreled with his wife at breakfast and when he reached the office he had found that a farmer over Felchville way whose mortgage he held—and on whose prompt payment he had relied to cover James Hawkins' semiannual interest of like amount, had unexpectedly defaulted. And—curse it!—at eleven o'clock Skinny had come for his money, peering apologetically through the door like the half-wit that he was, twisting his faded bicycle cap between his fingers, almost afraid to ask the squire for what was his.

"Mornin', squire," he said, leaning awkwardly against the door jamb. "Been well, I trust?"

The Honorable Hezekiah Mason regarded the tramp malevolently.

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"Tol'rable!" he replied curtly. "I s'pose you've come after your money."

"Yes," assented Skinny. "Still," he added politely, "if it ain't convenient——" His blue eyes roved vaguely around the barren room seeing nothing.

"Look here, Skinny!" remarked the lawyer gruffly, "what's the use of my turning over a hundred dollars to you to throw away? Why don't you let me keep it an' invest it for you? The way you live ain't provident. A penny saved is a penny earned, an' a hundred dollars is a lot of money."

"It's very kind of you," faltered Skinny, "but I don't throw it away. Honest Injun, I don't. It keeps me wanderin'—I'd like it if you kin let me have it." He paused and took a timid step towards the squire. "May I ask you a question?"

Now the one thing in the world that Squire Mason did not want was any question from Hawkins about the whereabouts of his money. He had intended to put the tramp off, but now he swiftly changed his mind.

"Your money's all right," he retorted, getting

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to his feet. "You don't need to worry any 'bout it! I'll go get it fer you!"

"Thank you," replied Skinny. "I was only goin' to ask——"

But Mason had bolted through the door. Ten minutes later he returned and handed the tramp five twenty dollar bills, for which he took Skinny's receipt.

"Now," he remarked brusquely, "you've got your money. You better get along. I'm busy this mornin'!"

But Skinny had a matter of vital moment upon what by a euphemism might have been termed his mind. It had been troubling him ever since his conversation with the hermit with which this chronicle opens. And he wanted the opinion of Squire Mason, as a learned man who presumably knew all about such things.

"I'd like to ask you a question, squire!" he persisted.

Mason, cornered in his office, turned on him like a rat.

"Well,—ask it!" he snapped defiantly.

"I want to ask you if folks that know about

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such things think that when a thing's dead it's dead?"

The squire stared at him contemptuously.

"P'tah!" he ejaculated. "What are you ravin' about?"

"About whether when folks die that's the end of 'em," explained Skinny. "And if it's the same with the animals."

Mason took courage. Skinny was not bothered about the safety of his principal.

"What's the use conjecturin' about things like that?" he asked more genially.

"It's kinder important, ain't it?" returned the tramp.

The lawyer pursed his lips and gazed for an instant through the window upon the sill of which a blue-bottle lay upon its back with its legs stiffly in air. Then he turned sententiously to the tramp.

"If you really want to know what I think," he answered. "When a man's dead, he's dead."

Skinny, his money in his pocket but troubled in his mind, made his way slowly back to Turkey Hollow. The sun, which had been shining when he had gone into the squire's office, had become

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obscured by a bank of cloud and it looked like rain, but all about him as he strode through the woods the dogwoods were bursting into blossom amid a background of diaphanous budding green. The spring was stirring in him, too. A hundred dollars! Visions of purple valleys, of cool, trickling ravines dank with spreading ferns, of fragrant fields of hay in which to lie—without the necessity of chopping a single piece of kindling to pay for his supper—rose in his mind. Wouldn't it be great to be rich! To lie in a hammock with a feather pillow under his head in the shade of an orange tree and a nigger to hand him cool drinks and sandwiches and gold-tipped cigarettes! To ride luxuriantly inside a Pullman car or stand on the clinking back platform of the Sunset Limited watching the misty mountains turn from azure to rose and from rose to lilac—and pitying the bums walking the sleepers. To sleep—sleep—sleep—in a big, soft bed! To have a man delicately remove the hair from your neck and chin and scent your cheeks with cologne water! To go into a grand hotel, bully the waiter, and eat everything on the bill of fare without asking the price!

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Money! That would do it. But a hundred dollars was only a flea bite! What he needed was the real kale—a whole pot of gold!

It had begun to rain by the time he had cooked his dinner, and afterwards, as he sat in the opening of his shack smoking cigarettes, it grew very dark and for half an hour poured down in torrents. Then as will happen in fickle April the sun burst forth and turned the leaden world into a dripping golden grotto, where every bough and twig and leaf's edge gleamed with a jeweled setting of pearls and diamonds, and the hot mist rose shimmering from the steaming ground. Gold—gold everywhere! Gold—the mystic element sought of the alchemists and of the philosophies of ancient, medieval and modern times alike. Gold!

Suddenly Skinny stiffened and sat erect. Thrown against the torn black wind clouds of the departing storm was a great arch whose glowing colors pained the eye, a perfect piece of heavenly architecture. High it rose into the zenith a concentrated prismatic glory—emblem of the eternal hope that sprang in the tramp's breast. One end

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of the arc came to earth far to the west—the golden west—and the other plunged down at his feet into Turkey Hollow. There was no doubt about it at all. Right into Turkey Hollow—right upon the hermit's shanty, which he could see through the interlacing boughs of the hillside sharply defined as in a spotlight of saffron. Skinny started to his feet. If he could only reach the hermit's shanty before the rainbow faded the crock of gold would be there. Sure! His mind never doubted it. It was there now. If he hurried—this time he might find it! Without a moment's hesitation Skinny plunged down the hillside through the reeking undergrowth, drenched to the skin, slipping, falling now on beds of soaking moss, now over roots and stones—blood smearing his face and hands—until he crashed down through the clump of birches next the clearing.

A man was sitting there under a boulder smoking a pipe, his ax across his knees—waiting evidently for things to dry up a bit. He waved at Skinny, but the tramp was too intent to answer him. Then came the yellow gleam of the clearing

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through the brush and the shanty rose hard against the sky just beyond. Surely he must be in time!

He had emerged from the woods in the rear of the shanty on the edge of the potato patch and he did not trouble to go around it but plowed straight through the muddy rows, leaving a deep wake behind him across the loam. Panting and dripping with sweat, Skinny hurried to the nearest window of the shanty, the one above the hermit's cot, and peeked in. What he saw made his heart stand still. The sun was pouring through the opposite window upon the back of the hermit, who sat bowed over the table; and in front of him—its overflowing contents sending yellow flashes darting into the dim recesses of the hut—stood a small red bean-pot or "crock"—still sticky with earth—filled with shining gold pieces. An expression of transcendental satisfaction illuminated Skinny's face. His faith was justified—as he had known and predicted all along that eventually it would be. His confidence in his own mental processes and spiritual beliefs rebounded from where it had been crushed to earth

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by Squire Mason's crass materialism. Stealthily —so as not to frighten the hermit—he crept towards the open door of the shanty. . . .

It was Charlie Emerson—the man sitting under the boulder with his ax across his knees—who heard the shot that killed the hermit. He was not a native of Pottsville, although he usually could be found there every spring, working over at Sampson's steam lumber mill at the lower end of Turtle Pond. This particular Saturday he had got the afternoon off to fill an order for pea sticks which he purposed cutting from the birches which grew thick in the less swampy part of Turkey Hollow, and he was right in the middle of it when the thunderstorm came up and he had to stop for awhile until the sun should dry the bushes off.

He saw Skinny cruising through the underbrush and was puzzled by the fact that the tramp ignored his salutation. But he had gone on smoking and, after taking a short nap, had resumed his work on the pea sticks. Then, as the sun had begun to slant through the tree trunks and the shadow of the hill

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to come creeping across the marsh, the hot silence of the afternoon had been shattered first by a cry for help and then by a shot—both from the hermit's shanty less than two hundred yards away. Ax in hand he made the distance through the thickets in less than three minutes, and as he broke cover into the clearing behind the house he saw the undergrowth moving on the other side and heard the snapping of twigs.

It was so still that he could hear the drone of a bee in the fringe of meadow-sweet down by the well, and—coupled with the cry—it gave him a weird creepy feeling such as he never knew before. But he took a good grip on himself, walked round the shanty, and looked in through the open door.

Everything was as usual—the clock, the cot, the rickety table, the chair, the fish rod and butterfly net, all were undisturbed—except that the hermit lay upon his back on the floor, his arms outstretched, the blood jetting from his mouth, a film gathering in his wide open eyes. Emerson knelt by the side of the dying man and gently lifted the great hairy head. The blood that came from his

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mouth made a queer guttering sound—grotesquely resembling to his agitated mind the faint clucking of a hen. Then the noise stopped; the hermit no longer breathed; and the lumberman as he lowered the hermit's head to the floor heard the loud beat of an insect's wings and observed a large gray moth flapping frantically against the window. He had seen a million moths—! Yet, with relief Emerson saw it vanish through the open doorway.

With averted face he threw the "comfortable" across the hermit's body and, as he did so, noticed the broken fragments of a small, red clay pot lying beneath the table. One of the hermit's hands protruded from beneath the coverlet—grasping tightly a single gold-piece. Emerson, standing in the stifling atmosphere of the hut, could hear no sound but the beating in his ears of his own heart.

The mill hand dashed from the shanty, marking the footprints in the garden patch, and hunted courageously for the murderer in the surrounding woods; but the criminal had too good a start. Then, with no doubt whatever in his mind as to

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who it had been, he ran down the wood road that joined the main highway half a mile from the shanty.

There had been a big gang assembled in Colson's Grocery waiting for the barber shop to open next door when Skinny entered at almost precisely four o'clock by the Western Union automatically regulated clock over the candy counter; and, while nobody had paid much attention to him at the time, it was remembered distinctly afterwards that he had been breathing hard and excited, and had ordered a bottle of root beer and drank it with a sort of ostentatious, devil-may-care indifference. He had also remarked to someone that he had cut his finger in the woods, and his handkerchief was bloody.

Most of the crowd were still there when, fifteen minutes later, Charlie Emerson, the lumber man with the ax, reached the village with the news that the hermit had been murdered.

He came running down the road all splashed with mud and the fellows in Colson's could hear him shouting nearly a furlong away. There was

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a general stampede for the street,—in which the occupants of the brick block, the barber shop, and the drug store all joined. Emerson came staggering along—stopping every few yards to yell "Murder!"—and brought up exhausted in front of the stairs leading to Squire Mason's office, which was opposite the sheriff's on the first landing.

"Th' hermit's been murdered!" he panted hysterically. "Shot right through the lungs!—Where's the sheriff?—Gosh, it's fierce!—Where's Squire Mason?"

The crowd surged round him, Squire Mason's head appeared at his window, and then, with a whoop, they all rushed up the stairs to the sheriff's office. But Mason held the crowd back sternly on the landing.

"I'm prosecutor o' this county!—I'll take care o' this witness!" he announced in a tone of authority. "Now some o' you hustle over and fetch the sheriff—he's gone down to the station fer the mail. An' don't none of you dare so much as move 'till he comes and tells you what to do.—

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Now, you!" to the ax-man—"Come into my office an' let me take your deposition."

There was a murmur of disappointment from the crowd as Mason firmly conducted Emerson inside and shut the door; but they all obediently poured down the stairs again after the sheriff. Then some one began to ring the fire alarm and, by the time Sheriff Higgins reached the horse trough, the mob was so dense in front of the doorway that he could hardly force his way through. He was inside less than a minute before he reappeared at Mason's window.

"Anybody seen Skinny Hawkins?" he cried excitedly.

"He was here a minute ago!" answered someone.

"I seen him walkin' off down the road towards the race track—just afore the bell began ringin'!" yelled up a small boy.

"Well!" shouted Higgins, "get after him an' stop him.—Don't let him get away!"

The next instant the pack were in full cry.

. . . . . .

Perhaps if Skinny hadn't been a half-wit he

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wouldn't have run. Perhaps he should have pulled himself together—and with his pockets full of the hermit's gold and his boots covered with mud from the hermit's potato patch—he should have boldly answered: "Here I am! What do you want of me?" and marched up to the sheriff's office. But, on the other hand, perhaps many a more sensibly-minded man than he under the same unfortunate circumstances would have taken to his legs. Admit, it was a foolish and useless thing to do! We have all on occasion lost our nerve—even if we all be wise men. And certainly Skinny was not wise!

He could not deny having been in the hermit's company within half an hour, the gold was on his person, the mud upon his feet. He had been caught almost, had his addled memory retained the phrase, *in flagrante delicto*. Being a tramp, used to rough treatment even from ordinarily kind people, accustomed to be called a vagabond and a thief and to have the dogs set upon him, familiar from long experience with his brother hoboes with tales of tortures and lynchings in which the knotted rope and kerosene figured

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vividly, Skinny fled in a hysteria of fear down the road towards the race track and thence across the fields into the woods.

He was less than three minutes ahead of the crowd at the start and unfortunately for him the sheriff's flivver was standing in front of the drug store, so that by the time he took cover they were actually at his heels. Moreover, a dozen of the older boys sensing that he might try to beat back towards the Hollow ran up the crossroad to cut him off. The fact that most of them liked him was nothing. A chase was a chase. Hare and hounds,—while it lasted. Besides, this was a hunt for a murderer—and flight was equivalent to confession.

Badly winded, Skinny crashed through the woods, the shouts of his pursuers close in his ears. Ahead he could see the blue sky through the trees where the fields began again. He reached the edge and came dead upon a man plowing. Faintly borne on the wind he heard the distant clang of the fire bell and a couple of revolver shots from nearer at hand. "Putt!" they said. "Putt-putt!" Skinny did not like the sound of them. He ducked

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back and ran like a fagged fox along the hedge by the field, then paused to listen again. There was a crackling in the brush to the left while just beyond, on the other side of the open, the barber and the drug clerk, who had followed a wood road suddenly appeared staring directly at him.

"Hi!" yelled the barber, waving his razor which he had carried in his hand. "Hi! Here he is! This way!"

The crackling behind him grew louder. He could see shadows stealthily creeping from tree to tree. Of course they thought him armed! They might shoot! He did not know what to do. He did not want either to be carved up by the barber or to be blown to bits by a shotgun. His tongue was like a baked potato and his lungs ached as if with rheumatism. He could hardly see. There they were—hundreds of them—!

"'S all right, Bill!" he called hoarsely. "I ain't tryin' to git away."

And he staggered out a few feet between the furrows and fell in a faint. It was characteristic of him that he had made no attempt to throw away the hermit's gold.

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Twenty minutes later "Ma" Best, who had been quietly cooking in the Phoenix House kitchen throughout the whole disturbance, heard a great shouting down the road and went to the door to see what it was all about. Over by the "deppo" she could see a crowd of men and boys pushing or dragging somebody in their midst. The smaller of the boys danced and capered ahead of the throng, one of them turning fancy "cart-wheels." Then came Sheriff Higgins, stalking along importantly, two men with shotguns on either side of him, followed by the barber, Mr. Perkins, the proprietor of the Mohawk Palace, and old Colson the grocer. Directly behind this cluster of notables—who in a grotesque way suggested a group of Roman senators escorted by their lictors—at an interval of perhaps ten feet, walked Skinny the tramp, his face pale as that of the murdered hermit, hatless, a rope around his neck, and his hands bound behind his back. The end of the rope was held by no less a personage than "Toggery Bill" Gookin, who providentially had happened to be returning from a visit to Zayda the Zingara Gipsy fortune teller

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at the moment of Skinny's capture. From time to time the haberdasher would jerk the rope as if the tramp were a horse and the more light-minded in the crowd would cluck and call out "Geddap!" For the rest, they swarmed along in a mob, yelling, joking, uttering cat-calls and other vague and meaningless noises.

"What's the trouble, sheriff?" called out "Ma" Best. "What yer doin' with Skinny?"

The dignity of Sheriff Higgins did not permit him to make reply. Instead the crowd yelled at her generally.

"'S killed the hermit!" shouted an urchin. "Murdered him!—Whoop-ee! Hurray!"

"Murder nuthin'!" snorted "Ma" Best. "You're jest a pack of idiots.—Skinny wouldn't kill a spider!"

"Whee-uup! Whoop! Hurray!" shrieked the crowd in the delight of having conducted a successful man-hunt, jumping around "Toggery Bill" and his victim, as a pack of hounds will jump, snapping and barking about the body of the fox they have run to earth. "Whee-uup! Hurray!—Lynch him! String him up!"

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They had reached the horse-trough and the two men with the shotguns held back the crowd while Sheriff Higgins relieved "Toggery Bill" of the rope and led Skinny upstairs to his office. In a moment the sheriff appeared at the window.

"Feller citizens of Pottsville!" he shouted. "In the name o' the People of the State of New York I call on ye to disperse peaceable and go to your homes. There ain't goin' to be no lynchin' nor nuthin' like that. Skinny's goin' to the jail and he's goin' to stay there until the Grand Jury has acted on his case which will be day after to-morrer. Now, there's no use kickin' up any fuss or ruction and I warn ye not to go near Turkey Hollow. Kindly disperse!"

Skinny the Tramp having been treated to a brief and exceedingly crude variety of the "third degree" in the sheriff's office, and having "stood mute," was transferred to the calaboose, where Sam Bellows, who, owing to his obesity, could not take any more active part, was set to watch him. It is doubtful whether Skinny would have made any further attempt to get away, even if "paroled in his own custody"; for his flight had

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been the instant, automatic reaction from a paroxysm of terror in which he visioned himself as a human torch—not the result of any genuine hope that he could escape the processes of the law, for whose far-reaching effectiveness he had in fact a vast respect.

Now that he had been brought back without having been lynched, his instinct told him to hold his tongue. He was no match for them—not even for Sheriff Higgins—and he knew it. If he said anything they would twist it somehow against him. His only hope lay in the quantum of evidence. Nobody had seen him at the hermit's shanty, so why admit that he had been there? That was only common caution. Anybody could have gold pieces; and if he had left any tracks there was no way of proving when they had been made. So Skinny obstinately refused to open his mouth, and sat on a decayed chair in the unsanitary box resembling a flagman's shanty which passed for a jail while the youth—the extreme youth—of Pottsville sat in rows around Sam Bellows, dividing their attention between comments upon his beauty of person and audible

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conjectures as to the probable fate of the murderer within.

Contemporaneously Squire Mason, having in his office reduced to written form the testimony of Emerson the lumberman, unexpectedly realized that he was confronted by a disturbing problem in legal ethics. Here he was, hardly appointed district attorney a week before the most sensational murder ever committed in the county had occurred at his very door! It was his chance!—the chance of a lifetime!—a sure conviction! But—and here was the rub!—were his relations to the accused such that he could properly conduct the case against him? At best could he take any more active part in the trial than as a mere witness, considering the fact that he was trustee of the tramp's money and bore to him the confidential relationship of lawyer to client? Could he even appear against him as a witness? Might not the half-wit, indeed, have had murder in his mind that very morning when he had asked him if "anything ever really died?" The squire's hopes wilted at the thought and his heart fell. Why, it was the biggest opportunity for legitimate no-

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toriety since the Rosenthal murder! It was ridiculous to let a little thing like the fact that he was Skinny's trustee make any difference! No one would in fact need to know? If Skinny remained mute, as he apparently intended to do, it probably would never come to light,—at any rate not until Hawkins had been convicted, and then it would sink into insignificance in the blaze of his glory. There was nothing to connect him with Skinny in any way, for the five twenty-dollar bills which he had delivered to the tramp that morning had not been found upon him when he was arrested. No, —the chance was worth taking. A brave man would take it; and fortune always favored the brave!

Squire Mason, however, was not the only brave man in Pottsville, for Sheriff Moses Higgins meanwhile had started for Turkey Hollow to make an examination of the scene of the crime. With him in the flivver officially designated as "Lizzie" were Emerson, the lumberman, the two armed deputies and Mr. Pennypacker, the photographer from Somerset Corners, for the sheriff was up on all the latest modern methods of de-

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tecting crime and knew just how it should be done. And some day they would all have to be witnesses and testify to exactly what they had seen.

They left the flivver where the wood road from the Hollow joined the highway and walked in the rest of the way on foot. It was a circumstance commented on by all of them that the sheriff's order, that nobody should visit the scene of the murder until he had done so, had been strictly obeyed. But the ghastly corpse of a murdered man is its own best guardian—particularly if it be that of a hermit lying in his blood—alone in a bosky, lonely spot—with evening coming on. The peaceful inhabitants of Pottsville had no great hankering to see how the dead hermit looked, much preferring the less grim sport of tramp-baiting. So the five men met no one on their way; neither did any sound break the silence of the woods about them.

