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**JUDGE  
BRAXTON**

**American**

**Six Short Stories**

# **Judge Braxton**

**American**

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# **Judge Braxton**

**American**

**by Joseph A. Altsheler**



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## **From the Publisher**

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This is a collection of six short stories. The first five were originally published individually in a series of magazine articles. Collectively they were considered as part of a series “Judge Braxton—American.”

About a year later Mr. Altsheler published another story which featured the same main character, Judge Braxton. So we decided to enlarge the series to six stories.

The Judge Braxton character also appears in a novel by Mr. Altsheler. Although the Judge is not the main character, he is nonetheless an important part of the novel “The Golden Leaf.”

“The Golden Leaf,” by the way, was first published in 2013. The manuscript went unpublished for nearly a century. The Publisher obtained copies of a typewritten manuscript with handwritten notes and made it into a book.



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## **The Insistence of Fleming**

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Judge Braxton eased his collar and began to ply his palm leaf fan with more industry. It was warm, it was unusually warm, when the summer term of the circuit court was held at Groveton, but the Judge loved the sunshine, and he was thinking of his client, not of the temperature. He was sitting in a cane bottomed chair on the porch of the old court house in the central square of the town. Groveton was a thriving little place, and the judge could tell the age and family history of nearly every man, not only in the town, but in the county as well.

He would pause now and then in his thoughts, to hail with stentorian voice some old friend, whom he saw passing on the other side of the square, but in the main, his mind remained with his client, Jim Fleming.

The Judge, as he was universally known in a dozen counties, although he had served only one

judicial term, and that on the county bench in his young days, was a smoothly shaven, large man of sixty. His features were of the fine, classic type that one often sees in Kentucky, and his head was crowned by a mass of thick, beautiful silver gray hair. The blue eyes were very keen and kindly.

The Judge was not by nature a judge; he was essentially a pleader, and for the defense. He had no heart for the prosecution. In his opinion no man was wholly bad; crime was usually due to circumstances, and this opinion was a constitutional part of him. He had practiced law forty years in a region that furnishes many deeds of violence, but he had never yet lost a client by the rope.

But the Judge had a case of a new kind, one that troubled him sorely. He was to save a man from himself. He must secure the acquittal of Jim Fleming who had already confessed to the murder of John Goodson, and although he had taken men's necks right out of the noose, he did not see a way now to clear his client. Yet it seemed a pity, a great pity. Fleming was a good man, one of the best that he had ever known, and

his had been a hard life; luck was always against him.

The junior counsel for the defense, Mr. Mansfield, a young man of thirty, came out of the county clerk's office, and took a chair beside the Judge. Noting the troubled look on his senior's face, he kept silent, and Judge Braxton was the first to speak.

"Well, son," he said at last—he addressed nearly every young man whom he knew well by the title of "son," "what do you think we'd better do?"

Mr. Mansfield hesitated a little. He had great respect for the Judge's opinion and he did not like to take the lead. But as his senior was waiting for an answer he replied slowly:

"Fleming has confessed; we can't get around that. It seems to me that there is nothing left for us but to throw ourselves on the mercy of the jury. Everybody knows Fleming's story. He's been in love with Goodson's wife twenty-five years—years before she was married, and every year since."

The Judge nodded, but said nothing.

“Everybody thinks that Goodson met his death in a row over his wife,” continued Mr. Mansfield, “and that Fleming says it was a land quarrel in order to protect her name. More than half of them think Goodson good riddance, but the law is the law.”

The Judge threw down his fan indignantly.

“Son,” he exclaimed, “you know what kind of a man Jim Fleming is! Jim is no fashion plate, but he is as pure in act and mind as anybody that ever breathed. He wouldn’t let himself get into any quarrel over Mary Goodson; he would never go near her. He just loved her in silence and helped her in every way he could. Why, I’ve heard, that when Goodson was in town here drinking, and his crops were going to ruin, Jim Fleming would often slip out at night and do the work for him, that Mary Goodson and her boy might have food and a roof.”

Mr. Mansfield nodded.

“It’s true.” he said. “I’ve heard it from more than one source.”

“Now you answer me! Are murderers made from material like that?”

The Judge spoke with a fierce energy that showed how all his nature was stirred. The junior counsel looked sympathetic, but shook his head.

“Nobody thinks that Fleming is like other murderers,” he said. “Nor is it fair either to call him a murderer, but the very fact of his worship of Mrs. Goodson is what makes the case against him most convincing. Goodson knows of it—he gets jealous at last, although there is no cause; they meet, Fleming is angry, too, because of the long neglect and ill treatment of the woman he loves, and the result seems almost according to nature: Fleming confesses; he refuses to hire counsel; we are hired by his friends, you know, and we are defending him in spite of himself.”

A sad little smile passed over the fine features of the old Judge.

