

WEEKLY GRAPHIC.

1.00 PER ANNUM

KIRKSVILLE, MISSOURI, FRIDAY, DECEMBER 18, 1896

VOL. XVII NO 38

THE MISTAKEN LETTER

CHAPTER V.

At the corner she stopped and took hold of the fence, leaning heavily against it. The little bag fell from her hand and lay half hidden in a drift of fallen leaves. Her face was white and cold, and her eyes were dark and wide like those of a dumb creature that is suffering.

Coming toward her under the brilliant maples, was Miss Bascom. She was walking along quickly her rich gown falling in deep folds about her, her soft curls showing like frosted silver under the rim of her velvet bonnet. Her visit had been a pleasant one. She was smiling. The smile brightened when she saw Polly waiting at the corner, for she was not yet near enough to see anything unusual in the girls' appearance.

"Polly heard the soft rustle of the silk gown, but she could not look up. Her eyes were fastened on a group of garnet chrysanthemums just inside the fence. She noticed, as we all notice some trivial thing when a great trouble is upon us, the gracefully curved petals, the half faded, brown edged leaves, the delicate, spicy fragrance of the lovely flowers, and she saw lying just under the flowers on a cold hard stone walk, a dead butterfly. A poor, faded, broken thing, the sport of every passing breeze. A queer little smile curved her stiff lips as she turned to Miss Bascom, who had stopped at her side.

"Why, Mary, my dear, what has happened?" Miss Bascom exclaimed, raising her hands in alarm.

Polly's lips moved, but no sound escaped them. She raised her frightened, pleading eyes to the startled face.

"You are sick! Come in. Lean on me. I can't think what ails you." And she led the girl back, for Polly, struggling with the faintness that had come upon her, had no power to resist the gentle authority.

Miss Bascom said nothing more until she had placed Polly in one of the deep hall chairs. She was about to ring for Juno when Polly raised her hand in protest.

"Don't, please don't!" she said. "But somebody must come. You are very ill, my child."

"No. Just wait a moment. Open the door, please—the door of the little green parlor."

"Why Polly, I declare you frighten me. Why must I open the door? You don't want to go there, do you?"

Polly shuddered. "Let me call Juno to take you to your room; and Ruel must come at once. I am frightened and uneasy."

"Forgive me, oh, forgive me! I was so ignorant—I did not mean—"

She stopped, for the door had opened and the strange woman was standing before her.

Miss Bascom drew herself up proudly. "May I ask, madam, what this intrusion means? Permit me—"

"Then you do not know me?" "Unfortunately, madam, I do not."

"Won't you tell her? You said you would plead for me. I was afraid you were going away. Tell her who I am."

The woman turned pleadingly to Polly, but the girl sat white and dumb.

"Then I must tell you. I am Mary Brown, your sister's daughter."

"You! Oh, no. This child is my niece; why do you come to me with words like these?"

"They are true words. I am your niece, and I can prove it. I am prepared to satisfy you of my identity. There are persons in this city who knew me as the wife of Roy Willis, and doubtless there are many who have seen me on the stage—"

"Hush!" "Not until I have asked you once, only once, to help me. I am sick and I have neither money nor friends. They always give out at the same time," she said with grim humor. "You can turn me off for my own sake, or you can help me for my mother. Miss Ruth Bascom which shall it be?"

She stood proud and handsome before the astonished little old lady who stared blankly at her.

"Then who is she?" Miss Bascom asked, looking from the dark, faded face of the woman to Polly.

"She? Why, how should I know? I supposed she belonged here. The sight of me has upset her."

"—she came to me as Allie's daughter. I—" Miss Bascom stood before the motionless girl, helplessly wringing her small wrinkled hands.

"Then you are an impostor!" The tall dark woman turned to Polly and the girl covered before her.

"How is it? I cannot understand," Miss Bascom said, holding out her hands to Polly.