An unexpected pall descended upon their spirits. It had been great sport to jump into a motor with guns and cameras, and whirr off consequentially in a cloud of dust, leaving the staring crowd gazing enviously after them. They had

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even cracked jokes while they were on the road. But now, with the sun already behind the ridge that framed the Hollow upon which the shadows were closing steadily as if night were about to clutch it in its fingers, with no sound save the creak of their own boots or the gibber of a chipmunk in the alders to break the deathly silence of the woods, they found conversation difficult. The men with the shotguns felt fairly comfortable—although of course it would be a cinch for anybody lurking in the bushes to shoot the lot of them. But Sheriff Higgins, who although a sheriff and the Supreme Exalted Ruler of the Sacred Camels of King Menelik had never seen a dead body and was more of a "family man" than a bloodhound, and "Cy" Pennypacker, whose most daring adventure had been to invite Zayda the Zingara vamp to his studio to be photographed—for which he paid heavily afterwards at home, and who now, owing to the weight of his camera and plate holders, found difficulty in keeping up with the others,—both these worthies secretly began to wish that they could escape the duty which lay before them.

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"Ssh!" suddenly whispered Emerson, and they all jumped; then stood tensely in their tracks.

Far up on the dark hillside could be heard at intervals of a few seconds the snapping of twigs.

"That's a long ways off!" said the sheriff inconsequently.

They resumed their pilgrimage at a somewhat lessened pace; but at last they could see the opening-up of the trees against the sky that marked the hermit's clearing.

"Hold up a second!" remarked the sheriff nervously. "Le's decide about this thing! Suppose you fellers with the guns go first—so's to be all ready—an' then I'll come right along——"

"Look here, Moses," retorted one of the gunmen. "I ain't got no partic'lar objection to goin' first, but you're sheriff an' I reckon it's up to you."

Mr. Higgins hesitated. As Patriarch of the Sacred Camels it would not do to permit any intimation of pusillanimity upon his part to get abroad.

"Guess you're right!" he remarked carelessly. "Gimme the gun."

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"What for?" demanded its owner. "You don't need no gun to shoot a dead man!"

"I know that 's well as you do!" retorted the sheriff. "But wha'd you bring a gun fer if there wasn't no use fer it?—Le's go up together!"

Thus reinforced the sheriff and his companion cautiously approached the open door of the hermit's shanty, on which the shadow of the ridge had already fallen and was now slipping across the potato patch towards the edge of the woods. On the threshold they paused. Then the sheriff, swallowing, thrust in his head. It was so dark that at first he could see only the face of the hermit's old clock leering at him out of the dusk. Then gradually he made out the crumpled bundle that had been the hermit, lying in front of it. A grimy fist protruded from beneath the covering. The sheriff bent over gingerly and took hold of one corner of the comfortable. Then he withdrew his hand quickly. The bedding had been lying upon the floor and was soaked in blood.

"God!" shrieked the sheriff and tottered out of the shanty.

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"What's th' matter?" demanded Emerson rudely.

"There's blood on everything—all over the place!" gasped Higgins.

"Well,—didn't you look at him?" continued the lumberman brutally.

"I'm goin' to, soon's I kin git the blood off'n my hands!" returned the sheriff valiantly.

He rubbed his fingers ostentatiously in the grass. Then he crept back to the door of the shanty and looked in. The man with the gun poked the comfortable off the hermit's body.

"P'thah!" coughed the sheriff recoiling. "P'thah!—Somebody else search that body—I can't!"

He leaned heavily against the outside of the shanty and lowered his head.

Nobody in Pottsville went to bed that night, and next day both local clergymen preached rival sermons upon the text, "Thou shalt not kill." Also, although few of the inhabitants had taken the slightest interest in the hermit during his life, except to deride him as a crank and a drunkard,

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there was universal mourning for him now that he was dead; for it was felt that in a way his presence in the Hollow had given a certain distinction to the township which otherwise it would not have had. It was a great moment for Pottsville. And so were the days following during which the Grand Jury indicted Skinny for murder and the case of "The People vs. James Hawkins" gradually built itself up, block by block, "line upon line," "here a little and there a little," circumstance upon circumstance, until his guilt seemed established beyond the utmost requirement of the law.

Then the gipsies, having weathered the rather superficial investigation of the prosecutor, moved on to the "Sunny Southland" or wherever it was that they were going, and six weeks later Local Lodge No. 948 of the Brotherhood of Abyssinian Mysteries convened at Somerset Corners to debate whether the fact that James Hawkins was an ex-member entitled him to pecuniary assistance for the purpose of retaining counsel, upon the broad theory that once a Sacred Camel of King Menelik—"always a camel." For he had given

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the high-sign for help and the Treasury of the Hibernating Hoboes of Hesperides was empty,—since the twenty shiny new five-dollar gold pieces which had been found in Skinny's pocket upon his arrest had been removed therefrom and now reposed in the safe of the district attorney as evidence against him.

Thus came opportunity to the door of Hezekiah Mason for the second time; for in his widely heralded prosecution of Skinny the tramp, he perceived "a stepping stone to higher things,"—not on his own "dead self" but on the "dead selves" of Skinny and the hermit. Had not one well-known public prosecutor, he told himself, leaped into the gubernatorial saddle, and for a space held the reins of office, merely because he had convicted a policeman of participating in the murder of a gambler? Why should not he do the same for convicting a distinguished tramp of the murder of a famous hermit? Indeed, who shall quarrel with his logic?

"Tutt," said Mr. Ephraim Tutt, of the well-known, if not celebrated, law firm of Tutt & Tutt,

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on entering his office the morning after the meeting of the Abyssinian Brothers, "kindly take a look at this!" And he held out a night-letter telegram.

"Somerset Corners, N. Y.

"Tutt & Tutt, Attorneys-at-Law,

"61 Broadway, N. Y. City.

"Local Lodge Nine Hundred and Forty-eight, Abyssinian Brotherhood, desires retain you to defend James Hawkins, otherwise known as Skinny the Tramp, indicted for murder of Hermit of Turkey Hollow twenty-seventh last May. Our resources limited to two hundred and fifty dollars cash. Trial takes place next week. Kindly advise whether you will accept retainer.

"SILAS HIGLEY,

"Grand Supreme Scribe, Sacred Camels of King Menelik, Brotherhood of Abyssinian Mysteries.

"Collect."

"Well," commented his sprightly partner, the lesser Tutt of the two, "I observe that they prudently sent their invitation at our expense.—You

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don't seriously consider bothering with any legal junk like that?"

Mr. Tutt paused in applying a match to the rat-tailed stogy which drooped from his wrinkled lips.

"I wouldn't miss it for a farm!" declared he. "A country murder trial?—Why, it'll be a regular vacation for me!"

"There be no money in it!" growled his junior partner. "And it'll take you a week."

"Who asks money," demanded Mr. Tutt, striking an heroic attitude, "when innocence calls for succor? Could any true-hearted member of the bar—if he had a trace of romance in his soul—refuse to defend a prisoner known by 'form and style' as 'Skinny the Tramp,' especially if he be charged with murdering a hermit, and still more particularly if requested to do so by the Order of the Sacred Camels of King Menelik, whose invitation is a command? What, may I ask, are hermits for—but to be murdered?"

"You're incorrigible!" sighed Tutt. "I suppose the whole office will be depleted."

"No—I'll try the case alone!" replied his

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senior, "I'll merely send Bonnie Doon up there to look around a little and hear what my client has to say for himself, and then I'll go up a couple of days before and examine the witnesses personally —I'll have the time of my life."

"Yes! And incidentally you'll waste a week or ten days and end by paying all the expenses of the trial yourself.—I know you!"

"Well, what else have I got to spend my money on?" retorted Mr. Tutt. "I might as well spend it on keeping an innocent tramp out of the electric chair as anything else!"

Now, as Tutt, the lesser, knew that Tutt, the greater, would eventually do exactly as he chose, the argument then and there died; and the up-to-date Mr. Bonwright Doon, that extraordinary combination of law clerk, ambulance-chaser, detective and man-about-town who had attached himself to the firm was at once despatched to Pottsville, as Mr. Tutt's *avant courier*, where he in due course interviewed Skinny the Tramp in the calaboose, gave Squire Mason the "once-over," fraternized with Sheriff Higgins and his fat-boy deputy, Mr. Sam Bellows, attended a Lodge

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Meeting of the Sacred Camels of which—as well as of many similar organizations—he was a member, and after spending but one night under the hospitable roof of the Phoenix House won the lasting loyalty and friendship of "Ma" Barrows and of her daughter Betty, aged nine, whose capacity for peanuts, popcorn, ice-cream cones and bananas he demonstrated by actual test at Syracuse to be equal to that of Ringling Bros.' baby elephant.

Then, having spied out the lay of the land, he returned weighted with information and wisdom, to make his report to Mr. Tutt,—a report by no means rose-colored and yet not without hope.

"That town is certainly some hick!" declared the cosmopolitan Mr. Doon a week later in making his official return. "It's the variety of metropolis where they regard an imported cigar as an immorality and where the height of dissipation is an evening at a Custard Pie Comedy with Fatty Arbuckle as custardee. It contained no male citizen in Class 1-A, B or C under the recent draft, but it numbers among its midst forty-

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one sacred camels—of which, you may recall, I am one."

"H'm!" murmured Mr. Tutt, making a mental note.

"Yes!" agreed Bonnie, reading his mind. "Moreover, nothing of moment has happened there since Artemas Ward gave his celebrated lecture on 'Fools' in the P. of H. hall in 1883. Hence this assassination has naturally excited a heap big local pride. When this tramp-hermit case comes to the bar there's going to be such a Roman holiday as the Mohawk Valley never saw. The rubes are all coming from miles around, bringing the entire family with 'em and sufficient cold vittles to last a week, and there'll be overflow meetings all the way to Utica."

"No doubt! No doubt!" mused his employer. "But what of my opponents? What of the *dramatis personæ* of the contest? And—what of my client?"

"Your client is a childish nut," responded Mr. Doon, "who devotes his life to trying to find the pots of kale at the twin bases of the rainbow's arc. From my casual observation I should infer

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that he was a trifle less harmless than a cotton-tail. He naturally asserts he didn't do it, and of course maybe he didn't; but by heck! they're going to come awful close to proving it on him."

"What's the evidence?" inquired Mr. Tutt, leaning back in his swivel chair and crossing his Congress shoes on Parker's New York Criminal Code which lay open at "Murder" upon his desk.

"All you want," answered Bonnie cheerfully. "Defendant observed going towards hermit's hut a few minutes before the murder, tries to avoid notice, cry and shot heard, witness bolts to cabin which he reaches in three minutes and finds hermit dying with gold piece in his hand and a broken bean-pot on floor beside him, defendant's pipe left on table, pursues murderer through woods in general direction of village but can't overtake him. Defendant walks into grocery store where all the boobs are assembled waiting for the weekly shave—at four o'clock—breathless, excited, blood on his hands—pursuing witness arrives—also breathless—at four-fifteen and gives the alarm. Defendant is arrested but when accused refuses to make any statement; and, if

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that's not enough,—his pockets turn out to be full of gold pieces of the same vintage as the one in the hermit's hand, and his shoes fit the marks in the potato patch.—Q. E. D."

"Did you say this is going to be a trial?" queried Mr. Tutt. "I should say it was more likely to be an execution."

"So would I," assented Bonnie, except for a few minor details. "In the first place the defendant is a harmless dreamer,—half-feckless fool, half 'boob,' half philosopher and half——" he paused.

"Well?" commented his employer. "Half—what?"

Bonnie still hesitated rather sheepishly.

"Half-gentleman," he declared in a slightly defiant tone.

Mr. Tutt smiled approvingly.

"Do they know it?" he asked.

"Oh, yes!" answered Bonnie. "But everybody likes a drink of blood occasionally!"

"What are your other minor details?"

"The prosecutor is a crook—and I've got the goods on him."

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"What kind?" asked Mr. Tutt more cheerfully.

"Fifty-seven varieties!" affirmed the ambulance-chaser. "He sticks the boobs for eighteen per cent on his loans, he sneaks up to Utica once in three weeks by himself and gets hard boiled, and he looks like the family portrait of Uncle Jonas Hardscrabble. Besides, although I don't know why I think so, I have a feeling he's got some particular personal animosity against our client."

"H'h!" mused Mr. Tutt. "How about the sheriff?"

Bonnie grinned, as with meticulous elegance he removed a cigarette from a golden case bearing his initials set in diamonds.

"He's playing the constable in a b'gosh drama up on Broadway. Better drop in and look him over. And he's got a posse like the fire hose company in Old Jed Prouty!"

Mr. Tutt shook his head regretfully.

"I don't like your setting. The whole country will be hell-bent-for-conviction on general principles. They'll want to vindicate their reputation

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for law and order and—if they're in doubt—instead of acquitting they'll return a verdict of murder in the second and rely on executive clemency to remedy any possible injustice! I know 'em!"

"Mr. Tutt," replied Bonnie with intense seriousness. "They're going to give you the fight of your life!"

Mr. Tutt fumbled in the coffin-like box on his desk for a stogy.

"I surmised as much!" he muttered. "I surmised as much. But—you never can tell!"

He lit the stogy meditatively and gazed out of the office window through half-lowered lids.

"You say the prisoner entered the drug store at four o'clock exactly?"

"Yes—that's absolutely fixed."

"And his pursuer at fifteen minutes past?"

"Yes."

Mr. Tutt pursed his lips.

"How far did they have to run?"

"About a mile."

The old lawyer made a rapid calculation.

"And what time was the murder committed?" he asked suddenly.

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"I don't know," replied the clerk. "I had no way to find out."

"Well," said Mr. Tutt, bringing his feet to the floor with a bang. "That's what we've got to find out. The whole case turns on it. If our client fired the shot that killed the hermit and it took the witness three minutes to reach the shanty and—say—a couple of minutes more to look around there—then the defendant must have increased his five minute start to fifteen minutes in a single mile—and if the other man was running hard I don't believe he could have done it! No, sir!—He's not guilty!"

"And then—there's the Sacred Camels of King Menelik!" mused Bonnie. *"And the sheriff is head camel!"*

II

WHEN Lawyer Ephraim Tutt arrived in Pottsville to conduct the defense of Skinny the Tramp for the murder of the Hermit of Turkey Hollow, having been retained to that end by the local order of the Sacred

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Camels of King Menelik, he found the whole town up and waiting for him. Having with his customary equanimity deposited his bag at the Phoenix House and eaten his dinner, he strolled into the kitchen and, as was his wont, endeavored to gain some knowledge of local color, politics and personalities, including that of the client for whose life he was responsible, by engaging genial "Ma" Best, the proprietress, in conversation.

"Why, bless your heart, Mr. Tutt!" she assured him after she had wiped her hands upon her apron and invited him to a seat in the broken-down rocker beside the wood box, "there ain't no gentler, kinder soul than Skinny in the whole county! I've known him all his life and his ma afore him. He's just a pore, harmless critter that wouldn't hurt a fly. Many's the time I've seen him put a baby bird back into the nest that had fallen out. O' course he's kind o' weak in the upper story—but he ain't crazy by a long shock, an' there's some things he knows a lot more about 'n most folks."

"Will you testify as a witness to his good reputation?" asked Mr. Tutt.

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"Indeed I will!" she declared warmly. "And so'll half the people in Pottsville—the children, anyways! Now what would you like for your supper?—Griddle cakes?

. . . . . .

Those of our readers who have journeyed from London down to Epsom on race day may be able to form some notion of the condition of affairs in the environs of Pottsville upon the opening morning of the trial of Skinny the Tramp. Long before the light of the stars had paled before the coming dawn—e'en before the glowworm had bid the matin to be near—lanterns flickered in the doorways of distant barns and bobbed down country roads beneath the bouncing axles of antique buggies and carry-alls bearing the sleepless inhabitants of the Mohawk Valley to the legal colosseum of Somerset County. By sunrise Main Street was one long line of flivvers, while the race track recently occupied by the Zingara Gipsies was crowded with every variety of antediluvian vehicle of locomotion,—parked axle to axle.

When at eight o'clock Sheriff Higgins unlocked the door of the court house the stampede which

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followed filled every bench in less than thirty seconds. Competition for the pleasurable and exciting privilege of sitting upon the jury was keen and the box having been quickly filled by eleven o'clock, old Judge Tompkins was able to direct the prosecutor to open his case.

"Silence in the court room!" cautioned the sheriff pompously. "Silence in the court!—All them folks as wants to go out—git out now—or set still!"

This invitation being disingenuous and not meant to be taken seriously since obviously nobody wished to withdraw,—there being, on the contrary, by actual count three hundred and sixty-one persons packed against the outside of the door who were anxious to get in,—everybody accordingly sat still,—except for that slow, uniform, rhythmical facial movement which now characterizes the entire American nation while viewing any spectacle. Sheriff Higgins thereupon sat down heavily himself, by so doing seeming coincidently to elevate Squire Mason, as upon the other end of the seesaw of public attention. The trial was on in earnest,—the biggest event in the Mo-

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hawk since Abe Lincoln showed himself on the back platform of his train when he came through on his way to Washington in 1861. Some of the old codgers who had seen him then—as little boys —were even sitting in the court room now,—and more than one commented on the striking resemblance between him and Lawyer Tutt.

And now Squire Mason, in a new, light blue, broadcloth suit, bowed to Judge Tompkins, wiped his massive forehead with a parti-colored handkerchief, took an ostentatious sip from the discolored glass of water upon the deal table in front of him, replaced it carefully, shot a defiant and contemptuous glance in the direction where Skinny the Tramp sat with Mr. Tutt, cleared his throat, and having thus, by convolutions only somewhat less complicated than those of a Bush League pitcher but serving much the same purpose, given due notice that he was about to deliver the ball and that everybody had better look,—Squire Mason, we say, began his great opening address to the gentlemen-farmers of the jury who had in their keeping the life of Skinny the Tramp.

Having first outlined the entire history of the

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law of homicide beginning with the well-known Cain-Abel murder in 4000 B. C. he proceeded, by vocal stages of approximately twenty parasangs each, through the pages of Holy Writ, not excluding the Apochrypha,—and referring specifically to both the Judith-Holofernes and the Jael-Sisera cases,—touched briefly upon the lex talionis, the Salic law, and the development of the ecclesiastical courts,—and finally burst into the full flower of rhetoric along with the abolition of benefit of clergy in 1825. As a symposium of miscellaneous penological information it was something very fine indeed,—although it had nothing to do with Skinny the Tramp or the Hermit of Turkey Hollow,—and the jury, hardened by generations of country sermons—not only accepted it as their due but drank it all in with rapturous delight. And at length—as befitted its importance both to the jury and to him—the Squire came to the matter in hand and that is where this story really only begins,—the story of the fight for a human life.

Some time on the afternoon of Saturday, May twenty-seventh last, declared the Squire, an inno-

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cent, helpless old recluse was shot to death in his shanty in Turkey Hollow. Obviously robbery had been the motive, since the dead man still clutched in his hand a piece of gold and upon the floor lay a shattered earthen receptacle which had doubtless contained others. There were only two persons known to be anywhere in the neighborhood at the time, James Hawkins, alias Skinny the Tramp,—the prisoner at the bar,—and Emerson, the lumberman who had been cutting pea sticks in the Hollow, who had heard the shot and had hurried at once to the scene of the murder and later given the alarm. The squire here paused for increased emphasis.

However, he remarked, the murderer, like most murderers fortunately, had not made his escape without leaving the evidences of his identity behind him. Not only had he left his pipe, but fresh in the rich earth of the hermit's potato patch were the prints of a heavy pair of boots, the soles of which were thickly studded with nails. He would in due course exhibit to them an enlarged photograph of said footprints taken on the very afternoon of

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the crime by Mr. Pennypacker, who ran the gallery over to Somerset Corners. Again he paused significantly, and looked at Skinny the Tramp.

Who, he asked, had worn those fatal boots? Whose guilty feet had left those telltale prints? The same person, he answered dramatically, who at four o'clock had stumbled, disheveled, out of breath and blood-stained, into Colson's Grocery and called for a bottle of root beer that Saturday afternoon—and in whose pockets had been discovered the balance of the gold pieces representing the hermit's hoard—the defendant!

A murmur in which were blended astonishment, horror and admiration arose from the crowded benches, showing that for the first time the audience realized the gravity of what was going on,—that not only an innocent man had been killed but that there was sitting within reach of their fingers the man who had killed him and whom the law now sought to kill in return. Beneath the table Mr. Tutt patted the knee of Skinny the Tramp, indicating a confidence which he by no means felt.