“What you say is sound logic,” he said, “but a man learns in time, especially if he’s a lawyer, that people are not always ruled by logic. The most probable things are the most improbable

sometimes, and I think we've struck one of that kind now. I can't believe Jim did it; it wasn't in him."

"At any rate he won't hang," said the younger man; "no jury would ever send him to the gallows. I think, Judge, that you will have to make one of your most moving appeals. Tell 'em how Jim Fleming watched over Mary Goodson all the twenty years of her married life; how his mind rebelled at the cruelty with which he saw her treated; how by chance he met Goodson and he couldn't stand it any longer. There's a chance for one of your greatest speeches, Judge, and it's safe to say that they won't give him more than two years."

"He ought not to have even two years," said the Judge moodily. "Jim says he did it, and I suppose I should believe him, but I can't."

"Let's go see him again," said Mr. Mansfield, "and you put him through another cross examination. If he's telling what isn't true, we should be able to trip him."

"It isn't a bad idea, son," said the Judge, "and,

in any event, we'll lose nothing by it."

The two walked through the courthouse yard, the freshest and greenest spot in the town, well shaded by forest trees, and then into the sun-burnt streets. Judge Braxton nodded to people as he passed; and always he was saluted respectfully as "The Judge."

The jail, a gray stone structure, old and mouldy, was on the low ground in the southern part of the town. In one of the cells on the ground floor, James Fleming, accused of the murder of John Goodson, was confined. Small boys, even then, were gazing with awe at the window of his cell, hoping that his face would appear there.

The jailer at once led the way to Fleming. An accused man always has the right to see his counsel.

"It isn't hardly worth while to guard him," said Jailer Walters, who was fat and good natured, "I never saw a milder fellow. I don't think he'd try to escape even if I was to set every door of the jail wide open an' go away. He must have been

mighty stirred up to kill John Goodson.”

Then he glanced at the Judge and said in haste:

“Excuse me, Judge Braxton, I forgot just then that you was defendin’ him. I merely was savin’ what people all over the town are sayin’.”

“It’s all right, Tom.” said the Judge kindly to Walters; “I know the gossip.”

The jailer threw open the door and let them into Fleming’s cell. Then he quickly withdrew, closing the door behind him. He had given to Fleming the largest and lightest cell in what was known as Murderer’s Row, and he had even gone so far as to leave a pitcher of ice water for the prisoner, an act of kindness that the Judge did not fail to note.

Fleming, a man of forty-five with a thin, worn face, was sitting by the window, where he might inhale the puffs of fresh air that came between the closed iron bars.

He looked the ordinary farmer in dress and bearing, but there shone in his eyes a quality that separated him from his kind, and which may he called by so strong a word as spiritual. It was a

compound of resignation, gentleness, and sympathy and the keen-eyed Judge, who had known Fleming all his life, knew, too, that the look had been there since childhood. It contained no suggestion of weakness: rather the look of one who was willing to suffer, because he was strong enough to do so. He glanced up at the sound of footsteps, and welcomed his counsel with a quiet smile

“It’s good of you, Judge, and Mr. Mansfield, to come to see me here,” he said. “I know I’ve got friends, an’ no matter what I’ve done it braces me up for anything that may happen.”

The rough, worn face was transformed again by a slow smile of singular sweetness.

“Yes. you’ve got friends, even if you don’t want ’em, Jim Fleming,” said the Judge somewhat sternly. “I never thought the time would come when I’d have to defend you in spite of yourself.”

“It ain’t any use, Judge,” said Fleming earnestly. “What’s done is done an’ all the powers of earth can’t undo it.”

“You wouldn’t say that if you were acquainted with the law,” replied the Judge with sarcasm; “at any rate, Charlie, here, and I want another talk with you. We are your counsel and you must answer our questions even if we do hurt your feelings a little now and then.”

The look of resignation deepened on Fleming’s face, but he regarded both the senior counsel and the junior counsel with sympathy and appreciation. Certainly he was the least anxious of the three.

“We want you to tell us again just how it occurred,” said the Judge gently. “I know, Jim, it’s a hard thing for you to have to go over it again, but it’s necessary.”

Fleming glanced through the bars, towards the white walls and roofs of the town, but when he looked back his face was quite calm, and his eyes met those of the the Judge firmly.

“There ain’t much to tell; mighty little in fact.” he said in steady tones. “You see. my farm and Goodson’s lay alongside each other, an’ he set up a claim that one o’ my fences run over on his land

two or three yards. It wasn't true, but we met when nobody else was around and there was a quarrel about it. Maybe he wouldn't have said anythin', but I guess he'd had two or three drinks an' we went at it. Then drinkin' men aint ever sound about the heart, you know, Judge, an' when I hit him once, good an' hard, he fell down an' lay awful still. Then I got scared over what I'd done an' run away. But I had to confess, Judge. I just couldn't stand it with the killin' of a man on my mind an' nobody else knowin' a thing about it."