"I got the letter and—the check. I—," Polly began, but the strange woman screamed excitedly:

"A letter! A check! And they were mine. They were sent in answer to my appeal. Do you realize your danger? You are a forger! Even I have not stooped to that. May be I didn't dare," with a short laugh, "but any way, I haven't that on my list. A forger and an impostor! A little baby like you. But you shall suffer for this. You shall pay dearly for keeping me out of my rights so long. You—"

But the tall form swayed and the woman fell to the floor.

In the confusion that followed, Polly slipped away. Her traveling bag was where she had left it in the drift of autumn leaves. Gathering it up she hurried away. The fresh air in her face revived her, and the instinct of self preservation made her strong. Her heart beat fiercely; what would this terrible woman do? where, in all the wide world could she find a hiding place? A place where a girl, friendless and poor would be safe? And then she thought of the hated little western home and longed for its shelter.

Miss Bascom sat alone in her room. The night was warm as in June, but a fire burned on the hearth and she sat quite near it. Once in a while Juno opened the door noiselessly and peeped in. Her face wore a look of deepest distress and anxiety.

"Wish Mars Ruel come on," she said as she was about to close the door.

"Juno!" "Yessem!" "See if she needs anything, please."

"I is, Mis'."

It was something to hear Miss Bascom speak. For hours she sat like this, shivering by the fire.

Juno opened the door across the hall. The light was very dim, but it showed the pale face of the woman who lay upon the bed. The dark, restless eyes were closed.

The negro woman looked at her. "I wish you hadn't never come," she said under her breath.

The street door opened and Dr. Berkley entered. He was whistling softly like a happy school boy. Juno hurried down to meet him. She felt that it was no time for whistling and looking happy. She must put a stop to that.

"Mars Ruel, don't make no fuss, child," she said, with a solemn shake of her tall turban.

"Why, aunt Juno, what has clouded your usually bright face? Is any one sick? What's the matter?"

"No, sir, nunner us ha'nt sick. I don't count outsiders. I been awaitin' fur you, honey, we all is."

"Never mind. I don't want any supper."

"Hit wasn't that, honey."

"What is the matter?" He passed her before she could answer and went to his step-sister's room.

"Ruthie, what is the matter? Where is—," Miss Bascom turned to him and the words died on his lips.

"What has happened? Tell me!" "Oh, Ruel, how can I?"

"Is she hurt or—dead?" "Ah, my boy, it is worse with you than I feared. After all, a man is only a man! I thought you were safe—doubly secure. And yet—"

"Never mind that, Ruthie, tell me what has happened."

"Ruel, she is gone!" "Gone?"

"Yes. She is an impostor, Ruel and not my niece. To-day Allie's poor child came to me. The poor, ruined thing. And she left. How could she deceive us so?"

Dr. Berkley sat down, his hand to his forehead. "I don't think I understand, Ruthie," he said.

"I'll try to tell you just how it was, but I dread it for you. It is worse than poor Lina Dwight—worse than any thing. You will have no faith in women now. It almost killed you when Lina deceived you and cast your love aside—"

"That is past, Ruthie; what is wrong now?"

"I came home to find a strange woman waiting for me. I can't recall all she said—I was taken by surprise; she claimed to be my niece, and she has a locket with my own picture in it, and it belonged to Allie; and she is gone; at least she is not here and a few of her clothes, Juno tells me, are missing."

"Gone! That helpless little creature! Do you mean it, Ruthie?"

"I don't suppose she is so helpless, Ruel. She must be a wicked adventuress. I hope, my boy, that you will not go back to those dangerous views."

"How can you think of me at all? What has been done to find her?"

"Nothing. I hope she will escape. Of course she is nothing to us."

"There is some mistake. Have you tried to find out what it is?"

"There is no mistake, Ruel. I saw it all, as soon as I could collect my senses after the shock. It is hard to think of her as a wicked woman. I am glad so few people knew her; there need be no sensation. Mary is very ill. I think you must see her."

He sat still, his face in his hands.

"Will you see her, Ruel?" "Send for Harrold. I am not fit to see a patient."

He got up and left the room. All night long he walked up and down the dimly lighted hall trying to think. It was hardly light when a messenger came from the hospital and asked for him.

"I can't go," he said, turning away.