Then the prosecutor proceeded to drive a few more nails in Skinny's coffin. When the defend-

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ant had been arrested, he informed the jury, the latter declined to make any statement, either of explanation or of denial, in his own behalf. He had simply stood mute, giving by his trembling limbs, his averted eyes and the chalk-like color of his face, every evidence of a guilty conscience. Then Mason told the jury with an air of melancholy how he hated to be compelled to prosecute any human being for a crime—much more for a murder—but that it was his solemn, sworn duty to do so, just as it would be theirs under the circumstances to convict; and—called Charlie Emerson to the witness chair.

If, at this point, the reader should begin to speculate as to what, if any, is the underlying purpose of this story, let us hasten to state that its object is to demonstrate that sometimes the trial of an action in court under our rules of evidence is less a search for the truth than it is a game of legal chess.

There are two lessons to be drawn from the case of Skinny the Tramp. The first is, that the trial-lawyer, like the general, must be ready instantly to change his tactics to meet new situa-

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tions as they arise, and that the prosecutor or attorney for the defense who goes into court with a hidebound theory as to his case is apt to leave his own hide behind him neatly hammered to the court room wall. He should realize that the whole actual truth concerning any human happening is never known, being never learned in court because the witnesses, well-meaning though they be, are human,—fallible as to observation, memory and the power to express their recollection of what they think they originally saw and heard. In a word, the real or absolute truth is never the legal truth, and as what the legal truth under the technical rules of procedure is going to turn out to be can rarely be foreseen it is usually idle to speculate much about it. Therefore, he should go boldly into court, listen calmly while the witnesses on both sides tell their widely divergent stories, and then—and not until then—devise the theory upon which he may excusably demand judgment for his client or the acquittal of the prisoner. This requires, to be sure, self-control, ingenuity and audacity; the restraint of a Foch awaiting the precise moment to

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counter-attack; the self-trust which the philosopher Emerson says is the essence of heroism.

But Mr. Tutt knew well that the expected never occurs,—except when the expected is the unexpected. Thus he always went into a trial with an entirely open mind,—committed to no hypothesis,—and ready to go to the mat in a catch-as-catch-can on law or fact, or—to run like a jack-rabbit. The unknown quantity was both what he dreaded and also what he gambled on. He was an opportunist of opportunists, on the alert to snatch victory out of defeat, making shining virtues out of adroitly concealed necessities, scrambling to his feet with a benign smile just as he was about to be counted out. The only generality to which he subscribed was, "You never can tell!" In a word, Mr. Tutt had a high confidence in his own star, and as he never acknowledged defeat, nobody ever knew when he was beaten, an adverse verdict being to him only the starting point for a renewal of the battle in which he had, at least, an even chance of outwitting his antagonist. He held that the best preparation for a day in court was a sound sleep the night before, an hour's ex-

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ercise, and a hearty breakfast followed by what he called a Wheeling Corona-Corona. But not all of us have the equipoise of Ephraim Tutt.

Now, the other lesson to be deduced from the trial of Skinny the Tramp was that the best rule in examining witnesses is to have no rule at all,—which is very much the same thing as "You never can tell!" There is no more any hard and fast rule for the examination of a witness than there is for arguing with your stepmother. It "all depends." The lawyer who says that you must never let a witness leave the stand without exhausting his information is just as wide of the mark as he who claims that the only safe cross-examination is no cross-examination and that the best cross-examiner is he who does not cross-examine at all. Yet "no generality is true,—not even this one," as the French say; the fact of the matter being that cross-examination is obviously a dangerous weapon, usually resulting in more harm than good—but not always, and that every witness presents a new and special problem which can only be solved by a subtle and perhaps instinctive appreciation of his psychology. Generally

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speaking, it is a pretty safe plan to ask no questions of a witness who has not harmed your side of the case, for if you cross-examine you may bring out something entirely unexpected to your great and everlasting detriment. "Leave well enough alone." That is the path of prudence—and yet—not always! But let us not anticipate.

Emerson, the lumberman, like many another man of limited education, in addition to an astonishingly accurate memory for detail, showed himself to have a gift for picturesque description which made him a graphic and convincing witness for the prosecution. He was obviously unbiased, absolutely clear, positive in all his statements, and careful,—as both the judge and the prosecutor took pains to instruct him to be,—to answer only the exact questions put to him.

This, of course, is the regular and proper rule, for if a witness is permitted to volunteer testimony he is almost certain to violate every rule of evidence within the first thirty seconds. But in the case of Emerson there was a particular and vital reason for such a caution on the part of the prosecutor which was known only to him, namely,

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that for tactical reasons it was imperative that certain features of his testimony should be suppressed.

Now it is the general rule of the law that the lawyer who calls a witness to the stand in the first place vouches for his integrity and, in the second, commits himself and his case to the truth of the proposition of fact that the witness is called to substantiate. But there is a qualification upon this rule, which is that technically the lawyer is bound by his own witness only upon those subjects upon which he sees fit to examine him; and, if later, his adversary brings out from the same witness new facts upon other subjects, the lawyer who originally called him may attack the witness as hostile, discredit him as to those facts, and controvert them if he can.

Yet, underlying all rules is the universal principle of sound ethics and common decency which hold true both in law and in life as a whole, that we must conduct ourselves at all times and places as gentlemen and sportsmen, whether in court or outdoors, until we join the choir invisible and have no longer any moral

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problems. In other words, the lawyer has got to play his game fairly and if, on the one hand, he calls a witness to prove a certain fact knowing that the witness is mistaken, or, on the other hand, knowing that his witness is telling the truth about a certain fact induces the jury or the judge to believe that the witness is mistaken, that man is a liar, a cad and a shyster and ought to be disbarred.

Now, Squire Mason was up against a most unfortunate, tantalizing and exasperating situation with regard to this, his principal witness, which was that although Emerson had taken only a few minutes to reach the hermit's shanty after hearing the fatal shot, and had lingered there but a minute or two more and had then hurried hot foot to Pottsville, arriving there within fifteen minutes of the time Skinny also reached town, which is to say, considering that the murderer had at least a five minute start, almost at his heels,—nevertheless, and this is the crux of the case, he was prepared to state definitely and unequivocally, if asked the time at which he found the hermit dying, that it was four o'clock exactly—which as we

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know, and Squire Mason also perfectly well knew, was the precise moment at which the tramp entered Colson's grocery store a full mile away. If this were true, then James Hawkins, no matter how strongly circumstances pointed towards him as the murderer, could not be guilty.

Thus, if District Attorney Mason should elicit "the truth, the whole truth, and nothing but the truth" from Emerson,—which was what he was in duty bound to do and what Emerson had sworn to tell,—the prosecution would establish a perfect alibi for the defendant from the lips of its own chief witness. Therefore Mason had resolved to refrain from asking the lumberman any question bearing upon the time of the homicide, and in order that no one else might suspect what Emerson might be able, if questioned, to say upon this important topic, had slipped him twenty-five dollars and instructed him that the interests of the public—particularly that of the Mohawk Valley—demanded that he should absent himself from his customary haunts until he should be needed at the trial.

Of all this, naturally, Mr. Tutt was wholly ig-

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norant and he had come to Pottsville with no other defense than the rather shaky argument that Skinny could not have fired the shot that killed the hermit and, with only a five minute start, have increased his lead over the pursuing Emerson to fifteen whole minutes in a single mile. It had, according to his theory, taken the lumberman only three minutes to reach the shanty after hearing the shot, and he was out of the place again and hot on the murderer's trail in two minutes more. That meant that he was only five minutes behind when he started in pursuit. Now, as Mr. Tutt was going to claim, a man could run a mile in less than ten minutes, and hence it was manifestly impossible that Skinny could have reached Pottsville fifteen minutes ahead of Emerson—if he were guilty.

This plausible—but distinctly Tuttian—argument depended, however, entirely upon the assumption that Emerson did not take more than three minutes to get to the shanty after hearing the shot, did not stay in its vicinity for more than a couple more, and had run at top speed—without pause—all the way to Pottsville,—assump-

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tions that had little to sustain them, and had small appeal compared with the overwhelming mass of circumstantial evidence that pointed to the tramp as the murderer. Mr. Tutt realized full well that his defense was a flimsy one, since in all probability Emerson had been fully fifteen minutes behind the fleeing assassin when he had started for the town and at best had probably done no more than hold his distance, if indeed he had succeeded in doing that. Yet, although so far as Mr. Tutt was aware, this ephemeral syllogism was all that stood between his client and the electric chair, nevertheless, and had he only known it,—according to Emerson's full story related privately to Mason,—Skinny had an iron-clad, copper-fastened, dyed-in-the-wool, unimpeachable and perfect alibi. It was this full story—the "whole truth"—that Mason now set himself to conceal in the hope that it would never be known, for as long as the exact time of the murder could be left vague and undetermined the alibi would be valueless. So the shifty Squire carefully omitted to ask the lumberman any question as to the hour except

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when it was that he had started in to cut his pea sticks,—which had been two o'clock.

"There had been a smart shower," said he, "and some thunder—but the sun had come out real bright agin. I was about three hundred yards from where the hermit lived—most through with my job—I'd cut a hundred sticks and I only wanted a hundred and a half—when I heard a holler from the direction of the house follered by a shot."

"Yes.—Go on!" directed Squire Mason ominously.

"I run over there as fast as I could. The door was open. I called out but got no answer, so I went in. The shanty was hot—for the winders were closed—and it was sort o' dim in there—and then I hearn a kind of cluckin' sound and I see the hermit lyin' on the floor—he had toppled over on his back—and the blood was frothin' out of his mouth where he was tryin' to breathe."

"Proceed," said the court. "What else did you observe?"

"I stepped over to where he was lyin' an' lifted up his head so's to look in his face. I remember

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there was a great big moth flappin' like mad inside the window. It skeart me. Then all of a sudden the hermit stopped breathin'—the moth flew out the door—and I knew he was dead—murdered."

"Do you object to the word 'murdered,' Mr. Tutt?" inquired the court.

"No, your Honor," replied the old lawyer. "The poor man was undoubtedly murdered."

"Very well, go on," continued Judge Tompkins to the witness.

"I threw somethin' over him and looked 'round for a second or two. There was a busted bean pot lyin' under the table and I noticed the hermit had a gold piece clutched in his fist. The rest of the shanty looked same as usual.—So I ran right out and listened. I could hear some one crashing through the brush and I followed after towards the town, but he beat me to it."

The court room was as still as the hermit's death chamber.

"Did you see any footprints in the garden patch?" asked Squire Mason.

"I did. Sure. An' I showed 'em both to the

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sheriff and to Mr. Pennypacker, the photographer."

"When you went back there with Sheriff Higgins and Mr. Pennypacker was everything in and around the shanty the same as when you were there the first time?" asked Mason.

"Just the same. No one else had been there," declared Emerson.

"That is all!" announced the prosecutor in a tone of triumph. "You may cross-examine, Mr. Tutt."

Mr. Tutt did not immediately arise to his feet. It was of course obvious to him that Mason had refrained from eliciting the time of the murder from Emerson. Time and place were the inevitable bases of all testimony. Why had he done so? It was conceivable that the witness was entirely at sea about the time and hence that his evidence regarding it, if given, would have been of no value. That was more than probable, in which case it was natural enough that the district attorney should not have gone into the matter at all. But there was also—Mr. Tutt recognized—another possibility, so remote as to be almost the-

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oretical,—that Emerson did know the time at which he entered the shanty and that Mason was deliberately holding it back. If this were so he was doing it for a reason and what reason could there be?

Mr. Tutt was face to face with one of the greatest dilemmas of his life: if Emerson knew the time of the shot and it was such as to give Skinny time to have fired it and reach the village by four o'clock, that fact, if he brought it out, would be of inestimable damage to him,—but, if by any chance—oh, could it be!—that the shot was fired so close to four as to make it unlikely or impossible that Skinny could have fired it and yet arrive at Colson's at four, the answer might acquit him! "The Lady or the Tiger"! Which was it? Mr. Tutt thought hard. Was Mason concealing the time, or was he luring his adversary into a trap? For, if Mr. Tutt himself adduced the fact that the murder occurred, say, at a quarter to four his client would be doubly damned. A bit of supposedly unexpected evidence elicited on cross-examination by a party to whom it is harmful is invariably more damaging than if brought out by

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the party who has called the witness in the first place. On the one hand it was a great temptation for Mr. Tutt to waive the witness from the stand with a nonchalant, "No questions!" as if his testimony contained nothing damaging to the defense; but on the other it might be his last chance of proving even the approximate time of the murder. Sly old dog that he was, he resolved to try to steal whatever advantage might lie in both courses. So, without getting up, he waved his hand towards the window and remarked in the most casual manner possible:

"No questions.—Thank you, Mr. Emerson, for your very vivid word picture!" And he busied himself with his papers.

Then, as the witness was about to descend from the platform, he looked up hastily and said in a tone of apology:

"I beg your pardon. I forget whether you happened to mention the hour at which you visited the shanty the first time."

Emerson smiled. Without taking his seat he answered:

"No, I didn't mention it."

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"Do you know?"

"Yes."

"What time was it?"

Emerson turned to the jury who were leaning forward expectantly.

"When I lifted the hermit's head in my hand I was lookin' straight into the face of that old clock of his that stands between the two windows in the back—and it was just four o'clock."

"Thanks," remarked Mr. Tutt quietly, as if the reply held no particular significance for his client, whom in fact it might well save. "No other questions."

The judge glanced at Squire Mason.

"Have you anything further, Mr. District Attorney?"

"No—I have no further questions," replied the prosecutor, also as if the matter was not of the slightest moment.

"May I go, your honor?" asked Emerson.

"Yes,—if these gentlemen are through with you," smiled Judge Tompkins.

As neither of the gentlemen wished or dared to ask him the fraction of another question Mr.

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Emerson forthwith was given leave to depart upon his business,—which unbeknown to any of them was to take a job as foreman in a steam lumber mill seventy miles distant, the train for which bore him thither later that afternoon.

Mr. Tutt settled back in his chair, a heavenly calm descending upon his previously agonized spirit. Skinny had been snatched from the very jaws of death. There was nothing to worry about any longer. Skinny the Tramp couldn't have been in two places at once, no matter how strong the evidence against him might be.

Evidently the Squire was a good bluffer. It required real nerve to be as placid as all that in the face of such a body blow! The prosecutor took a sip of water, pushed a mass of papers away from him, leaned over and picked up a large diagram of the clearing, including the hermit's shanty drawn to scale. It had been artistically done and contained no objectionable matter, the location of the body not having been marked at all, and the various pieces of furniture appearing only in outline. Next to the cot-bed the most conspicuous

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object in the place had plainly been the hermit's clock.

Squire Mason handed the diagram to Mr. Tutt with stately bucolic courtesy.

"Any objection to my puttin' in this here diagram?" he inquired.

Mr. Tutt smiled as he glanced over it.

"Timeo Danaos et dona ferentes!" he replied. Then observing the look of bewilderment upon the prosecutor's face, he added: "None whatever! It can be admitted so far as I am concerned, subject, of course, to correction. Who made it?"

"Miss Gookin," replied Mason.

"Then I heartily congratulate Miss Gookin on her artistic work!" said Mr. Tutt, thus making sure of at least one vote, if ever he should run for governor, from "To' gery Bill," her father, and gaining high favor with Mr. Soper, juror Number Eight, who was seeking the lady's hand in marriage.

"All right, then—mark it!" said Hezekiah to the stenographer. "Now, sheriff! Take the stand!"

Just as the prosecution of Skinny the Tramp

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marked the peak of Squire Mason's professional career, so his appearance as a witness at that same trial was the greatest event in the official experience of Sheriff Higgins. Being a quiet, home-loving citizen, the Supreme Exalted Ruler of the Sacred Camels had experienced few of the joys of publicity and now to be able to ascend the rostrum and, with a real reporter sent over special from Utiky taking down every word that fell from his lips, to recount the thrilling narrative of how he had captured Skinny the Tramp and later secured the evidence against him through a personal visit to the scene of the homicide while the body was still warm, to sit elevated high in the court room upon a level with the judge himself, to feel in his own opinion that he was the most important figure among the *dramatis personæ*, and that the eyes and ears of all waited upon him—ah! who that has not had a similar experience can have the faintest realization of its ecstasy?

Now Sheriff Higgins had looked forward to his coming testimony with great satisfaction, not only for the reasons just stated, but also because it would give him an opportunity to indicate public-

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ly what small potatoes he thought Squire Mason to be. He was in the delightful position of being able at one and the same time to gratify his vanity, to do his full duty to the state and also to savor the full venom of his hatred for an ancient enemy. He proposed to do each in turn and to do it thoroughly and well, but he was in a somewhat delicate and paradoxical situation. He had collected the evidence against Skinny, and was one of the chief witnesses against him; he acknowledged that logically there was no escape from the conclusion that the tramp was the guilty party; he was the mainstay of the law in that county and it was up to him to see that the murderer was convicted; and yet—he didn't believe Skinny had done it! No, sir! And the reason was simply that the tramp wasn't that kind of a feller, and he and half a dozen other Sacred Camels were ready—if asked—to say so.

But first, approaching his various phases in order, let us take up the sheriff's innocent gratification of his own vanity—in which he differed not a whit from ninety-nine out of every hundred witnesses. It is a noticeable thing that once a

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man finds himself the cynosure of public attention he feels obliged to picture himself as of heroic mould. Has any witness since the Creation—we wonder—in any court of law ever admitted—unless his questioner had the goods on him and he knew it—that he was in any degree stupid, unscrupulous, negligent, timid or even slightly impolite or uncultivated? We have never met one. It cannot be mere boastfulness or vainglory that leads each man, who kisses the Book and gazes upon the carping features of the jury, to try and make them believe him the highest type of citizen. He isn't and he knows it; and he knows they know he knows it, and yet he will thrust forth his chest and assume for the nonce to possess every virtue in the calendar while modestly protesting that there may be others as good or as brave as he.

We have heard otherwise apparently sensible men confess under oath without trace of embarrassment, one that he was regarded as the handsomest man in Rochester, N. Y., another that he was the greatest mechanical genius in the world, another that he would back his own opinion on any given subject against that of any ten men and

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stick to it even if proven mathematically to be mistaken, another that he had never told a lie or been guilty of any sort of misleading statement in his life, another that he had never consciously done anything wrong, another that he had read every book worth reading in the English language —and answered categorically "Yes" to some six hundred separate works such as Burton's Anatomy of Melancholy and Gibbon's Decline and Fall of the Roman Empire—and one, who may have been telling the truth, that he had never kissed, or been kissed by, a member of the opposite sex.

The sheriff wasn't as bad as any of these, but now that it was all over, his recollection as to his own conduct and demeanor differed radically from that of his associates at the time. He honestly thought that he had done things which in fact had been done by others. Anyhow, someone had done them, so what difference did it make? While, therefore, the substance of his testimony—as with most witnesses—was based on fact, the details bore no resemblance whatever to the truth. As the reader knows, the barber had

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received Skinny's surrender, yet the sheriff unhesitatingly swore that he had reduced him into possession; the proprietor of the Mohawk Palace Theatre had searched the tramp and found the twenty five-dollar gold pieces, yet Higgins managed to give the impression that it was he, and not Mr. Perkins, who had discovered them; as the reader knows, he had been scared out of his seven senses when he visited the hermit's shanty and had refused to touch the body, and he now was obviously under the firm impression that he had walked boldly in, uncovered the corpse, searched the clothes upon it, inventoried the furniture and in general conducted himself with the brilliant audacity of one of Dumas' heroes and the astuteness of Mr. Sherlock Holmes; which, to tell the truth nobody would have minded in the slightest degree, least of all Mr. Tutt, for the slab-sided old sheriff was a good old scout, a deacon in the Baptist congregation, as well as the leading Sacred Camel in that part of the Mohawk —had it not been for what Squire Mason regarded as his deliberate act of treachery in giving Skinny a good character—all of which we will set

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down in due course. By the time he was called to the stand Mose Higgins was almost of the same mind as the Sheriff of Nottingham in the opera of Robin Hood when he said

"You may search aye,
But you never will descry
Such a wonderful man as I!
. . . . .
I never yet made one mistake!
I'd like to—for variety's sake!"
. . . . .

