



CHAPTER XIV.

The site of the town of Oskalooc was largely responsible for the unfortunate reputation of its inhabitants. Its surroundings were malarial. The village lay in a low, marshy district, encircled on three sides by a stagnant stream. A damp, offensive, depressing mist crept in at evening to brood above its silent streets and distribute fever and ague with a generous hand. The only avenue of escape from this plague infested cul-de-sac was the trail road which led undeviatingly out of town to the prairies and hills beyond. It was therefore with a feeling of misgiving that the way traveler descended it. A similar sentiment prompted sojourners in that "happy valley" to decorate trees and boulders by the wayside with warning placards and inscriptions. "Sacred to the Memory of Blank's Pills" was the flying testimony of one unfortunate.

Perhaps it was in consequence of these depressing atmospheric conditions that stimulating beverages were appreciated at Oskalooc. It would seem that an impression existed that the visible population varied directly in proportion to the presence and availability of something to drink.

"There didn't seem to be enough citizens about to justify an enterprising census clerk," Judge Natchez had remarked to Sheriff Mosely after a preliminary visit. "Has there been an earthquake, or an epidemic, or what?"

"I reckon not," Mosely rejoined, with a humorous twinkle of the eye, "but I'll allow, Judge, ye didn't give the boys any encouragement. Now, ye'd 'a' thought to set out a pair of old rye and a tin dipper on that star stump in front of the blacksmith's shop, ye'd 'a' seen a constituency to onct that would 'a' gladdened yer eyes. It's my opinion, the sheriff continued in easy disparagement of his birthplace, "that's about the only way an accurate and satisfactory census of the population of Oskalooc can be took."

Although the particular stump in front of the blacksmith's shop referred to by Mr. Mosely was vacant on the morning of the 8th of September, the crowded condition of the main street justified the suspicion that some similar attraction was in the neighborhood. The additional fact that the temper of the gathering was genial strengthened this opinion. When it is added that actual hilarity and mirth prevailed in the vicinity of a certain saloon which Mr. Buck Jerrold had recently made his headquarters, the situation will not admit of further doubt.

With the arrival of Mr. Jerrold a hog-head of spirits was immediately put on top of the Long Divide tavern—a festive title supposed to refer to the previous infrequency of drinks at that well known hostelry—and immediate patronage invited. "Seed it be said that the response was prompt? The luckless citizens, living face to face with dyspepsia and a complaint popularly known as "stom ache," rallied at the call as at the sound of a clarion.

It was frankly announced by Mr. Jerrold—albeit without the knowledge of Henry Bruce—that the "flow of soul" thus inaugurated at Oskalooc was entirely at the expense of the prisoner at the bar. It was even suggested that this generosity was a gratuitous tribute on his part to the esteem in which he held the inhabitants. There was a transparency about this statement in view of the coming trial which was ingenuous and charming. However, the potency of the tribute seemed to disarm criticism.

A strong undercurrent of sympathy was apparent in favor of the prisoner. He was regarded in the light of a public benefactor. When this opinion began to manifest itself openly, the district attorney made an effort for impartiality by attempting to impanel a jury and hold them aloof from the spirit of philanthropy which was becoming epidemic. He was met by a singular obstacle. Fully one-half of the citizens of Oskalooc volunteered their services as jurors. At this juncture of proposition the legal gentlemen permitted matters to take their own course.

Mosely did not hesitate to contribute his quota to the favorable opinion. This was by a graphic and thrilling account of the trick performed by Bruce with the "Smith & Wesson" revolver at the San Marcus ball. So far from prejudicing the popular feeling toward Bruce in regard to the killing of Foraker, it gave an impression of proficiency with the pistol so remarkable as to amount almost to justification. It began to be believed that it would be little short of a crime to deal harshly with one so gifted. "Pulled that 'barrel catch' slick and clean, boys, and slung them cartridges right and left so that Lem was nowher!" Mr. Mosely repeated, illustrating the act by practical manipulation of the deceased horse thief's weapon. An awe fell upon the company. It was apparent that a hero in difficulties and not a man in jeopardy of his life awaited the respectful consideration of the citizens of Oskalooc.

When, therefore, Phil Kernochan arrived, bringing with him Henry Bruce, Judge Natchez and Colonel Hunt, who, with a few of his troops, had joined them in the interests of order and justice, there was a rush to see the prisoner and something like a public demonstration attempted. Colonel Bill Farey, the prosecuting attorney, viewed this proceeding with ill favor. He glanced appealingly at Judge Pemberton, who had dismount-

and good humor possessed the audience. No sooner were the few chairs and benches exhausted than the throng cheerfully availed themselves of the floor and window sills of the court. Here, packed in on every side like sardines, they rivined the liveliest interest in the proceedings. A disposition was apparent to assist the lawyers in selecting the jury. As each man's name was called he was greeted with cheers and cries of encouragement, and any reluctance to serve provoked a storm of opposition.