"I'm sorry, sir, it's the old woman. She's going, doctor."

Dr. Berkley put on his hat and went out. The early breeze cooled his burning brow. The stillness of the morning was restful to his aching heart.

He was just in time for the solemn last words. When it was over he went through the wards.

"You are better, this morning, Mr. Slocum," he said, stopping at the last cot in the row.

"Yes, doctor, I think I shall be spared to carry on the good work a while longer. But I realize as never before the uncertainty of life and the necessity of a careful preparation for death. The wine has been a great comfort to me. It is a good creature of God, and like Timothy of old, we may take a little for our stomachs' sake. Thank the good sister who sent it to me."

Dr. Berkley started, and the hot blood throbbled in his throat. This man knew the poor child. Had she been afraid of him?

The sick man went on; "Now that I am better, I want to ask you about a friend of mine, who,

if I mistake not, resides in this place. I knew her in a little western town called Morrisville. I was preaching there at the time, but my throat gave out and I yielded the place to a younger brother and took this book agency. I am working my way southward for the winter."

"But your friend?" "Ah, yes. She came here to live with relatives. Her name is Mary Brown. She was known as Polly, among her friends. I knew her father; he was an ungodly man but her mother was a good woman."

"But she—the girl who came here?"

"An, yes. A good girl, in a way. Well meaning, but rebellious. She hated her life—the work and the poverty and all that, I could not convince her that God had put her just where she was. I hope she is happier now. I was glad for her when the letter from her aunt arrived. The name I cannot recall, though I read the letter."

"I know her," Dr. Berkley said, passing on.

He had found out the mistake. He saw it all, now. Poor little girl. How frightened and troubled she must be. How could he begin his search without creating the sensation his sister dreaded? And yet he must find her. Perhaps she had left some message for him. He hurried home, and himself went to her room. He found Juno there. She had no message for him.

Miss Bascom was still in her room. Dr. Berkley told her what he had learned.

"Oh, Ruel, to think that I have done this thing! It is all my fault and here I've been blaming everybody else. You know I lost Mary's letter and could hardly decide whether the address was Morrisville, or Mooresville. I sent my letter to the wrong town and this poor child thought it was intended for her. How she must have suffered when she knew."

[TO BE CONTINUED.]

DECREE OF THE COURT

In the Matter of the Assignment of Alex Doneghy, R. N. Ringo, Assignee, Hearing of Objections to Final Report and Settlement of Assignee.

Following is the opinion and decree of the Court, Hon. E. J. Broadus, special judge.

The answer says: "Without understanding the import of the order he retained property to the amount of \$129.99."

Here is the order of the judge: Now, in the absence of this answer that would be the issue in this case, whether or not this order did permit him to sell at retail, I am inclined to think that he had a right under this order, from all the facts and circumstances surrounding, to sell that way, because of this language: That he be permitted to sell at private sale, to sell the whole of the said stock of goods and fixtures in a lump or any line of said goods separately."

It is known to the Court of course, and all the facts show that Mr. Doneghy was in the retail and not in the wholesale business. Of course I don't know what was in the mind of the judge. I do not say, however, that he contemplated that this business might be continued at retail. In the meantime, however, the assignee might, within his discretion, sell by wholesale or retail. He is permitted to do it if he wants to. In view of the fact that this was a retail store, in order that he might sell at a private sale for cash, the Court said that he might be permitted to sell at wholesale. This seems to be in contemplation by the judge, or that he might sell at retail if he wished. I am somewhat inclined to believe that that will be the construction the upper court will put on it.