So in full glory he described first the pursuit and final capture of Skinny and how he had found his pockets full of the hermit's gold—the pieces all dated 1910—shining, lustrous, five-dollar pieces—of exactly the right sort to make the mouth of any tramp water; then how the prisoner had positively declined to say a word in defense or extenuation; and then, warming to his subject, he gave a vivid picture of his visit to the shanty just at nightfall and how he had discovered the hermit lying in his gore, with another—the last!—gold piece clutched tight in his left hand—also dated 1910, Skinny's pipe upon the table, and the marks of fresh footprints in the potato patch. It was all clear as a bell and he figured largely in his

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own account as rather a dashing, nervy sort of sleuth who knew just what to do and had done it.

Squire Mason, well satisfied, turned him over to Mr. Tutt with a gesture of "now-go-ahead-and-do-your-damnedest!" Now, Mr. Tutt's damnedest in this particular instance was not spectacular, but he nevertheless elicited more than one fact that played an important part in the denouement of the trial. He knew that the sheriff was friendly and also was a Sacred Camel, but he also knew that he was an honest public officer even if he gave himself a little the best end of it.

"Sheriff Higgins," said he, approaching obliquely what might be called the "time element" in the case. "What hour was it when you and your posse left Pottsville for the scene of the crime?"

The sheriff pondered.

"About quarter past five," he answered.

Q. "And how long did it take you to reach Turkey Hollow?"

A. "I should say about half an hour—carryin' the camera and all."

Q. "Was it light when you reached the shanty?"

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Now the darker the sheriff made it the greater impression of bravery would he create upon his auditors.

A. "It was gettin' along towards six—and there wasn't much light. Inside, it was pretty dark!"

Q. "Was there a clock in the shanty?"

A. "Yes."

Q. "Did you notice the time?"

The sheriff hesitated.

"To tell ye the truth," he confessed with apparent frankness, "although I'm positive sure I looked at it—must have!—I didn't get no real idee o' the time."

That helped Mr. Tutt not a whit, so he veered off on another tack.

Q. "Rather a gristly scene, wasn't it?"

One would have said that Sheriff Higgins thought the examination of dead bodies a pleasant form of light entertainment.

A. "Not partic'ly," he answered casually.

Q. "Did you search the body?"

A. "Oh, yes—natur'ly."

Q. "What did you find?"

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Sheriff Higgins removed with deliberation from his vest pocket a cheap memorandum book—evidently a recent acquisition—with cardboard covers, the edges dyed a bright blue. On the outside in letters of gigantic script appeared the words "Don't Forget!"

Running his thumb through the leaves, he opened it at the right place, adjusted his spectacles, cleared his throat and read in an aggressive, declamatory tone:

A. "One fish hook—one copper cent—one piece of string—two loose buttons—nine cloves—"

Q. "What was that?"

A. "Cloves—nine cloves——"

Q. "Go on!"

A. "—one tobacco pouch—five matches—one pipe—one jackknife—one piece of gum—one piece wax—one nail—one bottle of whiskey—one smaller bottle of whiskey—one cork, extra—a handkerchief—eleven large pins—one pencil end——"

Q. "Anything else?"

A. "And one hundred dollars in bills."

Q. "Is that all?"

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A. "Absolutely."

The sheriff closed his book and returned it to his pocket. Clearly there was nothing in this catalogue to shed any light on the nature of the murder, except possibly to indicate that the assassin had been in too much of a hurry to search his victim, which was not a fact favorable to the defense. So Mr. Tutt moved on to the potato patch.

Here, as all admitted, the sheriff had done some slick work. He had carefully measured the footprints and then protected them from disturbance with a low wire fence. The earth had been soft and squashy and each one had been as distinct as a fossil in the museum. He had brought along one of Skinny's boots and it fitted into each print exactly! Even the broken down heel was perfectly reproduced. There was nothing to be done about it so Mr. Tutt handed the sheriff a few large bouquets to put him in a good humor. Then he asked:

Q. "Known my client for some time, have you, sheriff?"

A. "Since he was a boy."

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Q. "Does he come from around here?"

A. "Yes. He was born over Holbrook way."

Q. "Parents living?"

A. "No—he's an orphan."

Q. "Do you know his reputation for honesty, peace and quiet?"

"Look here!" interjected Squire Mason. "You're makin' the sheriff your own witness."

"I'm perfectly well aware of that!" replied Mr. Tutt calmly.

A. "I do."

Q. "What is it?"

The sheriff looked round the room slowly as if to call those present to corroborate him.

A. "There ain't a quieter, honester, more law-abidin' citizen in this here county than Skinny Hawkins," said he with conviction.

Q. "Ever know him to do an unkind act?"

"I object!" shouted the Squire, springing to his feet. "That ain't proper and you know it."

Judge Tompkins smiled indulgently.

"Oh, I'll give Mr. Tutt some latitude. It's a serious case!" said he.

A. "No," answered the sheriff. "I never did.

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He's got a real kind heart. He wouldn't kill a grasshopper!"

Mr. Tutt bowed.

"Thank you kindly, sheriff!" he remarked. "That is all!"

Now Squire Mason had heard this testimony with rising indignation. Moreover, his rejection as an Abyssinian Brother by the Order of the Sacred Camels of King Menelik rankled in his bosom. And he did not propose to let the sheriff get away with anything like that.

"Hold on a minute!" he cried, as Mr. Higgins prepared to descend from the chair. "You're sheriff of this county, ain't you?"

"I be!" retorted the witness. "That is, I was a minute ago an' if nothin' ain't happened since——"

"It's your business to get th' evidence agin' criminals and convict 'em, ain't it?" snapped the squire.

"If I think they're guilty," answered the sheriff.

"None of your business to try to help 'em, is it?"

"I ain't tried to help nobody!" shot back the

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sheriff indignantly. "I've done my duty in this case better'n most!"

"Brave feller, ain't ye?" said the Squire with scorn.

"Brave as you be, I guess!" countered his adversary.

The judge, Mr. Tutt and the jury were all enjoying the sideshow.

"Ain't it a fact you was so skeart when you went to the shanty you ran out and was sick? An' wouldn't go back?"

Sheriff Higgins stood up and waved his long arms, almost speechless with rage.

"It's a gol-durned lie!" he shouted. "Who told ye that, I'd like to know?"

"Gentlemen! Gentlemen!" cautioned his honor. "The personal courage of this officer is not an issue. Call your next witness, Mr. District Attorney."

It was true that Mr. Tutt had not scored heavily since he had failed in his most important attempt—that is, to corroborate through the sheriff's testimony the general accuracy of the hermit's timepiece, but he had at least secured an official

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recommendation for Skinny's character and he had got Squire Mason quarreling with one of his principal witnesses. That was a good deal. Incidentally, although it got by him at the moment, he had gained something else, the importance of which did not appear until later. Still, nothing made any real difference, one way or another, so long as he had a perfect alibi for Skinny safely tucked away in his sleeve. In the feeling of confidence engendered by this knowledge—and in the delight of having set the prosecutor at logger heads with the sheriff—Mr. Tutt's spirits rose to such a degree that he became positively playful—as light-hearted as a colt loosed in a clover-field. Alas that legal pride is so often doomed to fall! That the happiness of one moment in the court room is so often the despair of the next! Alas for the colt who feels his oats—for he is sure to kick himself into some sort of a tangle!

Mr. Tutt pleased as Punch with the case, chatted gaily with the jury and assured Skinny that he would have him out and walking the street in forty-eight hours—a free man. So elated was

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he that he gave only perfunctory attention to the prosecution's other witnesses, until the boots worn by the defendant when arrested were put in evidence and Mr. Pennypacker was called to identify his photographic enlargement of the footprints in the hermit's vegetable patch. No, there wasn't the shadow of a doubt about it—they were Skinny's footprints! Yet, however interesting that fact might seem to the jury, Mr. Tutt rested secure in the knowledge that his client must have been far away from there when the hermit had been killed.

Mr. Pennypacker seemed a pleasant sort of person and Mr. Tutt having nothing better to do proceeded to engage him in agreeable conversation. What time had he taken the photographs? About six o'clock. Rather dark? Not particularly, but of course he had had to make a time exposure. How long? Thirty seconds. How many exposures did he make? Four. How many plates had he brought with him? A dozen. Did he use the other plates for anything?

Mr. Pennypacker nodded.

"I photographed the interior of the shanty."

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"Ah!" exclaimed Mr. Tutt eagerly.

No photograph could harm him. Nothing could hurt him now! Why had not Mason put them in evidence?

"Have you the prints with you?"

Mr. Pennypacker affably leaned over and produced them from a package beside him, and Mr. Tutt saw a chance for one of those grand-stand plays so dear to the heart of the trial lawyer.

"I offer them in evidence," said he with a glance at the jury. "I don't know why Squire Mason didn't put them in, but—whatever his reasons may have been—*I'll* put them in—and we'll see what we can find! Now"—as the stenographer finished marking the prints—"you say you took these pictures within two hours of the murder, do you?"

"Yes," answered Mr. Pennypacker. "But I had to give them a ten minute exposure!"

Mr. Tutt picked one of them up and glanced at it. Then he suddenly turned faint. What an everlasting fool he had been! With the utmost difficulty he controlled himself.

"Thank you very much, Mr. Pennypacker!"

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he said with a forced, smile. "Thank you very much! They are most excellent and artistic photographs! That is all!"

Mr. Tutt sank back and gazed dreamily out of the court room window through which he could see the weather-cock on the Baptist steeple. Just as he looked at it some draught of air caused it to veer suddenly. He had a queer feeling in the pit of his stomach. Those photographs held no interest for him—far from it! Curse them and the man who had taken them!

For the photographs—although taken at the hour of six—all showed the hands of the clock as still pointing to four! Either it had been out of order or had run down before the homicide and hence as evidence of the hour of the murder was no value whatsoever. Mr. Tutt by putting the photographs in evidence had destroyed the alibi that his original question had so unexpectedly established!

One hope only remained. The jury had not yet seen the photographs. Was it humanly possible that Squire Mason had not noticed the hands of the clock at all?

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Just then Judge Tompkins said pleasantly:

"I think, gentlemen, that this is a good time to adjourn court until to-morrow morning."

III

"So like an arrow swift he flew
Shot by an archer strong,
So did he fly—which brings me to
The middle of my song!"

—John Gilpin.

SOMEWHERE there is a story of terror—done after the manner of Edgar Allan Poe—in which the hero during a deadly plague from which none who are stricken ever survive discovers to his horror that in the night the fatal mark has appeared under his arm, and that he is among the doomed. His terror and despair are shared by the reader, as well as his ecstatic relief and joy when he awakes to find that he has been dreaming. Then for the mere idle satisfaction of disabusing himself of what are no longer his fears he looks beneath his arm only to find that the deadly mark is in fact there! The agony of this

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discovery is doubly intensified by reason of its following immediately upon a state of rapturous exaltation.

Highly similar to those of the Spanish victim in the tale in question were those of Mr. Tutt in discovering that just as, by violating the canons of experience, he had asked a question by virtue of which he had created an unforeseen but conclusive alibi for his client, he had now, by asking another, rendered that alibi of no avail. Never in his experience had he suffered so staggering a blow. Why had he asked that fatal question? What imp of Hades had whispered to him that there was something in those photographs which Mason desired to conceal? It had been all a trick, a clever "springe to catch a woodcock," a nicely baited trap into which he had innocently hopped like an unsuspecting rabbit. In setting it Mason had not taken a single chance, for, if Mr. Tutt had not seen fit to offer the photograph in evidence when he did, the prosecutor, having waited until the conclusion of the defendant's case and until Mr. Tutt had attempted to establish his alibi by proving that Skinny was in Pottsville at four

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o'clock, would have then handed them to the jury and shown that in effect the clock by which Emerson had fixed the hour of the shooting as likewise four was in effect not a clock at all—and knocked that alibi higher than the Baptist weathercock. What a fool! What a confounded, inexcusable ass, idiot and nincompoop he had been! Poor old Mr. Tutt's theories were all annihilated at once. This wretched murder case was putting every principle of tactics upon the everlasting blink. You ought to cross-examine; you ought not to cross-examine; you ought not to leave well enough alone; you ought to leave well enough alone. The only guide left in the legal firmament was that fixed but not particularly useful pole star of "You never can tell!"

Judge Tompkins arose, bowed and left the bench. Sheriff Higgins let down the bar of the jury box and the twelve good and true men gathered up their newspapers and hats and filed after him like a straggling flock of sheep, down the steps and across Main Street to the Phoenix House, their temporary place of sojourn while the guests of the People of the State of New York.

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Many were the envious glances cast upon their disappearing backs as the less fortunate agriculturalists prepared to return to their distant farm houses. Gol ding it! Those cusses not only had reserved seats for the whole blame show but were gettin' paid three dollars a day into the bargain! Gosh darn it all! Some fellers did hev the luck! Hist back thar, Dobbin, and get yer tail off'n that shaft!

Then the sheriff returned for Skinny and led him away to the calaboose, and the crowd which had lingered to observe and comment upon the defendant's appearance and demeanor slowly dispersed, leaving Mr. Tutt alone in the otherwise empty courtroom. Old enough before, he had aged considerably during the last three minutes of the trial. Mr. Tutt was suffering from fear—abject fear—of what now seemed the inevitable fate of his client. In the face of the evidence against him his mere denial that he had not killed the hermit would go for nothing. His salvation seemed impossible save through the rehabilitation of his alibi and, as only one person had heard the shot, it was only through that person that the

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time of the homicide could be established. It now appeared that that same witness who had testified to Mr. Tutt's indescribable joy that the hour was four o'clock, had been looking at the motionless face of a piece of dead mechanism that might not have been moving for months! Bitterly he reproached himself that he had not combed Emerson's recollection until no item remained undisclosed, for it was possible—just conceivable—that the witness might have had some other data upon which to predicate the hour of the crime. If so, it must of necessity be corroborative of the clock, since Emerson had expressed himself positively as to the hour. Thus, as Mr. Tutt now perceived—but which had escaped him at the moment in his excitement over establishing his alibi—he would have had nothing to lose by pursuing his interrogation of the witness indefinitely, since he was safe as to the element of time, and there was nothing else in his testimony which under cross-examination could be made any more damaging to the defendant than it already was. Was it too late to recall Emerson to the stand in the desperate hope that in some other way he

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might still substantiate the hour as four o'clock? Perhaps he had looked at his watch. Perhaps there had been another clock in the shanty. "You never could tell!' At any rate he must be found and the court's permission obtained to recall him to the stand and re-examine him. But it was at best a long, long chance—a hundred—a thousand! —to-one shot.

It was already a quarter after five and Sam Bellows, the stout under sheriff, was jingling his keys in the hallway as a polite intimation to the solitary occupant of the court room that it was time to lock up. Mr. Tutt pushed his books and papers into a muddled heap and put on his stovepipe hat. He did not need to study his notes. There was only one point in the case—and it had got by him! There was only one hope —no more tangible than the half-suspected presence of a star in the obscurity of a foggy night.

"Good night, Mr. Tutt!" said Sam amiably as the lawyer walked out with leaden steps.

"Good night, Mr. Bellows!" responded the old man. Then he paused. "By the way," he asked.

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"Do you know where the witness Charles Emerson lives?"

Mr. Bellows leaned against the wall and scratched his head politely.

"Well," he opined, "bein' he ain't a married man, he ain't got no reg'lar place of residence. Most allus—when it's goin'—he sleeps over to the steam sawmill."

"Well, I'd like very much to see him. Do you know where he may be found?"

Sam tilted his hat to the back of his thatched skull and then by an automatic return movement pushed it forward again over his forehead.

"He's gone off."

"Gone!" exclaimed Mr. Tutt, his heart sinking. "Where?"

"Well, after you gentlemen said you didn't need him no more yisterday an' the jedge said he could go, I hearn him say he was goin' to take a job up Orient way. So he beat it—took the train up there last evenin'."

"How far is it?" demanded Mr. Tutt desperately.

"'Bout seventy miles."

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"Is there a train to-night?"

"It leaves at four o'clock—when it's on time. It's gone!"

Mr. Tutt nervously bit off the end of a stogy.

"Do you know the name of the man for whom he went to work?"

"Nope," answered Sam—adding more hopefully, "but it's durn desolate country an' there ain't but one lumber mill anywhere near Orient that I ever hearn tell of."

"Thanks!" answered Mr. Tutt shortly. "Where can I hire an automobile?"

Sam pondered deeply. Here was a matter of real moment. Pottsville boasted no renting garage or jitney, but it would be a catastrophe to permit a piece of real business to go to Somerset Corners by default, when the sheriff possessed an "official" motor.

"There ain't no public motor, but—I reckon the sheriff might accommodate ye," ventured Sam eagerly.

"Where is he?"

"Over to the Phoenix House."

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"Would you mind stopping over there and asking him to speak to me?"

Mr. Tutt tendered a handful of stogies to the deputy who thrust one in his mouth, lit it with a single hand-sweep from the seat of his abundant being to his hardly less abundant face; waddled across the street, and almost immediately returned with Mr. Higgins.

"Good evening, sheriff," said the lawyer. "I want to take a little trip up to Orient Mills this evening—can you run me up there? Of course I expect to pay you for it."

Sheriff Higgins ruminated. He had no right to use the county's flivver except on official business, but, in a way, assisting a member of the bar was official business, and nobody except Sam need ever know.

"I'd like to oblige ye," he drawled, "but it's a durn long way—near seventy-five miles."

"That's not so far!" urged Mr. Tutt.

"An' I couldn't take money!" added the sheriff. "My motor is an official motor—paid for by the county."

"Your time is your own, isn't it?" argued the

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lawyer. "Suppose I pay you fifty dollars for your time?"

A hundred tiny beads upon the sheriff's bulging forehead testified to his struggle with temptation.

"We-ell," he hesitated, "if you promise me not to mention it to anybody I guess I kin arrange to take ye. Suppose you meet me in fifteen minutes over behind the railroad station?"

"Anywhere you choose," agreed Mr. Tutt. "We ought to make it by nine o'clock."

"You go out the door first!" cautioned the sheriff. "We might meet somebody."

So Mr. Tutt obligingly descended first as requested, followed at a discreet interval by the two officers of the law. But all this maneuvering accomplished nothing for the reason that at that very moment Squire Mason, who had been searching for Higgins, appeared in the offing of the Phoenix House stable yard and bore swiftly down upon them. Seeing the two together his worst suspicions were confirmed!

"Hey, sheriff!" he called sharply. "I was lookin' for you! I want you to come over to my

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house this evenin' and go over the case with me."

Upon Sheriff Higgins' cadaverous visage descended an expression of defiance.

"Huh!" he replied. "I can't."

"What's the matter?" demanded the Squire. "Why can't you? You ain't got nuthin' of importance to do. Sam can guard the jury, can't he?"

"Sam kin guard the jury," answered the sheriff. "But I've got a personal engagement."

"You ain't got no personal engagement you've a right to let interfere with your official duties," retorted Mason. "An' I need you."

"Well, I ain't comin'!" replied Mr. Higgins defiantly. "I guess I have some right to live, myself!"

"Where you goin'?" snapped the squire.

"I don't knows that's any partic'lar part of your business, is it?" snorted the sheriff bristling.

Mr. Tutt had purposely lingered within earshot. It was conceivable that in a state of ebullition the doughty Squire might betray some small but none the less useful trifle of information.

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"I'll find out all right!" asserted the district attorney.

That the Squire could, and would, "find out" was so obvious that the sheriff perceived that, if he wished to acquire the promised fifty dollars, it might be wise to pursue a policy of conciliation.

"Look here, Squire," he said. "There ain't no sense in gettin' all het up about nothin'. Fact is, I'm goin' to take Mr. Tutt out for a little run."

At once Mr. Mason became all suspicion.

"What's that for?" he queried. "Where you goin'?"

"Up Orient way."

Instantly Mason sensed treachery. The sheriff was openly selling him out—working against him! It had been Higgins—he was positive—who had kept him out of the Sacred Camels. There was some secret bond between him and Mr. Tutt—some nefarious, corrupt bargain and sale on foot between them. He knew that Emerson had gone to Orient, but he had supposed that he alone was cognizant of his witness' whereabouts. Evidently the sheriff had tipped off Tutt and purposed going with him to find Emerson and persuade him to

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alter or add to his testimony. This did not suit his book at all. It would never do to have Tutt interview Emerson—for a variety of reasons. It must be prevented at any cost and at all hazards. Also, it would be much better if Mr. Emerson, having given his testimony with due regard to all the requirements of the rules of evidence, should not return again.

"What car are you proposin' to use?" demanded the squire.

"One I allus use," answered Higgins shortly.