Under these circumstances the preliminary business of the trial was not transacted without some delay and irritation on the part of judge and lawyers. By the time the jury was sworn his honor had worn himself out in his efforts to preserve order, and the audience had shouted itself hoarse in abuse and personalities. A feeling of exhaustion supervened. It was apparent that something must be done. When, therefore, the prisoner's counsel rose in his place to address the court, he received the attention of all present.

"Your honor," said Judge Natchez, mopping his heated brow with a red bandanna handkerchief and regarding the flushed features of the justice, who sat indignant, arbitrary and collarless, at the head of the long table that answered for the judicial bench, "before proceeding to trial I would state that the preliminaries of this case have been powerful tedious, and I submit that the gravity of the indictment necessitates that this court adjourn and take a drink."

There was a dead silence. All eyes were fastened upon the judge. His eyes or reached silently for his hat, and drawing it over his eyes started abruptly for the door. His example was followed. In precisely three minutes after this popular proposal of the prisoner's counsel the courtroom was vacant.

It appeared subsequently that during this interval a singular rivalry was manifested between Mr. Buck Jerrold and Judge Natchez at the bar of the Long Divide. It was in the matter of fortifying the jury against the eloquence of opposing counsel. The solicitude of both parties was great, and the rivalry keen—so keen in fact that the "13 good men and true" grew mellow and philosophic under treatment. Seeing which, Judge Pemberton felt called upon at last to thump loudly upon the bar with his empty tumbler and order a peremptory return to the courtroom. This being done, his honor laid aside his coat and vest, and rising to his feet addressed the assemblage briefly.

"It appears," remarked Judge Pemberton vaguely, frowning darkly in evidence of the affront afforded his judicial dignity by recent events—"it appears that a disposition is on foot to defeat the ends of justice by tamperin with this yer jury. What I know, I know and seen myself. It hes got to be stopped, or I'll impose fines here for contempt of court thet'll bankrupt the hull county to pay 'em. Es to how much the counsel in this case, their friends and the audience generally feel called upon to hoist in order to grapple with the case in hand I hev nothin to say. Thet's their business. But that thar jury is mine, and I propose to run them myself. Sheriff Mosely, you will quarantine them 12 men durin dinner and until they reach a verdict. I hold you personally responsible for the mental condition of the hull caboodle."

This severe rebuke cast a temporary gloom over the courtroom that his honor's complicity in the recent conviviality could not entirely subdue.

When at length the case of "The People versus Henry Bruce" was formally opened, it appeared that the district attorney would "call the attention of the intelligent bench before him to one of the most cruel and blood curdling murders of modern times." The incredulity with which the jury received this announcement was decidedly discouraging to the people's representative. It appeared, however, that this version of the case rested on the attorney's unsupported statement. There were no witnesses to the highly ingenious and thrilling assassination of Captain Foraker which he proceeded to set forth in detail.

When he attempted to offer in evidence the testimony of the sergeant of Foraker's men as to what Lemuel Wickson had told him of the affair through the windows of the jail, Judge Natchez promptly objected. In the language of the prisoner's counsel, "Whereas Lem Wickson was deceased, contrary to his own expectation, this fairy tale of that thar hoss thief was no antemortem statement." Sheriff Mosely was now sworn and testified that at the time of the affray between Foraker and the prisoner Wickson was in close custody and some three miles from both parties. "Pr'aps, boys," said Ike, winking craftily at certain of his fellow townsmen ranged on the jury benches, "you'll bet that pottfoggin old skeekins deinde you into the idee that Lem hed the sight of a Mexican buzzard and could spot the hull situation from that thar distance!"

But here Judge Pemberton, whose judicial conscience was now thoroughly aroused, asked the sheriff on which side of the case he was retained and called him sternly to order. Ike gravely descended from the stand after assuring the jury that he was on the same side as his honor and all lovers of law and justice.

It was then developed that all the evidence in the case rested upon the unsupported statement of Henry Bruce, who was sworn in his own defense. He was asked to give an account of the killing, which he did in a few direct and simple words. The sincerity of his manner, the dignity of his bearing and the quiet manliness of Bruce in his trying position and its weight with his judges.