As to the other question. Suppose we admit that he had no right to sell at retail; that this sale at retail was in violation of the order of the court. Then we come to the merits of the case. It is the

business of the Court to arrive at substantial justice and the law of a case at the same time. The facts show one thing very clear to my mind; that no one has been injured by the act of the assignee—nobody has been injured. It seems there has been no substantial injury received or sustained by any party to the suit. Now, as to the creditors; they have not been injured by the action of the assignee, and I think all the facts in the case show, possibly, Mr. Doneghy has not. In the first place, these goods were valued at \$13,000 and sold for \$9,000. The valuation put upon them by the appraisal was \$13,000. Now, suppose it was true that in violation of the order, \$129.00 worth of these goods were sold—were sold wrongfully in violation of the order. The assignee upon being informed that it was a probable violation of the order notifies these would-be purchasers of the fact and renders to some of them an invoice of the goods sold, notifying them if they purchased they would take the money instead of the goods at the invoice price—not at the invoice price—but at the invoice price but at the appraised price. The party who purchased and who had the largest bid was bound to take these goods and would buy them with the understanding that the money would be turned over instead of the goods—that the money would be turned in at the appraised price. How is anybody injured by that? There is no bidder that complains except Mr. Mills. He intimates that if it had not been for those goods taken out—this \$129.00 worth of goods taken out—although he was informed all about it—\$100 worth, about, he said—he could not say whether it was above or below that amount that was taken out—if he had known of it, having had full access to the appraisement, he would probably have bid \$600 or \$800 more. Now, his bid was \$8,000 and something—\$8,825.

Now, he says he could not find out exactly; he did not examine this appraisement sufficiently to advise himself of the exact amount of goods taken out. And he was suspicious on that ground and he did not buy.

Now, there is no complaint by the other bidders—no one except Mr. Mills.

Now, that is the only evidence in this case that tends to throw suspicion upon the transaction. The other evidence in the case, the conduct and bearing of the assignee doesn't carry that out at all.

Now, it appears when first notified he at once stopped the sale, according to the Court as construed by Mr. Mills. Then he notified all the parties and he said he told some of the bidders. It is contended here that he favored Hart that Mr. Hart was induced to bid more; still Hart did not become the purchaser. While the assignee probably might have been wrong in this action in relation to the other bidders, because to give away a bid to one bidder would be to the disadvantage of the one who had bid, yet he was under no obligations to refrain from doing this. He was not required to receive sealed bids. He had a right to go into the open market and say to Mr. Mills: "What will you give?" or to Mr. Hart: "What will you give?" He had a right to state that such a party had offered \$8,000 or any amount if he wanted to that was bid. He had a right to tell what the bids were, because he is not like a public contractor receiving bids under seal. He was under no obligation to do that. These bidders, however, might have thought he was taking an unfair advantage of them, but he was not. This was no secret sale. It was a public and open sale and he had a right to tell any other bidder what another bidder had bid if he wanted to.

Suppose, now, he had not sold these goods to Mr. Ecnert—suppose he refused to sell and some

time afterwards tried to get another sale and these goods hadn't brought \$9,000; suppose they only brought \$8,000. This estate would have to stand the loss, because he was not bound under the order of the Court and by his duties as assignee to receive a bid of \$9,100. He might have refused that and exercised discretion. If it had been shown to the Court that he had exercised wise discretion then the estate would have had to bear the loss.

But suppose that had been called into question, and the creditors had said: "You have not exercised precaution as a careful and prudent man ought to under the circumstances and the estate thereby lost \$1,000." Well, if it was shown that the goods were appraised by a competent merchant—as this gentleman from Macon (C. D. Sharp) seems to be—who advised him to take the amount he got as the best thing he could do, the estate would have had to stand the loss of \$1,000.

The law only requires a man to exercise discretion as ordinary, prudent men would exercise in conducting their own business. He is not called upon to exercise a high degree of discretion any more than any body else. He is only required to exercise such diligence as a person of ordinary prudence would exercise under ordinary circumstances; like a prudent and diligent man would exercise in his own affairs; no more nor less.

Now, they say these goods are worth \$13,000 by appraised value. Candidly, some witness testified for the assignee that they were practically new. What value did they have as new goods? Pat that value on them and then discount them to the value of \$13,000. Now, it is contended that it cannot be done for the reason that these goods were thrown upon the market to be sold at wholesale to the purchaser. If they must bring the valuation the appraisers placed upon them the assignee would only have to advertise these goods for sale at \$13,000 the appraised price and no other sum. Then he would have a cash value to go by and if he did not get that he could not sell at all; there would be no sale for the goods. That would be the situation in that event. But the fact is he must sell, he must sell at such a price as he can get. He cannot hold these goods; he cannot retain these goods. The order of the Court is imperative that he must sell them—that is at a forced sale. It is a compulsory sale. He cannot hold these goods for six months or a year. If he did then the Court would hold him responsible for negligence.