"The one you use belongs to the State of New York!" retorted Mason. "You ain't got any right to use it except for official business."

"Well," replied the sheriff, "what's the matter with this bein' official business?"

"What business is it?" roared the Squire. "You dassent tell me and you know it! If you use that car for joy-ridin' I'll complain on ye!"

"You're a great feller to talk about joy-ridin'!" shouted the sheriff. "How about that time you borrered it to take you and your missus up to Utiky?"

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"Utiky!" blustered the prosecutor. "I never took any joy-ride to Utiky! I only——"

And the altercation devolved into a technical dispute carried on with much acrimony and no less refinement of argument into the delicate question of whether, if there be a witness residing in a distant place who may, if interviewed, possibly prove to have information of value to the People's side of a case, the official prosecutor may properly make use of the official automobile ostensibly for the purpose of holding official converse with said witness while at the same time seizing the opportunity *en passant* of purchasing an outfit of spring clothes, visiting the county fair and going to the circus. This issue, having been under discussion for several minutes, was still undecided when Mr. Tutt unexpectedly made his appearance from the direction of the hotel with a paper in his hand, which he exhibited to the sheriff.

"Excuse me, Squire, for interrupting your conversation," he apologized, "but here is a subpena for the witness Emerson which has just been issued by the court and endorsed by Judge Tompkins, requiring his attendance to-morrow morn-

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ing." He waited a moment. "There are no trains this evening and if you expect to serve this process you will be obliged to make use of a motor. Here is fifty dollars to cover your mileage and expenses. You may return the balance to me at your convenience."

Squire Mason, his obstructionary tactics being thus neatly blocked, could not restrain his impatience. There was only one course for him to pursue.

"Then," he exploded, "I'll go with you!"

"Not much!" answered the sheriff dryly. "I'd be afeard I might be doin' somethin' illegal if I give you a free ride. No, sir! The county's ottermobile ain't goin' to be used fer no more junkettin'."

"Then you'll have to go alone!" remarked the squire malignantly. "What's sauce for the goose is sauce for the gander."

The prosecutor looked triumphantly from Mr. Tutt to the sheriff and back again. He had 'em there, all right!

"Squire Mason," said Mr. Tutt, "there is no occasion for our carrying the warfare of the court

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room into our personal relations outside. I have nothing to conceal regarding my desire to recall Mr. Emerson as a witness. I forgot to ask him an important question; and I am sufficiently interested in having him found and properly subpenaed to be anxious to assist in the search. In short, I wish to be informed as fully as possible about his movements. If you, also, are interested in the witness and wish to safeguard him from any improper approach on my part, I suggest that we should both accompany Sheriff Higgins. It is a fine clear night and I have a pocket full of cigars —of a sort."

"That's fair!" nodded the sheriff.

As there did not seem any answer to this proposition, and as Mr. Tutt had spoken in the friendliest possible manner Squire Mason became somewhat mollified. He realized that his adversary could hire any one of several motors at Somerset Corners and, since he possessed Emerson's address, could, if he chose, get into touch with him independently of the sheriff. Emerson might be tricked into saying something or, worse, blurt out the whole truth! Acquiescence in the law-

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yer's invitation would mean an opportunity to keep track of him and stop any tampering with the witness at the expense of Mr. Tutt himself, whose scheme—if that was his scheme—to corrupt the sheriff and inveigle him into camp at a cost of fifty dollars—as a preliminary step to debauching the chief witness for the prosecution—would thus be rendered abortive. Squire Mason began to be rather pleased not only with the situation but with himself. It was, as Mr. Tutt said, a fine, clear evening and he was going to have a free ride and plenty of free smokes. Incidentally, in the tail pocket of his blue broadcloth cutaway was a small flat flask containing an amber-colored liquid which might prove valuable as neutralizing the miasmic vapors of the night.

Accordingly, after a hasty supper at the Phoenix House the three seated themselves in the official flivver and started merrily off up-country for Orient Mills. Both prosecutor and sheriff were now restored to comparative good humor—the former for the reason that he had Mr. Tutt under his eye and the latter because he had fifty perfectly good dollars in his pocket and purposed

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to keep the change therefrom. Mr. Tutt produced stogies; Mr. Mason produced the flask aforesaid; Mr. Higgins warmed to reminiscence. The first forty miles, which they covered quite easily in an hour and a half, was through level farming country on what is described by the blue book as "macadam alternating with stretches of dirt in good condition." But just as darkness began to gather the highway vanished and gave place to a narrow rutty road which Mr. Tutt could dimly descry ascending in tortuous curves indefinitely before them.

"This here is Chick Hill," announced the sheriff. "Road goes clear over the shoulder—thirteen hundred feet; but it saves nine miles, an' Lizzie is good for it."

"Lizzie" was good for it, although at times it was necessary for her passengers to relieve her difficulties by getting out, and when at last the crest was attained she was steaming and gurgling like an oversized hot-water kettle. Night had fallen; but the dusty road showed dimly white in the starlight. Then the sheriff shut off the ignition, put her in low gear, and they plunged down the

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opposite side of the incline using the engine as a brake. Mr. Tutt, his knees braced against the back of the seat in front of him, thought they were never going to reach level. Even at only ten miles an hour a four-mile coast at night gives an impression of a rapid descent into a bottomless pit.

On and on they ground at first speed, rousing the innocent sleeping denizens of the forest with buzzing, groans, whirs and clankings, like a drunken alarm clock set off in a tin boiler. Mr. Tutt's excellent teeth were nearly shaken from his gums, and all three passengers found themselves violently rubbing their noses to counteract the effect of the vibration. Then after an unusually steep pitch, during which both prosecutor and lawyer for the defense clung desperately to each other, the sheriff suddenly released the clutch and Lizzie shot forward in silent ecstasy for a hundred yards or so, at the end of which burst she slowly came to a stop and died.

"Well, we're down!" ejaculated Sheriff Higgins with evident relief. "Gosh! Some hill!"

"I think you might officially designate it as a

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mountain!" replied Mr. Tutt grimly. "I've felt exactly as if I were hanging face down across a rail fence for the last half hour."

"I think," mused Squire Mason, "there's still somethin' left at the bottom of the bottle."

The sheriff instantly struck a match. There was something at the bottom of the bottle. Then each lit a stogy and Higgins got out in the blackness to crank the car. They were in a narrow, heavily-timbered valley between hills, a sort of natural protected pocket, sheltered from the wind, cut off from the rest of the world. The tall spruces on either side of the road raked the stars. Save for the puffing of the sheriff no sound was audible save the rasping, insistent call of a whip-poor-will. The chill mist from a near-by swamp or unseen pond nipped their wrists and cheeks. The sheriff grabbed Lizzie's handle firmly and gave it an energetic twist, but the engine answered neither pish nor tush.

"That's funny!" remarked the sheriff, giving her another. "Userly she cranks easy! Maybe she's cold!"

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"Don't blame her," shivered the Squire. "Everybody else is!"

The sheriff bent over once more. His gyrations were not visible to the passengers in the car, but the sounds that he gave forth indicated extreme violence, followed by utter exhaustion, disgust and profanity.

"Fush-ush-ush!" said Lizzie and then relapsed into a discreet and mortifying silence.

"Well, I'll be gol-binged!" panted the sheriff. "I dunno *what's* the matter with her. Acts as if she was sick."

"She was goin' all right top of the hill," encouraged the Squire.

A penetrating odor of gasoline made itself noticeable. In the silence could be heard the unmistakable sound of something dripping.

"Gee whiz!" gasped the sheriff. "I hope she ain't sprung a leak!"

He opened the hood and peered vaguely within.

"Hell!" he cried suddenly, "Most burnt my thumb off!"

"What's the matter with her?" inquired Mr. Mason.

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"That's what I'd like you to tell me!" snapped the sheriff. "All I know is that her innards seem to be all leakin' away. I'm standin' near knee high in a pool of gasoline!"

"Keerful how you light a match" cautioned the prosecutor. "What are we goin' to do?"

"How do I know!" retorted Higgins. "I ain't no mechanic. I can't stop it, 'cause I aint' got no idee where it is."

"Can't you feel for it?" hazarded the squire plaintively.

"She's bleedin' to death," moaned the sheriff. "And no way to stop her!"

There was a prolonged and painful silence broken only by a determined trickle from the interior of the hood.

"How far are we from Orient Mills?" asked the Squire.

"Fifteen miles," replied the sheriff. "I guess you kin walk it in about five hours."

Mr. Tutt choked down a chuckle. One thing was certain, that the trial could not proceed without them. He had nothing to worry about on that score, and he had plenty of stogies. The

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attorney gathered his long limbs together and shrouded his form as best he could with the horse blanket which he shared with the squire. The sheriff had apparently surrendered to the inevitable and was poking about aimlessly by the roadside.

"What you goin' to do?" demanded the Squire peevishly. "We can't sit here all night!"

"Guess you'll have to wait until someone comes along who can tell what's the matter with her," answered the sheriff. "I'm near froze!"

So were they all. Presently at a safe distance from the car the sheriff started a tiny blaze which he gradually encouraged with broken boughs and a couple of fence rails until he had a respectable fire.

"Feels good, don't it?" he declared, rubbing his hands. "I reckon we kin pass a comfortable night here."

"Don't you know anything about an automobile?" snapped the Squire. "Seems to me with all the runnin' around you do you ought to be able to stop a little leak."

"Look here!" suddenly roared the sheriff. "It's

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all right for you to stand there and chatter! Go find it yourself! Nobody ast you to come along, anyhow. Nobody wanted you! You jest butted in!"

"Well, I warn't goin' to let you put anythin' over on me!" shouted Mason. "I can smell a rat when I see one," he added significantly, badly mixing his metaphors in his excitement.

The rest of the colloquy was lost upon Mr. Tutt. For in the distance he had seen the flicker of a lantern, indubitably coming towards them. His companions engrossed in their altercation being wholly oblivious, Mr. Tutt climbed out of the car and strode silently down the road. The movement of the light, which seemingly was actuated by influences even more obscurely conflicting than those propounded by Prof. Einstein, was erratic and puzzling. At times it would remain stationary, then jump up and down, then swing in a half circle, or occasionally dodge sideways and, for a moment or so, disappear entirely.

Now, Mr. Tutt was anxious to reach Orient Mills at the earliest moment possible and he much preferred to arrive there unencumbered by the

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presence of Squire Mason. If this light evidenced the presence of any vehicle of locomotion he purposed to annex, cabbage, corrall, grab, secure and appropriate it unto himself. Therefore Mr. Tutt having placed fifty yards between him and the fire, broke into a run. The light suddenly became distinct and luminous. Yes, it was a lantern—swinging between wheels of some sort; and while its gyrations continued he was now able to distinguish furtive movements. Muffled expletives reached him—a confusion of miscellaneous noises —stertorous breathing, strainings, the scuffle of irregular hoof beats.

"Hello, there!" called Mr. Tutt.

The lantern stopped, swaying.

"Hello!" returned a voice. "Hi there, you! Stand still!"

Mr. Tutt hurried towards the lantern, and as he did so it darted towards the road side.

"Look out!" came the voice in warning. "This here colt ain't never been in harness before."

"Then you better not go any further down the road," advised Mr. Tutt approaching the driver who sat upon the minute seat of a wire racing

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buggy with his legs thrust along the shafts on either side of the colt. "Because there's an automobile right in the middle of it."

The colt, meanwhile, was frantically side-stepping upon its hind legs.

"Guess I'll have to turn round—if I kin!" answered the driver maneuvering with the reins. "He pretty near run away with me up there a piece."

"Live far from here?"

"'Bout half a mile."

"Do you want to earn twenty dollars?"

"I reckon I do—how?"

Mr. Tutt stepped as near the colt as seemed consistent with safety.

"You drive me to Orient Mills—and I'll give you twenty dollars," said he.

The owner of the colt had at last induced him momentarily to stand still.

"I darsn't risk it," he replied with obvious regret. "He ain't never been hitched before an' 'twould be too much for him anyways. Stand still, you!"

"I'll give you fifty dollars," continued Mr. Tutt.

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"Where'd you sit?" asked the owner of the colt who was gradually pulling the animal around.

"On the seat with you."

Now it is doubtful whether, if Mr. Tutt had realized in advance the anatomical difficulties presented by his suggestion, he would have essayed the ride, but he was unfamiliar with racing buggies or their peculiarities. Accordingly he leaped in where an angel would have discreetly refused to go. The driver having turned the buggy around looked over his shoulder.

"Y' got to hop up mighty spry!" he warned him. "Get yer right upper leg over the seat and along the shaft and then sort o' twine yer lower leg around them wire braces, and grab holt anywheres you can, quick!"

To this day Mr. Tutt is unable to give a coherent explanation either of how he did as directed or how he stayed put when he got there. He merely recalls climbing up on the axle of the buggy, grasping the driver firmly around the waist and sitting sideways on the outer edge of what seemed like a small frying pan, with one leg along the colt's flank and the other twisted between the

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wire braces beneath the shafts. He is also firmly convinced that he sat implanted upon the colt's tail. But the real miracle is that he retained his stovepipe hat and triumphantly wore it back to Pottsville. Who shall predicate what is impossible?

Disregarding the vital consequences to James Hawkins involved, there was an element of humor in the manner in which Mr. Tutt so blithely ascended the racing buggy and calmly abandoned the sheriff and the squire in the very middle of their controversy. He had no intention, however, of being obliged to share his seat on the frying pan with a third party.

His equine experiences had been limited; for being of that generation when the elite of New York belonged to volunteer fire companies and themselves dragged their diminutive hand pumps and hose wagons through the streets of the metropolis amid the admiring cheers of the common herd—when the wild goat browsed undisturbed by the hunter in the hinterland of Central Park, and bobtailed horse cars at irregular intervals tinkled from river to river—belonging, we say,

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to a generation long since passed away, to wit of Adelina Patti and Jennie Lind, of Booth and Forrest and Mrs. Vincent, of "Maud S." and the "Mary Powell," of Tweed, Henry Ward Beecher and Barnum's Trained Seal—Mr. Tutt, being an urbanite, knew little of the "friend of man" beyond Shank's mare. He was ignorant of the character and ways of colts and of wire buggies, but being a stoic and accustomed to take things as they came, and the colt and buggy having presented themselves, he had quite naturally availed himself of them as a matter of course.

Innocent of the possible consequences, as the gentle Redskin who first partook of the white men's beverage, he had accepted the invitation to share the frying pan without a moment's hesitation and in that single instant had passed from the safety of terra firma into the utmost jeopardy of his life. For he had no sooner entangled his anatomy in the intricacies of the buggy's architecture than the colt stood up straight upon its hind legs and endeavored to paw Cassopeia from the zenith. In a twinkling Mr. Tutt found himself with his body horizontal and his legs pointing

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skyward like a telescope, at an angle of ninety degrees. The colt strenuously objected to his presence. Then having kicked Leda to pieces with his right hoof and trampled upon Orion with his left the festive animal put his foot through the middle of the Dipper, swallowed the North Star, turned a half dozen somersaults amid the constellations, and then by suddenly dropping stiffly to earth with his four feet close together, shot Mr. Tutt swiftly upward into the ether adjacent to the Milky Way. For an interminable period of time the old lawyer hurtled through space, clutching at the nearest planets and fixed stars, and then, without warning, found himself projected violently against the rear portions of the colt's body from which he rebounded smeared with lather like a billiard ball from a side cushion, thus receiving a convincing demonstration of Newton's Great Law that action and reaction are equal and opposite in direction.

While profanity would have been inadequate it would have relieved Mr. Tutt to have indulged in it, but profanity requires breath and he had none left in his lungs. And then, the colt having

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decided to abandon its tests of the Laws of Relativity settled down into a long, leggy trot that nearly tore Mr. Tutt's old bones from their sockets, and plunged forward into the darkness of the abyss.

"But finding soon a smoother road
Beneath his well shod feet,
The snorting beast began to trot
Which gall'd him in his seat!"

Occasionally the colt would take exception to a shadow and shy violently into the bushes and, at intervals, it would stop short without warning with the result that Mr. Tutt's stovepipe, driver, buggy, lantern, legs and all the rest of the affair would climb up and around its posterior, the animate and inanimate becoming inextricably confused. Then, with a jerk, it would leap forward again and they would all fall backwards in imminent danger of being dashed against the road behind them.

Had Mr. Tutt needed to "reduce" he would have become a "reductio ad absurdum" in the first twenty minutes. Up hill and down they rushed, gyrating in wide semicircles, the rubber stuttering in agony, deluged in puddles, pounded by ruts and

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unseen cavities, numbed and cramped by their frenzied clinging to the rigid iron.

Several times they flashed by lighted farm-houses where Mr. Tutt would have stopped—if he could. But the colt having decided to go to Orient Mills would entertain no other suggestion. It had clearly made up its mind to cover the fifteen miles in record time and take along Mr. Tutt with it—willy-nilly.

"Now let us sing, Long Live the King!
And Gilpin, Long live he!
And when he next doth ride abroad,
May I be there to see!"

As they tore through the night there persisted in Mr. Tutts perfervid, but fast fading, consciousness the vision of a monkey he had once seen in a circus race clinging in terror to the buckling back of a leaping greyhound. And like himself it had worn a hat!

Suddenly the colt sprang forward with a burst of speed that made their former rate seem, by comparison, an amble. From behind them came a faint palpitation; and a shaft of light shot by over their heads. With a sensation almost akin

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to relief Mr. Tutt realized that Lizzie had come to life.

"Hr-rr-k! H-rr-k! H-rr-rr-rr-k!"

The colt hurled itself into the traces resolved to be overtaken by no mere flivver. In desperation Mr. Tutt grasped the animal's tail with both hands firmly near the root, thus reducing the radius of the circle through which he was gyrating by virtue of centrifugal force.

At times—when the road ascended—Lizzie dropped momentarily behind and the light of her eyes dimmed; but at others—notably, down hill—she pressed hard upon their heels to the imminent danger of Mr. Tutt's coat tails. Since the colt would neither stop nor allow Lizzie to pass, they continued thus in company without slackening speed until the road emerged from the woods into the open and, racing into the village neck and neck, they came to a stop in front of the post office at Orient Center.

"Well," remarked the colt's owner shortly. "Here y' are!"

Mr. Tutt, however, was not sure whether he—all of him, at any rate—was there or not, for

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from his waist down he had lost all power of sensation. With the sheriff's assistance he untied his legs and ruefully rubbed the small of his back.

"Thought y'd leave us, did ye?" taunted the Squire.

"This gentleman offered me a lift and I accepted his invitation," explained the lawyer, as he counted out fifty dollars by the light of the lantern. "How did you manage to repair the automobile?"

"Oh, she come-to finally," replied the sheriff blandly. "Y' see coastin' so long down hill thet-away flooded her carburetor and she kep' on leakin' until she was empty and then she jest naturally dried up and when the Squire gave her a crank she started right up."

Mr. Tutt examined his timepiece and discovered to his astonishment that it was only half after eleven. It seemed to him as if he had been traveling all night. The owner of the colt having pocketed his money wheeled the buggy and drove off.

"Everybody's asleep in this hick town," announced the sheriff. "Guess we'd better run over to the mill."

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So they climbed back into the car and drove on to Orient Mills. Here all was dark but, by pounding on the door of the house nearest the office, they roused a time-keeper who said that Charlie Emerson had gone to work the day before; he thought he was lodging at a house about a quarter of a mile below the dam on a side road—they would know it by a white birch. Lizzie having somewhat reluctantly consented to proceed, they passed another half hour trying to find Mr. Emerson's place of abode. But every house below the dam proved to have a white birch in its immediate vicinity and, as he had no other guide, the sheriff aroused the irate occupants of each in turn until he eventually discovered the particular tree in question—which on examination proved to be a beech. It made no difference to Mr. Tutt what kind of a tree it was. He had accomplished his purpose. He had found his witness, and he would be in a position to rectify and atone for any mistake he might have made. All his weariness passed from him, his bones ached no longer, he heard no more the rushing of the wind past his ears nor smelt the aroma of his flying steed! His

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experience—agonizing as it had been—had been a small price to pay for the result attained.

The moon had set and the small white house stood silent and ghostly as a tomb against the blackness of the grove behind it. The sheriff climbed out once more and descended to the side door, which he kicked violently. Since this elicited no response he then walked around to the front and thumped loudly upon the front windows. At length a candle flickered somewhere and a head emerged from the second story.

"Hello there!" called up the sheriff. "Does Charlie Emerson live here?"