But there was one fact which more than anything else compelled the reverence of this Lone Star tribunal. It was this—that the man who stood before them on trial for his life had been able to disarm an outlaw in the act of brandishing a Smith & Wesson 6-shooter at all cock! It may be doubted whether, in view of the recent adjournment, certain of the jury were not in doubt as to whether the accuracy of this statement

was not the real cause at issue. At any rate the foreman permitted his features to relax in smiling scrutiny of the prisoner during the taking of his testimony. Nevertheless it was with anxiety in his face and manner that Mr. Buck Jerrold approached Sheriff Mosely when the court took a recess for dinner. "What's up?" inquired Ike, noting his companion's expression. "I reckon the prevailin opinion is favorable, Buck," he continued, glancing in at the open door of the tent where the arbiters of the fate of Henry Bruce were serenely discussing their noonday meal.

"Thet's jest it!" replied Mr. Jerrold. "The opinion is favorable now, Ike, but sence you've got that jury quarantined how long is it goin to last? You must keep 'em up to it! If I could only contrive to reach 'em with this universal pannyneer that makes 'em so charitably disposed, well and good. I know the town, ye see, and it's gin'ral sentiments. When the reaction sets in, there's no holdin 'em."

The gloom of Mr. Jerrold's manner gave the sheriff a sense of conviction. He became thoughtful at once. Suddenly his eye brightened. He drew himself up to the height of his small figure and brought his right hand down with a vigorous slap upon the shoulder of Buck Jerrold. It seemed that all the nervous energy of his nature was concentrated in the two words he whispered: "Iced tea!"

Closing one eye gravely upon the recipient of his information, he returned to an apparently watchful scrutiny of the twelve occupants of the boarding tent.

In a surprisingly short space of time a beverage proffered under the above title and bearing a strong resemblance in color at least to that familiar metropolitan drink began to circulate about the deal board and achieved instant popularity. When the jury left the social board it was with no perceptible lowering of mean or manner, and it was even remarked that the easy roll affected by some of them was more in keeping with the locomotion of the jolly jack tar than the dilatory step which usually distinguishes the Texan.

I pass over the able and eloquent charge delivered by Judge Pemberton as not strictly necessary here. Enough that his honor's exposition of the law was made with the assistance of certain notes and hieroglyphics, recorded with a piece of chalk on a pine shingle during the progress of the trial. Enough that he emphasized his points by carelessly tapping the bench with the handle of a colt's 6-shooter, which he had recently taken from his belt to serve the purpose of the customary gavel. Enough that when he defined the law in accordance with a certain state of facts he staked his legal reputation and a casual \$50 on the strength of his position.

Judge Pemberton did not direct a verdict, though requested so to do by both Judge Natchez and Colonel Farey, notwithstanding the fact that this was a criminal action. It was apparent that his honor desired to be just. It was only when he dropped the suggestion that "frontier captains hed been givin too much lately to runnin towns in Texas" that he was supposed to betray his own personal convictions. But he retrieved this false step by an appeal for justice that electrified the courtroom.

Amid a breathless silence the jury left the benches and repaired to the neighboring stable to deliberate upon their verdict.

In the little courtroom Judge Pemberton relaxed his dignity. He lighted a black clay pipe, tilted his chair back, and stacking both his cowhide boots on a dilapidated lawbook clasped his hands behind his head in dreamy contemplation of the moldy ceiling. The prisoner and his counsel conversed in low tones. A sudden nasal murmur shook the courtroom. The avenging spirit of Justice was beginning to nod.

There was a quick shuffling of feet at the doorway and a hurried rush for the courtroom. The jury filed solemnly back. The prosecuting attorney entered hastily among the thronging citizens, suspiciously wiping his lips with his red bandanna. Judge Pemberton awoke with a prolonged snore, and grasping his 6-shooter immediately rapped for silence, unfortunately in sleepy criticism of his own nasal efforts. Staggering hurriedly to his feet, he adjusted his glasses and frowned severely upon the serene and complacent 12.

"Boys," said his honor gravely, "hev you agreed upon your verdict?" "I reckon so, Judge," replied the foreman, with a broad grin. "How say you. Is the prisoner guilty?" "Guilty!" returned the foreman with an incredulous smile—"not much!"



"Guilty!" returned the foreman with an incredulous smile—"not much!" "How hev you found, then?" inquired his honor. "Waal, Judge," the foreman responded familiarly, while he leaned unsteadily on the legal table and comprehended the entire assemblage in a single philanthropic smile, "ye see, it's about like this. We've sized the situation up and been over the whole business. Here's the deceased knows how peart the prisoner is with a 6-shooter, and that it's voluntary suicide to go ag'in him; accordingly he gits bilin fall and allows to lay him out; natchally diseased goes under, and we finds prisoner not guilty, owing to contributory negligence on the part of diseased."