Now, has it been shown in this case that he could have sold for more than he did sell? That is the case. Has it been shown that he could have sold for more than he did? If he could then he is liable and he should be charged with the difference. But there is not a single witness that testified that he could have sold these goods for more money than he got.

Well, now, you take into consideration another thing; there is another view of this case. It is a part of the history of the country and a part of the law of the land and the courts take knowledge of it. What does a bankrupt sale signify? It signifies that goods are thrown upon the market; not voluntarily where a party may withdraw them if he does not get the proper price, but they are forced upon the market and bound to sell whether they bring a good price or not. That is what ruins prices on goods like these.

They cannot be held. They must be sold. They are forced upon the market and these purchasers, such men as Mr. Eckert and Mr. Hart, bid for bankrupt stocks all over this country, as far over as Clay county. They take these facts into consideration, that these bankrupt prices and they bid with that view and when they buy the goods they expect to sell them as

a bankrupt stock, at low prices. These stocks of goods you will find offered for sale everywhere all over the country. These bankrupt stores under-sell all the regular stores in the country. You find them everywhere in all the towns.

It appears to me that this man, Mr. Ringo, acted in perfect good faith.

"Now, in the New Jersey case, to which I have been referred, the trustee acted in good faith but he acted willfully; he acted in contravention to the powers of the trust and against his express agreement to consult with three other persons; that was a part of the agreement. He thought it was best to do what he did, but he had no right to do so without consultation with the persons named. He thought his act was best, but he acted willfully and outside of the duties of the trust.

Now, here is this man; if this was a wrongful act in selling this \$129 worth of goods, it was not a willful one; he did not act willfully; he acted in good faith. If it was against the provisions of the order of the Court and he knew it he had no right to sell it at retail, he acted willfully and in violation of that order. Notwithstanding it might have been in good faith, he may have been held responsible for the act.

This is the distinction between the New Jersey case and our case here, because it would not have done for him to say: "I don't care about the order of the Court," and gone on in his own way. If he should misinterpret the order and act in good faith, the act produces no wrong, injures nobody, then of course it is a mere omission of duty without any damage to any body.

But did he? That is the question. Even if he was restricted to sell by wholesale or in a lump, even if it be construed that he had no right to retail or dispose of some of these goods, when he finds out he had disobeyed the order of the Court he said to the purchaser: "You take these goods; it is true that some have been disposed of at an appraised price, but here is the inventory. You are the highest bidder; you take these goods the same as if they had not been sold and I return you the money, the price paid, in place of the price of the goods." In that case I don't think there is any substantial harm done. At the most it is a mere technicality and courts don't regard technicalities where there has been no damage done.

That is the best view I have of the case, gentlemen. Where nobody is harmed I think the court ought to protect the party. It seems to me that that is the correct view of it. I don't know anything about the parties. I don't know anything about Mr. Ringo nor what kind of a man he is nor what kind of a man the plaintiff is, but it seems to me that the assignee has acted with more than ordinary prudence.

It is true he let Reed go in there sometimes, but Mr. Reed seems to be a substantial man, a man of means; president of a bank; a man of property. On the witness stand he seems to be a straight forward man of good sense. There is nothing to show that he could not be trusted. The assignee had a right to trust him. He had a right to send anybody in there. He had a right to turn over the keys to anybody, but if he turned them over to a party who abused his trust he would have then been liable, but it don't appear that Mr. Reed abused anybody's trust.

I think the justice of the case as well as the law is on the side of Mr. Ringo. The objection of the assignee is dismissed and the judgment of the court is that the final report of the assignee be affirmed.

To Cure a Cold in One Day

Take laxative Bromo Quinine tablets. All druggists refund the money, if it fails to cure. 25c. For Sale by B. F. Henry.