There followed a moment during which the head appeared to be adjusting itself to the idea so irrelevantly interjected into it. Then a deep voice —whether masculine or feminine none of them could determine—said:

"You mean the feller that come here from Pottsville? If ye do, he was here yesterday and hired a room but he went away agin and he ain't never come back! I ain't got no idee where he is."

Then Mr. Tutt lifted up his voice and called

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down the punishment of Heaven upon the missing witness and upon himself as nothing less than a poor old fool! Mason could scarce conceal his glee, even in the darkness. Now, of a surety, Hawkins would go to the electric chair! Mr. Tutt began to suspect that Mason had surreptitiously telephoned up to the mills and arranged to have Emerson enticed away. But he dismissed that possibility; for Mason had not had time for anything like that. Moreover it would have come pretty close to being a crime—and, while Mason might be a shyster he certainly would not be guilty of anything so unprofessional as that! No, it was fate!

"Well," said the Squire pleasantly, "what shall we do now?"

"It's two o'clock!" warned the sheriff. "If you want to get back to breakfast we'd better be gettin' along. I ain't goin' over Chick Hill agin' to-night. I'm goin' round by Humphrey Falls."

"When is the next train?" asked Mr. Tutt.

"One o'clock to-morrow afternoon,' said the sheriff. "I told you this was a hick town!"

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Mr. Tutt without further discussion opened the door and re-entered the car. The jig was up. He could do no more. There was only one course to pursue; leave the subpena to Orient and go on with the trial, meantime keeping in touch with the manager of the mills. If Emerson returned to work in the morning he could be subpenaed and delivered upon the one o'clock train for Pottsvile. If he did not turn up Mr. Tutt could wait until the last minute, lay the whole matter before the court and appeal to its mercy for a sufficiently long adjournment to enable Emerson to be found.

Dawn had flushed the hill summits along the Mohawk Valley before a bucking and recalcitrant Lizzie, driven by an exhausted sheriff and carrying two cramped figures representing both sides of the bar in the great case of People vs. Hawkins, slithered into Pottsville. The only light visible gleamed from the kitchen window of the Phoenix House where "Ma" Best, like the virtuous woman of Holy Writ, was preparing breakfast for twelve slumbering jurors and the other transient participants in the proceeding. Higgins

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ran Lizzie up to the back door, climbed down and shook Mr. Tutt by the shoulder.

"Hi!" he grunted. "Here we be back again!"

"Yes, your honor!" muttered Mr. Tutt who had been dreaming of special demurrers and cross-interrogatories. "Exactly so!"

"Wake up!" ordered the sheriff. "This ain't no Pullman!"

Mr. Tutt slowly came to himself and the pains of Hell got hold upon him. His hands and feet were without feeling, but otherwise every bone in his body, every muscle, every tendon shrieked with agony. Simultaneously the Squire regained a similarly painful consciousness.

"Squire," remarked Mr. Tutt with a grin, "we have at least comported ourselves as lawyers, gentlemen and sportsmen."

"So far as the sport goes," returned the squire ruefully, "I could ha' got 'long without it."

Mrs. Best, startled by this untoward matutinal disturbance, now appeared in the doorway, the light streaming from behind her, and giving her somewhat the effect of a stout angel descending in a burst of glory from a culinary heaven.

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"Why Squire Mason!" she exclaimed, "and Mr. Tutt! What on earth are you two doin' up at his hour of the mornin'?"

Indeed an angel she seemed to the three spent and weary men.

"Where you been? Don't you want a cup of coffee?"

"Madam," replied Mr. Tutt, with a bow of his old stovepipe which swept the ground, "sweeter words ne'er fell on mortal ear!"

Squire Mason had hurried inside to the more grateful atmosphere surrounding the kitchen stove. The stars were blinking feebly above the rival steeples of the local Methodists and Baptists, and the chimney of the Phoenix House cookshed glowed with a grayish, unearthly pink.

"Well, Mr. Tutt," whispered the sheriff as he made sure the prosecutor had closed the door after him. "I did the best I could for ye! I give ye the best chance I could—but 'twarn't no use!"

"How's that?" inquired Mr. Tutt, fully coming to life for the first time. "What do you mean?"

"I mean," explained the officer of the law, "that

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I know's well as you do that there's suthin' phony 'bout this feller Emerson. Squire's never let me say a word to him—ax him a single question! So to-night when we got to the top of Chick Hill an' I seen a light on the road ahead I made up my mind to give you a chance to go on alone and have a talk with Emerson all by yourself."

"Eh!" murmured the astounded lawyer.

"So I pulled out the choke pin and flooded the carburetor and she stopped sure enough—and Mason would ha' been there yet, if the durned cuss hadn't gone over all by himself when I wasn't lookin' and give her a yank and she started up."

In the half light of the coming dawn the bony hand of Mr. Tutt sought the icy one of Sheriff Higgins.

"Thank you!" said he. "It's too bad! I'm afraid this means Hawkins will be convicted."

"I'm feared it does! If you can't find Emerson," returned the sheriff solemnly. "—an' I ain't sure findin' him will do any good either! But I kinder have a feelin' that if you'd ha' gone after

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him in cross-examination you'd ha' got suthin' more'n ye did. You *got* to find him!"

"Why do you say that?" asked Mr. Tutt curiously, for, so far, his alibi stood a good one. "Didn't I prove by him that the murder took place at four o'clock, when everybody knows that Skinny was in Pottsville at that hour?"

"Yes," assented Higgins. "But y'see just between ourselves I happen to know that the clock he told the time by was stopped. I seen it myself when I went into the shanty that afternoon."

"Then why do you think it would do me any good to find Emerson?" Mr. Tutt pressed him.

The sheriff hesitated. A couple of long antennæ had shot up from behind the hills surrounding Turkey Hollow and were gilding the weather cock on the Baptist steeple.

"'Cause," he replied with conviction, "I believe he knows more'n he's been asked. I can't tell you why I think so, but I do. Mebbe I'm all wrong. But"—and he put his lips close to the lid of Mr. Tutt's stovepipe hat—"I don't believe —no matter how strong the evidence is agin' him —that Skinny ever killed the hermit. He ain't

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that kind. An' what's more I believe the Squire knows it."

"That's a pretty strong accusation to make against the district attorney of your county!" exclaimed Mr. Tutt with feigned severity.

"I know it," admitted the sheriff. "That don't make no difference. He's a bad actor! But Skinny ain't no murderer! You kin bet on it!"

"Have you observed anything in the evidence that tends to support your opinion?" returned Mr. Tutt.

"Well," answered the sheriff. "It's a gol-durned funny thing that Skinny had exactly one hundred dollars in gold when I arrested him and the hermit had five new twenty-dollar bills—just the same amount—on his body."

"That," exclaimed Mr. Tutt, "is a coincidence which had entirely escaped my attention!"

"But your only chance to get him off is by findin' Emerson!" asserted Higgins with emphasis.

"But how can I do it?" demanded Mr. Tutt.

The sheriff shook his head and spat with precision at a dandelion.

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"Durn if I know!" he answered helplessly. "And I'm a camel, at that!" he added with seeming irrelevance.

Now one of Mr. Tutt's axioms of conduct was always to act on impulse—and to trust instinct rather than reason; for he held impulse to be the voice of conscience and instinct that of inherited subconscious experience. He was wont to claim that the observation of the human race concentrated in legends, maxims, saws and proverbs was just as likely to be correct as the deductions of modern science,—and that he for one, until the contrary was demonstrated to his satisfaction, purposed to go on believing that the moon was made of green cheese. Hence Higgins' voluntary statement to the effect that he felt—although he could not tell why—that there was a nigger in the legal woodpile somewhere and that Emerson was Skinny's only hope, induced a new resolution on Mr. Tutt's part to find him, if it were humanly possible; and so before court opened he sent to New York a hurry call for help in the shape of a telegram as follows:

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"Samuel Tutt, Esq.,
"c/o Tutt & Tutt,
"Attorneys-at-Law,
"61 Broadway, New York.

"Case going badly. Need assistance. Come at once, bringing Bonnie Doon and four detectives —real ones.—Regards.

"E. TUTT."

In addition to which he pondered long upon the curious fact that a man who presumably had been murdered for his money should have a hundred dollars in new bills in his pocket—the precise sum, only in another form of specie, represented by the loot taken from his alleged slayer.

IV

"Is not the winding up of witnesses,
And nicking, more than half the business?
For witnesses, like watches, go
Just as they're set, too fast or slow;
And where in conscience, they're strait-lac'd,
'Tis ten to one that side is cast.
Butler. Hudibras Pt. II. Canto I, l.51

JUST as the scientist reconstructs the dinosaur from a fragment of bone, so Ephraim Tutt,—ex pede Herculem, as it were,—by vir-

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tue of the coincidence of the hundred dollars found upon the hermit's body and the equivalent amount of gold discovered upon Skinny the Tramp, built up something which, while not exactly a defense, was at least a bomb to hurl into his enemy's camp. Defense, alas! there apparently was none worth making. The case hung upon the question of whether Emerson, if found, could shed any additional light upon the hour of the murder. If he could not be found, then Skinny would go to the chair. If he did appear—well, there was merely a possibility of escape—that was all.

Ten o'clock came, once more the gong rang, and the gladiators stumbled from their respective corners into the legal ring for the final round. Mr. Tutt, fully cognizant of his desperate plight, nerved himself for the encounter, and wary, resourceful and suave, although he had lost all hope of acquitting Skinny on his alibi, exhibited all his customary confidence. Neither did Squire Mason show any loss of vitality or aplomb as a result of his trip to Orient Mills the night before. In-

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deed, both came into court none the worse for wear and wholly ready for the fray.

At the very opening of the day's proceedings, a question of tactics presented itself. The photographs of the interior of the shanty, while in evidence, had not as yet been shown to the jury. There wasn't the slightest doubt but that, of course, Squire Mason was aware of the simple mechanical fact that the hermit's clock had run down. He might even have it hidden somewhere in an ante-room ready to produce at the proper psychological moment, to prove that the clock was broken or—horrible thought!—that it had no works at all! It might be merely a face!

The foxy old hayseed was probably going to wait until the defense had called all its witnesses to establish Hawkins' presence at Colson's Grocery at four o'clock, and then blandly trot out the clock itself for the inspection of the jury, who would thus be enabled to see with their own eyes that it was entirely useless as evidence. Adopting a military simile, he was evidently intending to permit his enemy to capture a redoubt and then press an electric button and blow the redoubt and

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the enemy both to atoms. That was obviously what he ought to do as a matter of tactics, what any skilful prosecutor would do, what Mr. Tutt would have done in his place. It could therefore be pretty safely assumed that he would do it.

Now then, would it be better for Mr. Tutt boldly to hand the photograph to the jury and bring out the fact that the clock was a stopped clock himself, as if it were so obvious as to be really of no importance and—trust to luck? Or would it be better—assuming that he had correctly diagnosed Squire Mason's intentions—to keep the thing out of the jury's hands as long as possible and delay the discovery until there was no longer any hope of a change in the strategical situation. The photograph was bound to be a bombshell some time or other, and the longer it was held back the worse would be the explosion. Still—! Mr. Tutt had been taught several painful lessons during the last few days. Why bring out an unfavorable fact before it was necessary, —simply to reduce its ultimate dramatic effect if eventually proved? Why explode a mine under one's own works, so long as there was the re-

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motest chance—even one in a million—that the works might be held? After all, you never could tell!

These somewhat confused ratiocinations flashed through Mr. Tutt's brain while the roll of the jury was being called, and by the time the twelfth had answered to his name, the lawyer had made up his mind to leave what was—for the time being—well enough alone, and to hold back the photograph as long as possible, to trust in his star and in his genius for the unexpected and improbable.

The clerk sat down and the sheriff rapped for order.

"Proceed, gentlemen!" directed Judge Tompkins.

"Your honor," announced Squire Mason with the air of a Stephen A. Douglas, "I have studied carefully the facts evidenced by The People's witnesses and I have decided to close my case. We have proven the corpus delicti, the presence of the defendant at the scene of the crime, and the proceeds of it upon his person, thus showing his motive, and by many other conclusive items of

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circumstantial evidence, have established beyond peradventure that he is the murderer. There is no need to pile Ossa upon Helion. As the saying is, 'Enough is enough.'—The People rest!—Let us hear what the defense has to say!"

Squire Mason looked pointedly at the foreman, who nodded slightly as if in approval of the prosecutor's sentiments. Quite right. Enough was enough, and there was more than enough here. Anybody who had any doubt as to who had killed the hermit must be a blamed fool! All eyes turned irresistibly to Mr. Tutt, as the old lawyer, accepting the gage of battle, elevated himself by easy stages ceilingward like a retarded Jack in the Box.

"I move," said he, "that your honor direct a verdict of acquittal upon the ground that there is no evidence sufficient to connect the defendant with the crime charged. Surely no court would permit a jury to take away a man's life on circumstantial evidence of such an inconclusive character as has been introduced here!"

Judge Tompkins shook his head.

"I shall deny your motion, Mr. Tutt. There

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is, to my mind, abundant evidence, which if uncontradicted or unexplained, would warrant the jury in finding a verdict of guilty. Circumstantial evidence is often the most convincing evidence."

The old lawyer bowed.

"I most respectfully and with the greatest deference to your honor's judgment, except to your honor's ruling.—Will your honor kindly instruct the jury that in denying my motion you do not indicate any personal opinion on your own part as to the defendant's guilt or innocence and that your ruling is merely to the effect that there is enough evidence to put us on our defense?"

"That is so, gentlemen.—Proceed, Mr. Tutt."

Judge Tompkins settled back in his chair expectantly. It was, so far as he could now see, a conclusive case of circumstantial evidence and he was anxious to learn how Mr. Tutt proposed to rebut it. He liked the old lawyer and watched him almost affectionately as the latter smilingly glanced over the rows of uplifted faces before him.

Now, Mr. Tutt always proceeded upon the theory that though a man might be down he was

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never out—at any rate until the verdict was rendered and the highest court in the state had sustained it; and following his usual tactics, instead of supinely awaiting his enemy's attack, he boldly assumed the offensive and crashed through the hostile earthworks and entanglements without regard to the fact that he was leaving himself open to the danger of being cut off in the rear. In other words, although he knew that the most superficial examination of the photographs of the shanty's interior would show that the hermit's clock had stopped and that consequently his claim that the murder had occurred at four o'clock when Skinny was a full mile distant was baseless, he nevertheless plunged right ahead as if the fact of the clock having stopped was never going to be discovered at all. Furthermore, he had the audacity to attack the Squire's good faith and general honesty and so pave a way for the possible future suggestion that maybe the old fox had fixed the clock himself when he had gone to the hermit's shanty on the afternoon of the homicide,—for the very purpose of destroying Skinny's perfectly good alibi! And he did this all

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on the basis of the hundred dollars in bills found in the hermit's vest pocket!

First, said he, his client was known to be one of the most gentle and peaceable of human beings.

Second, he had an absolutely good alibi—as he was far away from Turkey Hollow at four o'clock when, as the jury already knew, the murder had taken place.

Third, the prosecution was not brought in good faith since this had been perfectly well known to Squire Mason from the beginning. This was the first time the defendant had ever heard the evidence against him. He had never been given any opportunity whatever to show—as he could have done with the utmost ease—that he could not possibly be the person who committed the homicide. Had Squire Mason called before the Grand Jury the witnesses whom he, Mr. Tutt, was about to call before them this indictment would never have been found, for they would have demonstrated with mathematical certainty that at the precise hour this unfortunate man met his death James Hawkins was a mile away.

At this several members of the jury looked in-

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quiringly towards Squire Mason, who sniffed contemptuously and glowered at Mr. Tutt with hardly concealed malevolence. An alibi, pointed out the lawyer, was the best possible defense, because it was the only defense that proved conclusively that the defendant must be absolutely innocent—for nobody could be in two places at the same time. Now, while it might be true that Hawkins at some time or another had had on a pair of boots with soles like the prints in the potato patch, (1) it had not been shown when in fact the prints had been made, whereas (2) he —Mr. Tutt—would clearly, absolutely, irrefutably, legally, morally and in every other way, prove, demonstrate, and substantiate that, even if Hawkins had been near the shanty that afternoon, he must have left there long enough before the murder to walk from Turkey Hollow to Pottsville and arrive there at four o'clock. All this Mr. Tutt got off exultantly, triumphantly, grandiloquently, in his best "whoop-la" manner, keeping one eye meanwhile upon his antagonist to see how he would take it.

"Why?" he demanded in tones like those of

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Amfortas in the Chapel Scene of Parsifal, "why *had* Squire Mason concealed from the Grand Jury—and, he might add, from his listeners themselves—this all important and controlling fact? Was it not the duty of the public prosecutor to conserve the rights of every accused? Was not, in fact, a district attorney who deliberately withheld vital information—which in truth would conclusively establish a prisoner's innocence—from the public tribunal of which he was the adviser, and sought to secure the prisoner's conviction of crime—knowing him to be blameless—was not such a man guilty of malfeasance in office—if not of worse things? Was he not a thief, liar, poltroon, rascal, knave, rogue, scoundrel, scamp, scalawag, miscreant, villain, crook, cad, shyster, trickster, renegade, caitiff, rapscallion,—no better than a murderer himself? Eh, what? Wasn't he? Let them answer to their own souls! And as Squire Mason took all this dose with only a feeble "I protest—I object!" turning white meanwhile, it dawned upon Mr. Tutt that possibly what he said was true, and that not only Mason *was* a scamp, etc., etc., but that mayhap, after all,

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the alibi *was* a good one,—if only it could be proved to be so! Look at him! Pale, shrinking, guilt pictured in every feature!

"Bang!" went Judge Tompkins' gavel.

"Mr. Tutt!" interrupted his honor with severity. "Your language is highly unbecoming. Your attack upon the prosecutor of this county—made in your opening without the slightest evidence to support your accusations—is most improper. At the right time I shall instruct the jury how to deal with it. You will kindly confine yourself to what you intend to prove——"

"But I do intend to prove it!" replied Mr. Tutt in a voice trembling with carefully simulated resentment and indignation, now fully satisfied not only that he had got Mason's number but that the alibi was really good. "I intend to prove it! And that this man Mason is what I have stigmatized him as being."

"We are not trying Squire Mason!" retorted his honor hotly. "Any more than we are trying you. Proceed and confine yourself to the facts which you expect to establish."

Now, Mr. Tutt had "felt his way along," as

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he would have said, and, having felt it a certain distance, he had gradually become convinced that he had inadvertently stumbled upon a great truth. There was nothing to account for this except whatever significance might be attached to the squire's demeanor. As the diplomats say, the situation had not changed. Nevertheless, into the old lawyer's veins there oozed a celestial ichor which put him all aglow,—made him the same old "battling Tutt" of his police court days fifty years before. It may have been only a subtle sensitiveness telling him that, if the Squire were agitated, to that extent at least should he himself be confident, if the Squire were depressed by so much should he be elated, but it was probably something deeper than that and akin to the instinct of the sailor who in the midst of the tempest knows that the storm is nearly over,—a lightening of the spiritual barometer, a consciousness of the stealthy approach of dawn when the night seems darkest.

So Mr. Tutt, having charged the Squire with being every kind of a crook set forth as a synonym for the word rascal in the Century Diction-

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ary, Roget's Thesaurus, and all the other handbooks used by sterile authors, boldly alleged that at the proper time he would show him fully up, have him disbarred and mayhap cast into prison, and, having described exactly what he purposed proving and what he knew he could prove, decided to take a chance and guess a little as to what he was not by any means so sure of.

He had, he declared, proven by his cross-examination of the witness Emerson that the murder was committed at exactly four o'clock,—a fact which Squire Mason had deliberately attempted to conceal from them. Now why had the wily and unscrupulous prosecutor sought to leave the hour of the crime in doubt? Obviously because he knew that only by so doing could he hope to convict the defendant. And then Mr. Tutt—borne along on the wings of a divine afflatus coming whence he knew not—and for no reason save that he felt "full of beans"—decided to try to throw a scare into the district attorney on the chance of his really having something on his conscience.

If, he threatened, after he, Tutt, should

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have established to their satisfaction that Hawkins was in Pottsville at four o'clock the prosecutor should then in desperation turn about and for the purpose of invalidating the alibi seek to attack his own witness' testimony to the effect that four o'clock was the hour of the murder, then, oh then! he would a tale unfold that would harrow up their souls, freeze their adolescent blood, and make their hair stand on end, etc.;—for Mr. Tutt, emboldened by the angel who at times whispered in his right ear or the little devil that at others murmured in his left had in the twinkling of an eye formed the sudden and definite resolution to accuse Squire Higgins, —if necessary,—of having deliberately stopped and turned back the hands of the hermit's clock himself. Of course, if one stopped to think it over, it was a ridiculous supposition, but Mr. Tutt knew that no argument is too absurd to advance before a jury with some hope of success; and this wasn't even an argument, it was merely an excuse for an accusation. He might get away with it,—"You never could tell!"