[TO BE CONTINUED.]

IT MAKES A DIFFERENCE.

Before the looking glass the callow youth Of eighteen years doth stand, with anxious face; Long months he's scanned his upper lip, in sooth, And now of the mustache he finds a trace. "At last!" (How glad the shout!) "The hair is coming out."

How different his emotions, though, when at The age of fifty, he, before the glass, Surveys his crown and realizes that With all his care the baldness shows, alas! And that, beyond a doubt, The hair is coming out! —Truth.

He Was Too Killing. Jane wanted to go to the circus, and John wanted to go to the theater. "We can go to the theater any time," she said, "but the circus is here for only a week, and we have not always the chance of going to it."

"Well, as you like," said John, "but allow me to say this, I will not be responsible for the consequences." "What consequences?" asked Jane in surprise. "These consequences," answered John gravely. "Suppose one of the lions should break out of his cage while we were there. It's all over with you!"

"Certainly. The lions ain't blind, are they?" "N-no. But what has that got to do with me?" "Just this. If you look to me to be sweet enough to eat, how will you look to a raging, roaring, hungry lion? He will think you are a delicious morsel, and you are gone."

"But, John, there will be other girls there besides me." "I know it, but you will be the sweetest one there." "Very well, John, dear; I think, darling, we'd better go to the theater." —Spare Moments.

She Preferred to Stand. "Take this seat, madam." "The Broadway car was crowded, and a young lady with a strikingly beautiful face and sylphlike figure had just entered as these words were uttered. The speaker, a fine, manly little fellow of 13, had risen at once and stood smilingly in front of her, prompt to obey the generous impulse that had inspired him. So unusual a sight in New York could not but awaken surprise. The passengers craned their necks. Some tittered audibly, and a horrified look came over the face of the fair passenger as she indignantly turned her back in the face of the precocious youth, who straightway resumed his old position. He had been sitting on his father's knee. —Truth.

His Regret. The two tramps had been wandering about from back door to back door in a useless search for a bite, as almost every place they visited was closed for the summer. "Anybody at home?" inquired Willie, waiting in the alley as his friend came out. "Naw," was the disappointed response. "Where are they?" "Gone to the World's fair." Willie sighed.

"Brother Walker," he said sadly, "when I think how this World's fair is ruining our business, I almost wish Columbus hadn't discovered America." —Detroit Free Press.

Explanation. An Irishman went to a lawyer with a case, but the attorney wanted a retainer. The Irishman was poor, and finally the lawyer said he would take the case on contingent fee. It was settled, but the contingent fee part of the agreement bothered the client. He confided his ignorance to his friend Paddy, and asked for an explanation: "An it is the meanin of a contingent fee yer after knowin? Sure, I'll tell ye. A contingent fee means that if ye lose the case the lawyer gits nothin; if ye win, you get nothin." —Green Bag.

Not Her Fault. An old woman who kept a "village shop" and postoffice combined in a remote country parish was continually impressing upon her customers the fact that she always sold the best of everything. One day a lady walked in to purchase some stamps. "Dear me, Mrs. Fell," she said as she proceeded to stamp her letters, "I cannot make these stamps stick." "I don't know why, I am sure, mum," replied the offended Mrs. Fell, "for I always keep the very best." —Tit-Bits.

"Quite Apparent." Very Effective. A certain French surgeon and professor of medicine, dissecting one of his patients at a clinic one morning, who he asserted, had died of internal inflammation, a certain process of which he contended was the cause of every disease, was unable to find a trace of it. He explained the circumstance to his pupils thus: "Messieurs," said he, "our mode of treatment, as you see, was thoroughly effective. Our patient is dead, but he died—cured." —Bulletin Medicale.

Filial Obedience. Mrs. Brown (angrily)—Didn't I caution you not to make a noise with that horrid tin whistle? Little Johnny (quite crestfallen)—Why, ye told me to. Mrs. Brown—You naughty boy! You know very well he didn't. Little Johnny (pertinaciously)—Oh, yes, he did, ma! I asked him to buy me a bicycle, and he said I should have to whistle for it.—Yankee Blade.

Society Note. Wife (at an evening party)—Don't you think, dear, that Miss Alice has something manly about her? Husband (after a glance at the young lady in question, who is sitting in a remote corner of the room in close proximity to a devoted admirer)—I perceive nothing except the arm of that dude, Gus de Smith. —Texas Sittings.

It Was a Chicken Bone. "Coms here," said the old maid to her false teeth; "I have a bone to pick with you." —Truth.

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