So Mr. Tutt, having concluded his address with

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an encomium upon the virtues of Skinny the Tramp in which he ranked him well up among the heroes of Plutarch and the Fathers of the Republic, proceeded to summon to the stand eight worthy inhabitants of Pottsville, each and every one of whom swore positively and convincingly that on the afternoon of the murder Skinny had entered the door of Colson's grocery store almost exactly at four o'clock, and that their reason for knowing this to be so was that just as Skinny came in, the barber,—someone having called attention to the fact that it was time for him to open up,—had got up and gone out. All were accordingly able to swear positively to the time and to give a natural and convincing reason for their ability to do so.

But the calling of these witnesses to the stand gave Squire Mason the opportunity to drive in on cross-examination all the most damning facts about Skinny's appearance and admissions at the time.

Hadn't the tramp's hands when he came in, he shouted, been smeared with blood? Wasn't he panting, exhausted, excited? Didn't he try to

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run away as soon as the news of the murder reached the town? Didn't they find his pockets full of gold pieces—of the same date as the one in the dead hermit's hand? Didn't they recognize his pipe that he had left on the shanty table? With one accord they all admitted it.

Then Squire Mason went a step further and to everybody's astonishment demonstrated that he possessed a very ingenious fancy. For he developed a romantic theory about a rainbow and a crock of gold which came nearer to being true than he had any idea of.

They'd all known Skinny the Tramp quite some time, hadn't they? Ever since he was a young feller? Sure—you bet! Ever notice anythin' he said partic'ly—what he meant was, did Skinny seem to have any partic'lar idee he was always harpin' on. Well,—if they didn't understand what he was drivin' at—did Skinny ever say anythin' in their hearin' about rainbows? Oh, sure! He was always—ever sence he was a boy—talkin' about tryin' to find a pot of gold at the foot of a rainbow.—Sure! He was always talkin' about that! They hadn't grasped the purport

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of the Squire's question. Why, there was one time Skinny had harangued a big crowd on that subject for over half an hour down to Somerset Corners—night of a lodge meetin'.

Then Squire Mason, lowering his voice to an intense tremulo, would ask each witness whether he had not noticed on the afternoon of the murder, just after the shower, a rainbow, one of whose arches rested in Turkey Hollow! And when any one of them confessed that he had done so—as did in fact several—the prosecutor looked hard at Skinny—and the audience sucked in its breath and felt a delicious creepy sensation around the small of its back. Gosh! The Squire was a shrewd feller! It took brains to think of an argyment like that. And eye met eye significantly, and chin whisker wagged at chin whisker with deep appreciation of the squire's subtlety.

There was no doubt but that the prosecutor, in spite of his personal unpopularity, had in the opinion of those in the court room scored a very neat point. It was all very well for Mr. Tutt by his redirect to call attention to the absurdity

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and unlikelihood of a murderer immediately after the homicide strolling unconcernedly into a grocery store where he was well known, bearing upon his person all the evidences of his crime. It might be kind o' foolish, but then—Skinny the Tramp was kind o' foolish. The rainbow theory of motive more than counterbalanced the obvious recklessness of such a performance. If Skinny, guided to the scene of his crime by the rainbow, had murdered the hermit in order to get his gold, it was quite in character that he should have done afterwards what obviously he had done. You might as well ask—as Mr. Tutt did ask—why he hadn't changed his boots? To which Squire Mason had replied that he hadn't changed them for the simple reason that they were all he had,—and if murderers never did anythin' but what was wise and prudent you'd never ketch any of 'em. And at this retort the chin whiskers on the front of the jury wagged again. No, on the face of it —except for the alibi—things looked very bad for Skinny the Tramp; and Mr. Tutt knew that his alibi, as it stood, wasn't worth a tinker's damn! Squire Mason had only to hand the photograph

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to the jury and call its attention to the fact that the clock had stopped and all would be over. Yet Mr. Tutt, buoyed up by a mysterious confidence, which had its basis in the prosecutor's uneasiness, bore himself bravely in the face of all his difficulties.

The last witness to the alibi gave his stammering testimony, was cross-examined, redirected, recrossed and excused. The court room clock pointed to half after twelve. The crucial moment of the trial had been reached. Skinny's alibi stood—swaying to be sure—but still in the perpendicular. If the case should be closed then and there it would remain erect and Skinny would doubtless go free, but if the squire so much as pulled out a single brick, gave it the tiniest push, by calling the jury's attention to the fact that the hermit's clock was not going at the time of the murder the alibi would fall with a crash and Skinny would pay with his life. What was the squire going to do?

"Well, gentlemen," remarked Judge Tompkins. "What are your desires? Does the defense rest?"

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Mr. Tutt hesitated. His only possible remaining witness was the defendant himself. He would, of course, gladly rest his case if the prosecutor would do the same thing. But Squire Mason gave no indication of what his intentions in that regard might be.

"If your honor please," he said, "the usual hour of adjournment is nearly at hand. May I suggest that we take a recess until one-thirty in order that I may have time to review the evidence? It is my present intention to rest my case upon the alibi which has been so clearly established and to call no further witnesses, but I should like an hour's time to consider the matter."

"That seems reasonable," agreed Judge Tompkins. "Is that satisfactory to you, Mr. District Attorney?"

The squire half arose from his chair. But before he could make reply the legal earthquake—of which Mr. Tutt had remained in deadly fear ever since Mr. Pennypacker had given his testimony—occurred. The alibi shivered at its top like a tree under the woodsman's ax, hung for a

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moment in trembling equilibrium and crashed to the ground.

"Before we adjourn fer dinner," remarked the foreman, "I'd like to take a look at that picter o' the inside o' the shanty. I want to see suthin'."

Mr. Tutt turned sick. Forcing his features into a distorted smile he said with an assumption of impulsive eagerness:

"By all means!—Squire Mason, will you kindly hand Exhibit F to Mr. Sawyer?"

And then the wily squire, having patiently awaited this exact moment for three whole days, bent over and lifted a package from beneath his desk—precisely as Mr. Tutt had anticipated—announcing dramatically:

"I suttinly will. An' as I regard Exhibit F as the most important piece of evidence in the case I've had fifteen copies made of it,—one for the judge, one for each juryman, one for the defense and one for myself. Here they be!"

There was a ruffle of excitement as the jury scrambled for their photographs—destined in the succeeding years to decorate twelve parlor walls in as many Mohawk farmhouses—along with the

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stand of wax flowers purchased by Aunt Hetty at the Centennial Exhibition in 1876, the picture of Niagara Falls done in real cork, and the sampler worked by Grandma Harrington when she was a little girl. Each juror grabbed his photograph and hunched back in his seat to see what he could see. Then the foreman remarked with the air of a Sherlock Holmes addressing his dear Watson:

"Accordin' to the evidence this here picter was took at six o'clock in the afternoon and the plate was exposed ten minutes. Now if the clock in the shanty had been goin' you'd natcherly expec' the picter to show the hour hand pointin' at six and the minute hand blurred. But both hands is perfectly distinct and pints to four o'clock. Now it 'pears to me as if this clock must ha' stopped—no one knows when,—an', if it wasn't goin', of course Emerson couldn't say when it was that he went into the shanty, and nobody knows when the hermit was kilt. Ain't thet so, jedge?"

In the silence which followed this entirely logical and demolishing argument the only sound to be heard was the ticking of the official timepiece on the court room wall, until Judge Tompkins

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said in a constrained tone and with a glance full of meaning at Mr. Tutt.

"The foreman has pointed out a fact of considerable significance. But of course the matter will be one for discussion in the jury room, if the case goes to the jury. At all events we will now take the customary adjournment until half past one o'clock."

The ax had fallen. The jig was up. The defense was doomed. The knell had sounded for Skinny the Tramp. The poor old alibi was dead, ready to be carried out and buried. And so, almost was Mr. Tutt, who sat head in hands alone in the stifling court room, gloomily pondering upon the manifold changes and chances of this mortal life. He was up against it. Without Emerson there was no possibility of eliciting any new fact, —if any there were. Even with Emerson there was only a conjectural conceivability of so doing. Further examination might or might not benefit the defense,—the probabilities being decidedly against it. And Emerson had utterly disappeared; Mr. Tutt's hourly telephone messages

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to Orient Mills only elicited the invariable reply that he had not returned to work, that nobody had the remotest idea where he was and that the subpena was there waiting for him all ready to be served when he turned up, if ever he should.

Mr. Tutt's brain was working as it had rarely worked before. It fairly seethed as he considered every possibility of escape, no matter how remote. Should he put Hawkins upon the stand? With the alibi destroyed a conviction seemed inevitable unless the defendant made some sort of an explanation of the evidence against him. But Skinny's was so lame as to be almost worse than no defense at all, and on cross-examination the squire would certainly make mince meat of him.

Not that what Skinny had told him might not be true, but nobody would believe it. It was so extremely simple as to be childish—merely that he had not done it! No one better than Mr. Tutt himself knew the immense disadvantage under which even an innocent defendant labors under cross-examination. It is merely a bull baiting. Ignorant, stupid, uneducated, the ordinary accused in a criminal case is no match even for a

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tyro of a prosecutor. Often he does not even understand the meanings of the questions put to him. And he must answer categorically—yes or no. With an unscrupulous district attorney the prisoner on the witness chair can only deny the accusations, often unfounded, that are hurled against him one after the other and which the jury accept as unqualifiedly true. Better for him the ancient law that as an interested party he could not testify in his own behalf. Yet to-day a defendant must testify or the jury will assume him guilty as a matter of course. No, if Skinny took the stand they would eat him alive. He would be a gone coon. And if he didn't take the stand he would be a gone coon. He was a gone coon either way,—damned if he did and damned if he didn't.

As to Emerson, no judge in his senses, least of all a wise old bird like Tompkins, J., was going to adjourn a murder trial—right in the middle of it—in order to let one side chase up a witness who had been fully examined and told he could go away—simply because one of the lawyers thought he'd like to ask him another question. It wasn't done. If it were done, trials would never

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come to an end,—and half the murderers would get off.

Beside him Skinny Hawkins, his client, was quietly eating his lunch, consisting of a couple of sandwiches and a big doughnut, sent over from the Phoenix House by "Ma" Best. It was a safe bet that at that time to-morrow he would be awaiting the sentence of death. Did he appreciate the situation? Was he cognizant of his peril? Certainly he gave no indication of it. Unexpectedly Skinny raised his faded blue eyes to those of the old lawyer and asked:

"Mr. Tutt, do you believe anythin' ever dies?"

Mr. Tutt pulled himself together sharply.

"Of course not!" he replied confidently. "Of course not!"

"Then it's all right—anyway!" said Skinny the Tramp.

We have sometimes felt constrained to write an essay, to be entitled "The Menace of the Probable," the thesis of which will be that it is the improbable which usually happens, and explain why. The axiom that "fact is stranger than fiction" is

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based upon this truism. All of life is centered around a struggle to make ourselves and everything about us exceptions to the general rule. We are all striving for the unusual, the extraordinary. The probable is the very last thing that we want; its menace is our Nemesis. So we don't look for it; our minds jump to the unlikely. This is the more natural since the "element of uncertainty" in human affairs makes the improbable quite probable, if you see what we mean. As Aristotle says: "Better a probable impossibility than an impossible probability." Thus the improbable—and hence the probable—thing with regard to the vanished Emerson was that he had unexpectedly received word that he had been made the legatee of a million taels by a Chinese nobleman or something like that. This was the reason that Mr. Tutt had sent his telegram to New York—so that his detectives could search all the unlikely places in Northern New York, Canada, and eventually, Alaska, at twelve dollars fifty per day and expenses. He knew nothing would come of it—even if he secured a six months' adjournment. He had never yet got anything from a detective

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agency except a bill. The probabilities were that some improbability had happened—just as it always did and does that Emerson had joined a traveling circus,—run away with a minister's wife, gone into the movies, or been murdered himself. Under these circumstances the detectives would detect—perhaps. That was their line—the probable improbability; not the improbable probability. To foresee or deduce that requires genius. None of which paradoxical and specious reasoning of Mr. Tutt's at all helped the situation, the gist of which was that Skinny was going to be hung.

Mr. Tutt, having reassured the tramp with regard to the future of his immortal soul, took up his hat and started for the Phoenix House. If he was going to die he purposed to die game; to die game a man must live; to live one must eat; hence, the better one ate the better one died. For this reason he purposed to do execution in the best possible manner upon one of "Ma" Best's dollar dinners. That is, he had intended to do so until turning the corner of the court house he walked into Mr. Charles Emerson, who was nochalantly

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sitting on an empty lemon crate smoking a cigar.

Mr. Tutt punched himself violently in the ribs. Was it possible? Emerson, seeing the distinguished attorney regarding him with eyes starting from their sockets, slowly arose.

"Don't move!" shouted Mr. Tutt. "As you were!—

> 'Be thou a spirit of health or goblin damned,
> Bring with thee airs from heaven or blasts from hell,
> Be thy intents wicked or charitable——'

don't you dare to stir until I get the sheriff and clap a subpena on you! We've been hunting all over Somerset County for you!"

"Well, I've been here ever since yesterday afternoon," answered Emerson blandly.

"Sit still!" warned the lawyer. "Don't budge! If you do I won't answer for the consequences!"

Then, seeing Sheriff Higgins about to enter the drug store, Mr. Tutt hurried down the street, summoned him forth, and conducting him around the corner, said:

"Sheriff, Mr. Emerson is with us again."

"Ye don't say now!" ejaculated Higgins.

"Yes," asserted Mr. Tutt. "But being a wit-

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ness for the prosecution it would not be quite proper for me to talk to him. Do you think it would be possible for you to casually ascertain from him a little more fully what he knows about the hour of the murder?"

"Well——" hesitated the sheriff.

"But you're a sacred camel," urged Mr. Tutt.

. . . . . .

The fact that Emerson also was a camel and that all camels are proverbially thirsty animals may have accounted for Squire Mason's failure to learn of the lost witness' reappearance before court opened. While the worthy Hezekiah during the progress of the trial had at times felt momentary twinges of apprehension—not, of conscience—but lest his motives and conduct of the prosecution should be impugned, he now felt secure. The only person in the world—as he thought—whose testimony could possibly subject him to censure had providentially absented himself. It made no difference whether Skinny took the stand or stayed off it. His denial wouldn't affect the strength of the case in any way,—would amount to nothing in view of the blood on his

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hands, the marks of his shoes, the pipe, the twenty five-dollar gold pieces and the fact that Emerson had trailed him straight to Pottsville within fifteen minutes.

So the Squire felt pretty fine and the dome on the Capitol at Albany shone brightly and near at hand. He had old Tutt down and out! Even the New York papers would probably carry a big story about the conviction. In the background of his crafty mind lurked, as well, the realization that in case of a conviction there would be no one to demand the payment of Skinny's semiannual interest. So the Hon. Hezekiah strolled back into the court room, picking his teeth with a good deal of satisfaction.

It was jammed as usual,—the audience breathlessly awaiting the last act of the great free show. There sat the jury looking like mutes at a funeral, there sat Skinny, his eyes wandering vaguely around the room, there sat Mr. Tutt, calm, alert, stern, tense. Hezekiah didn't like the way he looked. Anyhow, he'd beaten him to a standstill, —a frazzle! Then the clerk having called the roll of the jury, the judge directed that the trial

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proceed and Mr. Tutt arose—with just the least shade of melodrama.

Through the high windows Skinny the Tramp looked past Mr. Tutt's tall, lank figure out into the world of freedom, where the great elms gently swayed in the sunlight, and the white spire of the Baptist meeting house tapered towards the blue zenith. He, the helpless victim, had less knowledge of what was going on than any of them. After all, he perhaps had less to lose than any of them. Then a gust stronger than the others bowed the rustling top of the elm nearest the court house and—slowly the cock upon the steeple veered round and pointed in the opposite direction!

"Mr. William Gookin—please take the witness chair!" said Mr. Tutt.

"Toggery Bill," Pottsville's merchant prince, arose from one of the nearer benches and ascended the rostrum with an air of importance. Mr. Tutt handed him the five twenty-dollar bills found in the hermit's waistcoat pocket.

"Mr. Gookin," he remarked. "I show you

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People's Exhibits numbered Seventeen to Twenty-one, inclusive, and ask if you can identify them?"

Toggery Bill carefully examined the bills and replied that he could.

"How?"

"I've got my mark on each one."

"Show the jury."

Mr. Gookin pointed out with pride the words "Pottsville Dry Goods & Tailoring Emporium, May 16, 1920," printed in small red letters by means of a rubber stamp, on each one.

"Now," continued Mr. Tutt quietly. "Please tell us when you last saw them?"

"The mornin' of the murder," answered "Toggery Bill." "May seventeenth, nineteen hundred and twenty!"

"Where did you see them?"

"In my store.—I gave 'em to Squire Mason about eleven o'clock and I hold his note for a hundred dollars for the loan."

The effect of this simple announcement was extraordinary, for while it created complete bewilderment it suggested the weirdest possibilities. Here was a murdered hermit with a hundred

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dollars in his pocket which, within five hours, had been in the possession of the very man who was now prosecuting the person charged with the homicide. It was all very confusing to the bucolic mind! Some of them even thought for a moment that Mr. Tutt had proved that Squire Mason had committed the murder. Indeed, the Squire was almost as pale as if he had. What was old man Tutt goin' to try to get on him?—He did not have to wait long to find out.

"Mr. Mason—please take the witness chair!"

With a lump in his gullet of the size and dryness of a golf ball Hezekiah, amid the poorly controlled comments of the spectators which the sheriff for some reason made no effort to suppress, his diaphragm quivering with anxiety as to what all this might mean, climbed up into the public eye and was sworn.

"Mr. Mason—you have heard the testimony of the last witness—Mr. Gookin—is it correct?"

"Yes," conceded Hezekiah thickly.

"What use did you make of these bills?"

The Hon. Mason snapped his jaws defiantly together. Then he turned to Judge Tompkins.

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"I don't see what that's got to do with anything, judge," he complained. "Do I have to answer?"

"It's perfectly relevant," returned his honor. "Do you mean to say that you think how that money got into the possession, and upon the person, of the deceased isn't of importance! Of course it is!—Answer."

Mason bowed to the inevitable.

"I give it to Skinny—the defendant—in my office at half past eleven," said he.

A murmur rose from the benches. This was some evidence! The Squire was makin' himself the chief witness for the prosecution. What was coming next? But nothing came—from Mr. Tutt, who merely bowed.

"Thank you," said he quietly. "That is all."

The prosecutor was about to return to his desk before the jury box, when Judge Tompkins took the hand in the matter which Mr. Tutt had anticipated that he would.

"Hold on a minute!" directed his honor with a perplexed air. "I don't understand. Why did

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you give the defendant a hundred dollars on the morning of the murder?"

"'Cause he asked for it?" returned the squire shortly.

"Did you owe it to him?"

"Why—no," answered the squire. "That is, not exactly. It weren't a debt. It was interest due."

"Due on what?" demanded the judge irritably.

"On his trust fund——" reluctantly admitted Mason. The judge peered at him sharply over his spectacles.

"Who is the trustee of the fund?"

There was a long pause.

"I am," yielded Mason finally.

"Do you mean that you are the trustee of a fund of which this prisoner, whom you are trying to convict of murder, is the beneficiary?" cried Tompkins, leaning forward.

"I am," assented Mason faintly.

There was a chorus of mingled hisses and jeers from the benches, but Judge Tompkins took no notice of it.

"This is a most extraordinary situation!" he

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declared. "However—we will not deal with it now. Proceed with the trial."

Mason crept back to his seat. It was clear that the judge had it in for him,—but that needn't affect the outcome of the trial. Then he got another jar—this time an even heavier one.

"Charles Emerson," murmured Mr. Tutt sweetly, "please take the stand—I have an additional question I wish to put to you in cross-examination."

There was nothing in Emerson's recall to excite any special interest among the spectators, since few, if any, of them knew that he had gone away. But there was much in Squire Mason's demeanor as the witness made his way forward to give pause to those who watched him. Something had happened to him. He had shriveled—nought else. With his eyes shifting uneasily the district attorney sat fumbling with his papers, refusing to meet those of the mill hand. Then he arose and said in a husky voice which held no conviction:

"I object to the recallin' of this witness. He's been examined once."

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"I overrule your objection.—Mr. Tutt may interrogate him as fully as he wishes," retorted Judge Tompkins sharply. He turned to Emerson.

"Where have you been? I understood you had disappeared."

Emerson smiled sheepishly.

"I've been here right along," he answered, "'cept just after I give my testimony. You see, I took a job up to Orient Mills and signed on the next mornin', but I got thinkin' about the case an' I decided to come back."

"Why?" demanded his honor.

"Well, jedge," explained Emerson, "y'see I figured out that mebbe my evidence might turn out to be pretty important, for I heard over to the Phoenix House how Skinny was goin' to try to prove he was in Pottsville at four o'clock. Now I knew the murder was done jest about that time. An' I testified to it here, but——" and he spoke very slowly and distinctly—"nobody,—neither Squire Mason nor Mr. Tutt,—asked me much about it—and I got thinkin'——"

"I object t' all this!" again interposed Mason.

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"This ain't any proper way for him to testify—tellin' about what he thought, an' all."

"That is quite true," agreed his honor. "Mr. Tutt, you had better question the witness in the regular way."

Mr. Tutt bowed. He too had observed that the weather cock had veered.

"Anyhow I come back on the next train," finished Mr. Emerson, "an' I've been here right along."

"Mr. Emerson," Mr. Tutt began, his voice trembling slightly from the excitement under which he labored, "you have testified that when you entered the hermit's shanty the clock pointed to four o'clock."

"Yes," answered the witness, "it did."

"You have also testified that you returned later on with Mr. Pennypacker, when he took his photograph. Did you notice the clock at that time?"

"I did."

"At what hour was it pointing?"

"Four o'clock."

"Was it going at that time?"

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Emerson shook his head.

"No," he replied. "It warn't."

Mr. Tutt's heart gave a flutter, but he kept bravely on without batting a lid.

"But you testified positively that you knew it was four o'clock when you went there the first time."

"Yep—yes, I mean," replied the witness firmly. "I know it was four o'clock."

Mr. Tutt was now on terra firma, for he knew that whatever the answer might be—it was bound to be favorable. He was safely within the conservative rule that you must never ask a question unless you are sure that the answer cannot hurt you. But he did not know what the answer was going to be, had no idea of what fact he might be about to elicit. So that there was a delicious uncertainty about the next inquiry, upon which he fully realized that he staked his whole case.

"How do you know it was four o'clock?" he demanded, with a note of triumph and the air of being now about to disclose something which he had known perfectly well all along but which he had withheld until this, the exact psychological

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moment. "Tell the jury how you know, Mr. Emerson!"

The jury fully apprised of the fact that upon the answer hung the validity of Skinny's alibi focused their eyes on the lumberman's honest face. Even Judge Tompkins could not refrain from turning half way round and pulling his chair towards the witness box so as not to lose a word. By common consent, by instinct, and in fact, this was the apex, the climax, the denouement of the trial of Skinny the Tramp. Would Emerson make good—or wouldn't he?

"Fer one thing because I kin almost swear I heard the clock tick and saw the hand move," answered Emerson positively.

The jury looked at one another inquiringly. That was pretty strong testimony! To recall that you heard a clock tick!

"Are you quite sure?" cautioned Judge Tompkins. "Remember that this is a very important bit of evidence."

"Pretty near!" answered Emerson. "I'm satisfied fer myself that I did, but this bein' a court o' law, mebbe I'd oughter be more certain to

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swear to it. Anyhow that is how I remember it. I testified before how I went into the shanty and saw the hermit lyin' with his mouth covered with blood and how he died while I held his head in my hand. If you'd been there, you'd ha' remembered it all right, I reckon. But nobody axed me if I knew the clock was goin'. Wal, it was this way. When I lifted the hermit's head an' looked in his face the shanty was all still,—'ceptin' fer three things."

He paused, almost as if for effect.

"What were they?" softly demanded Mr. Tutt.

Emerson lowered his voice.

"The first was the kind of cluckin' sound the hermit's breath made goin' in and out through his mouth on account of the blood. His eyes was half open but they didn't see none. He was just passin' out. It was so quiet I felt real creepy—all alone with him dyin'. But what skeered me most was an enormous great moth—the biggest I ever see—that went flap-flap-flap agin' the winder tryin' to git out. It flapped and flapped and I thought it would stun itself agin' the glass. An' ez I knelt thar holdin' the hermit's head, listenin,

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to his breathing and to that big gray moth flappin' over at the window, I kin most swear I heard the clock tick—an' saw the minute hand slip to four o'clock—and then all of a suddint the whole shanty went still. The hermit didn't breathe no more, the moth flew out the door,—an'——"

"Well?" whispered Mr. Tutt

"An' the clock stopped!"

In the silence that followed there was no one in the court room that did not mark the ticking of the clock upon the rear wall. Each listener told himself that if necessary he could swear to it until his dying day. Then Mr. Tutt said, almost with unconcern:

"And did you tell Squire Mason all this?"

"Sure!" replied Emerson, looking the prosecutor full in the face. "I told him all about it that very afternoon!"

Judge Tompkins fixed the wretched prosecutor with a beetling eye.

"How do you reconcile the withholding of this very vital evidence from the jury?" he inquired in icy tones.

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Mason, ivory white, attempted to rise, but collapsed weakly into his chair.

"I didn't believe it!" he answered faintly. "It ain't any part o' my duty to have a witness tell fairy stories to the jury."

"But in calling the witness you vouched for his credibility!" retorted Judge Tompkins with contempt.

"Only in so far as I brought out his testimony myself," replied the Squire feebly. "I believed he was tellin' the truth about findin' the hermit still alive—and mebbe about the moth—but I didn't believe—an' I don't believe now—an' what's more I don't believe anybody else believes—that that partic'lar clock up an' stopped the very moment the hermit died."

He pressed his lips together resolutely.

Judge Tompkins turned a scornful shoulder to the now groveling Hezekiah.

"Mr. Emerson," said he. "You have contributed materially by your testimony, given this afternoon, to our knowledge of the case. Have you any other means of knowing whether at the time you think you saw the hand of the hermit's

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clock move to four o'clock it was then pointing to the correct time?"

"Yes, jedge, I have," answered the witness without hesitation. "For just as the silence come in the shanty—when the hermit had died, and the big moth had flown out, and—the clock had stopped, the whistle over to Sawyer's Steam Lumber Mill blew four o'clock."

"I guess that settles *that!*" remarked the foreman, leaning back and wagging a confirmatory chin whisker.

"Did you tell that to Squire Mason?" inquired his honor scathingly.

"No," answered Emerson. "I tole him it was four o'clock and how the clock stopped, an' as he didn't seem partic'larly interested 'bout the hour, I let it go at that."

Those of our readers who perchance should happen to find themselves for a night in Pottsville or in any of the adjacent towns should not fail to elicit from the oldest accessible inhabitant the great story of the ripping up of Squire Mason by Lawyer Tutt in the latter's closing address to the

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jury, and how the governor, upon the recommendation of Judge Tompkins, promptly removed him from office, thus blasting a promising political career. For Mr. Tutt, by one of those freaks of fortune which do occasionally occur, found himself in a position to make good on every one of the charges—both direct and indirect—which he had made against the prosecutor and to prove him in fact to be every one of all the varieties of crook, rascal and rapscallion that he had called him. And he somehow managed in addition to convince everybody—except possibly shrewd Judge Tompkins—that he had known all about everything from the beginning of the trial and that the whole Emerson business had been just a grandstand play carefully staged to give a proper theatrical effect to the final coup. Anyhow, according to general account, there wasn't a thing left of Squire Mason when Mr. Tutt got through with him. He was flayed, disemboweled, torn limb from limb, drawn and quartered, and his various physical members, with their connective tissues, scattered broadside over Somerset County—to the great joy of the inhabitants thereof. And,

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what was of vastly more importance, Skinny the Tramp's alibi was definitely, finally and impregnably established; so that when Judge Tompkins concluded his charge to the jury at a quarter past three o'clock on Friday afternoon everybody said it was all over but the shouting and most of them didn't wait to hear the verdict.

Indeed, so confident was public opinion of an immediate acquittal that the sheriff didn't even take Skinny back to the calaboose, but allowed him to smoke one of Mr. Tutt's stogies right in the court room, while Judge Tompkins and the old lawyer strolled across Main Street to sit on the Phoenix House piazza until the jury should come in.

"Well, Mr. Tutt," said his honor, as he politely declined one of the famous Wheeling corona-coronas, "I must congratulate you on a most adroit and effective piece of court room strategy. The way you held back and finally brought out the story of the clock was really masterly!"

Mr. Tutt smiled enigmatically.

"I took several chances in that case!" he ad-

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mitted with a great deal more truth than his listener was aware of.

"However," replied Judge Tompkins, "you didn't take anywhere near as many as our friend the district attorney. Unofficially—not for publication, and in the language of the metropolis from which you come,—in my opinion, he's some crook."

"Unofficially and confidentially," returned Mr. Tutt, "I entirely agree with you. Speaking mildly, he's got by long odds the most perverted sense of fair play that I have ever come across."

"That's all the good it will do him," said his honor. "If I'm not mistaken that jury will acquit inside of fifteen minutes."

"You never can tell," murmured Mr. Tutt. "It's fourteen minutes since they went out already."

"Anyhow it's only a question of a very short time—your alibi was conclusively established."

"Yes," assented Mr. Tutt, "but very likely there's some rube on that jury that doesn't know yet what the word means."

As if in curious confirmation of Mr. Tutt's

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cynical opinion of the cerebral equipment of his fellow human beings the sheriff at this moment appeared from the direction of the court house.

"Jedge," said he, "the jury allow ez how they'd like to have some supper. Shall I bring 'em over or hold 'em awhile?"

"What do you think, Mr. Tutt?" inquired his honor.

"When a jury wants its supper," answered the old lawyer, "always give it to 'em—and send 'em in a box of cigars besides."

Judge Tompkins laughed.

"All right, sheriff," said he, "give them their supper, by all means. Strange," he added. "I thought surely they'd agree almost immediately!"

"They were doin' a powerful lot of talkin' the last time I went into the jury room," remarked the sheriff. "You could hear 'em holler way acrost the road."

He vanished into the court house and presently returned leading the jury like an ancient bell weather down the steps and towards the hotel. The judge and Mr. Tutt eyed them intently for the purpose of deciphering if possible the

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thoughts concealed behind their inscrutability. But no more expressionless set of men ever ascended the piazza steps of the Phoenix House than the jury to whose keeping had been entrusted the life of Skinny the Tramp.

"Hanged if I can tell a thing from looking at 'em," admitted Judge Tompkins.

"I can," countered Mr. Tutt. "They're hungry."

It appeared in due course that this particular jury was more than ordinarily hungry, for its members not only consumed the entire official menu but insisted on eating three plates apiece of "Ma" Best's griddle cakes; after which they sat on the piazza for an entire hour in replete silence while digestion took its course; and it was eight o'clock and after repeated urgings on the part of the sheriff before they reluctantly consented to return to the court house.

"It's only a matter of form," opined Judge Tompkins to Mr. Tutt. "They'll agree now in no time."

"H'm! You never can tell!" answered Mr.

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Tutt, as he excused himself and went upstairs to refill his pockets with stogies.

Indeed, Judge Tompkins guessed wholly wrong. The jury—so far as could be ascertained by any proper legal means—had no immediate intention of agreeing at all. Nine o'clock came,—and nine-thirty,—with still no word from them. At ten or thereabouts a vigorous rapping on the door of the jury room caused the hearts of those spectators who still lingered in the court house to thump loudly,—but it was only a call for ice water. At ten-thirty the sheriff reported absolute silence—evidently a deadlock. At eleven all was still quiet along the Potomac. The judge, surprised and impatient at what seemed to indicate the possibility of a miscarriage of justice, directed Sheriff Higgins to inquire if there was a likelihood of an agreement, to which the foreman merely returned the laconic answer that as yet they had not reached a verdict. Five hours had now elapsed since the twelve good and true men had received their instructions and retired to deliberate.

"Mr. Tutt," said Judge Tompkins, "I will wait

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here until eleven-thirty and, if there is no word from the jury by that time, I shall return to the Phoenix House and go to bed."

But at eleven-thirty no word had come and the sheriff reported that there was no sound whatever inside the jury room. All argument had ceased. He couldn't hear a durn thing. He reckoned they'd gone to sleep for the night.

"It's incredible!" declared his honor. "A perfectly plain case! What do you suppose is making the trouble?"

"You kin search me, jedge!" said the sheriff. "Now you just go acrost to bed and if anything happens I'll hustle right over."

A couple of dozen hangers-on still remained after the judge had left the court room, whose electric brilliants were only slightly dimmed by the incense from as many virulent cigars. Betting was now even on the result, with the odds three to two on an ultimate disagreement. Evidently for some unknown reason the alibi had gone bad. Mr. Tutt, sitting on the topmost step of the court house entrance felt a surreptitious poke in the back and perceived that the sheriff

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was beckoning mysteriously to him. Arising with ostentatious indifference the lawyer followed the official to the rear of the building, where after making sure that they were unobserved Higgins unlocked a small door opening upon a flight of back stairs.

"Got suthin' I want to show ye!" he muttered with an elaborate facial contortion designed to register mischievous humor. Mr. Tutt responded with a similar grimace and the two cautiously tip-toed up the stairs to the topmost landing where the sheriff unlocked another door, and after lighting a candle tip produced from his trousers pocket conducted the lawyer into the blackness of what was evidently the court house attic.

"Duck yer head!" he warned, "if ye don't want to crack yer skull!"

"Where are you going?" asked Mr. Tutt, although he did not in the least care.

"Never you mind!" retorted his guide.

Then after he had felt his way sixty feet or so across the timbers the sheriff stopped and blew out the candle.

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"We're right over the jury room," he whispered.

The attic was hot, dusty, close, and full of cobwebs, suggestive of man-eating spiders, but enthused with the spirit of adventure Mr. Tutt stood motionless over the crack of light which showed them to be in the right place. Below, all was silence, penetrated by an occasional hiss and punctuated now and then with a snore. What had occurred? Was there in fact a deadlock? Would Skinny the Tramp have to face another trial for his life? After what seemed an incredible period of time a chair scraped and a voice was heard:

"What time is it now, Bill?"

There was a momentary hiatus during which a watch was evidently consulted and then the foreman made reply:

"Ten minutes to twelve."

Again the cloak of silence descended upon the so-called deliberations of the jury. Then Mr. Tutt was startled by the voice of Sawyer, the foreman, who evidently sat just beneath them.

"Well, boys," he exclaimed in a voice full of

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relief, "it's five minutes after midnight—Saturday mornin'—an' I guess we're safe to claim another day's pay. After all, three dollars is real money—wuth gettin'!—All up! Seventh inning!"

There was a tremendous scuffling of feet below,—intermingled with loud yawns.

"Well," said the foreman again, "we're all agreed, ain't we? It's an acquittal, ain't it?"

"Yep!—You betcher!—Sure!" came from eleven husky throats.

The foreman pounded sharply upon the door of the jury room and the sheriff scrambled hastily towards the attic door.

"An' the next thing—after we git outer here," continued the foreman drily, "is to decide what we're goin' to *do* with Squire Mason!"

. . . . . .

The crowd surged about Skinny, caught him up on its shoulders and bore him struggling and feebly protesting out of the court room, down the steps, and over to the Phoenix House. "Ma" Barrows was waiting for them, and when they dumped Skinny down on the piazza she threw her

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arms about him and with the tears streaming down her cheeks cried:

"You poor, poor boy! Come right in and let me give you some nice hot supper and after that a soft clean bed!"

But Skinny shook his head.

"The supper's all right," he said. "But I guess I'd rather sleep outdoors!"

In the court room Sheriff Higgins approached Mr. Tutt, who was gathering up his papers.

"Well," he said, taking a fat envelope out of his breast pocket and glancing into it, "Here's your fee.—Two hundred and fifty dollars!—Wisht I could earn money that easy!"

Mr. Tutt waved the envelope away with a careless gesture.

"Give it to Skinny," he said. "He needs it!"

Then with a rush the crowd came piling into the court room again.

"Where's Mason?" they demanded angrily. "Where's the old son of a——!"

But the Squire, being wise in his generation, had taken his departure.

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On a hillside overlooking the fertile valley of the Sacramento, Skinny the Tramp lay amid a clump of giant redwoods and watched the sun drawing water through the rain clouds gathered a thousand feet below him. Resting upon a thick bed of pine needles, he leaned luxuriously against a rock, while at his feet, propped over a small fire, a tomato can bubbled cheerily and gave forth a sweet-smelling savor. It was six months after the trial and two months since One-eyed Pedro, heir-apparent of the Zingara Gipsies, had confessed in the deathhouse at Sing Sing, where he was awaiting execution for the murder of his father, that he had killed Drake, the Hermit of Turkey Hollow.

This was the first real opportunity that Skinny had had a chance to sit as he loved with the world at his feet—and think——! With his eyes half closed and the gray smoke from his cigarette coiling and uncoiling in the shaft of sunlight that shot through the branches above his head, Skinny recalled the events leading up to his trial. It had been very much the same sort of an afternoon that the hermit was killed; there had been the

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same softness in the air, the same flooding sunlight shining gold-red on the trees and fields against the blue-gray of the rainclouds. He had been lying just that same way on the hillside above Turkey Hollow,—dreaming as usual of pots of gold. Then the storm had burst and for half an hour it had poured, as it was raining now at the other end of the valley, and the rainbow had come out against the leaden sky with one end of it on the hermit's hut.

He recalled vividly how he had rushed down through the drenched woods, passing the lumberman Emerson, whose greeting in his hurry he had neglected to return, and peeked in through the hermit's window to find him counting his gold. What a thrill the sight had given him! His faith had at last been justified! Just as he'd always known it sometime would be; rainbow—pot of gold! The fact that the gold belonged to someone else didn't really affect the soundness of the theory one way or the other, and when the hermit had good-naturedly agreed to exchange twenty of the smaller pieces for a hundred dollars in bills he had been almost as well pleased as if

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he had found the gold hidden in the earth. Then he had strode on through the woods to the village.

That was all there had been to it. It had taken him twenty minutes to walk the mile—he knew it, because the hermit's clock had pointed to twenty minutes to four when he left the shanty. Suddenly the blood in the tramp's jugular leaped violently. Yes, the clock had certainly pointed to twenty minutes to four—and if so—it must have —*must* have stopped—run down or something—at the very moment the old man died!—And he, Skinny, was the only person alive who knew it,—for he was the only person who knew positively that it had been going just before the murder. Funny!—a prickly feeling spread over his back—like a needle bath, only he had never had one. It *was* funny! And then there was that enormous gray moth that Emerson said had been trying to get out the window. Hadn't he warned the hermit that some day those bugs would wriggle off their pins and go for him! Sure! And the clock had stopped!—The tune of the old song floated through his mind and unconsciously he hummed the words over to himself:

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"O my grandfather's clock was too high for the shelf,
So it stood ninety years on the floor.
It was taller by half than the old man himself,
Though it weighed not a pennyweight more.
It was bought on the morn of the day that he was born,
And was always his treasure and pride,
But it—stopped—short—never to go again—
When—the old—man—died."

It had,—too! He was the only one who knew it—or the whole story about the moth! How the hermit had jokingly said that some day maybe he'd go flappin' off like a big gray moth.—Now he was in that other world—that world that was right along beside us!

Skinny looked around apprehensively but there was no moth in sight. Had it grown chilly? He shivered and noticed that his cigarette had gone out. He lighted it again on his knees at the fire and as he did so the sweet savor of the soup rose to his nostrils. It was nearly done! He forgot all about the murder in the anticipation of soup.

Back through the whole being of Skinny the Tramp surged a warm delirious joy—merely at being alive. Kneeling there he looked like the votary of some forest god, as he rubbed his lean hands over the blaze and stretched his arms out-

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ward and upward towards the sky. He yawned deliciously. Then he observed with interest that a rainbow had appeared on the opposite side of the valley—a wonderful, gleaming arch, whose blending colors seemed to singe the clouds. One end of it descended directly upon a field hard by a yellow farmhouse. Pots of gold again!

Skinny watched, as it momentarily grew brighter, beckoning him to wealth and possible adventure; then forgetful of the soup he scrambled to his feet.

The next instant he had plunged down the hillside towards the valley—after the rainbow!

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