The Judge studied Fleming's face. He had a natural gift in reading the hearts of men, and it had been cultivated by forty years of arduous practice, but he saw no expression, save resignation, in the eyes of the accused.

"Where did you hit him. when you gave him this fatal blow?" he asked at last.

Fleming hesitated a little.

"I couldn't rightly say," he replied. "We was all mixed up in the scuffle, but I think it was on the temple or thereabouts."

"He had no mark on his temple or on his face

such as a heavy blow would certainly have made.”

“Wa’al now, that’s curious, for I surely did hit him hard,” said Fleming innocently.

The Judge regarded the prisoner with a puzzled expression. There was a soft place in his heart for Jim Fleming. He knew the man’s worth, and how hard and bare his life had been. The Judge had the gifts of imagination, insight, and sympathy, three qualities that always made him a flaming sword for the defense. But then and there he took a resolution not to spare Fleming’s feelings for the present.

“Jim,” he said very gently, “do you know that nobody believes your story—that is, the part about a quarrel over a fence—not even the prosecuting attorney believes it. The whole town and the country, too, says that this man attacked you because all your life you’ve been in love with his wife, Mary, and a good woman, too, God bless her, who should have been your wife instead of John Goodson’s.”

A deep flush overspread the tan of Jim

Fleming's weather-beaten face, and he trembled violently.

“Judge,” he exclaimed, “I hope to God that nobody is goin’ to drag Mary’s—Mrs. Goodson’s name into this! Can’t they spare a poor woman that’s already suffered so much?”

“The people have no words of blame for either Mary or you,” said Judge Braxton in his gentlest tones. “Jim, it’s no secret from anybody how you stood by her. They know that you’ve protected her; they know how in the night you’ve done the farm work that John Goodson did’nt do in order that Mary and her son might have food and shelter.”

Fleming raised his hands in vain protest.

“It ain’t so,” he stammered.

“O yes it is so,” exclaimed the Judge, bearing him down with the rush of words. “Don’t waste your time trying to deny it! Now, Jim, Charlie and I are your friends as well as your counsel. Tell us the whole truth! I can guess the story! No, it’s no guess, either! I can fairly see it! Tell us how that drunken wretch got mad at you because

you had loved his wife, loved her at a distance with a love that you couldn't help, and that's a credit to you! How he attacked you, how he pushed a fight on you, and when you struck him a blow that you had to strike he just crumpled up and died, because his heart action was already ruined by whiskey. With your story, Jim, we can make an appeal to the jury that will draw water to the eyes of every man on it. They'll acquit you by acclamation."

Water was already in the Judge's own eyes. His sympathetic heart was deeply moved, and he did not doubt that he had constructed the right story of the tragedy.

But Fleming shook his head and smiled sadly,

"You're mighty good to me, Judge," he said, "but, I've been tellin' you gospel truth. I'm goin' to swear to it on the stand, an' I know what a sacred thing an oath is. An' I want to say again, that I hope nobody will drag in Mary's name, not even for the best purpose in the world: I just couldn't stand it. Judge, to have it hacked about in the court."

The Judge looked at him, helplessly and hopelessly. He still felt a certain amount of incredulity, but he did not know how to reach this man who seemed to expect nothing and who asked nothing.

“Of course, Jim, if you want to stick to that story,” he said at last, “we can’t make you change it.”

“No, you can’t make me change it, because it’s true.” said Fleming, smiling his gentle smile. “An’ I tell you again, Judge, it’s powerful good of you and Mr. Mansfield to work so hard for me, but I guess the law will have to take its course. I’ve thought it over lots of times now, an’ I’m reconciled. I’ve already passed over the worst of it.”

There was nothing more to be said and the two lawyers left the jail. The twilight was coming, and from many windows of the pretty town lights twinkled through the dusk. Judge Braxton was vexed and silent and the junior counsel did not interrupt him for some time, as they walked on together.

“Well, Judge,” Mr. Mansfield finally said, “what do you think of it now? It seems to me that Fleming is telling the truth.”

“I don’t believe it! I don’t believe it!” exclaimed the Judge vehemently, but he added sadly: “We’ve no way of disproving it, and I suppose we’ll have to throw ourselves on the mercy of the court, tell what a good man Fleming is, which everybody knows, and what a bad man Goodson was, which everybody also knows.”

The Judge went on alone to his home in the outskirts of the town, a high red brick house standing in wide, well-shaded grounds. He ate supper in silence, and his family, knowing that he was thinking of the case, did not disturb him. After supper he went to the back porch, where he often sat alone to smoke his pipe and to concentrate his mind upon evidence. Only his young daughter sat with him, and she offered a silent sympathy which was now the best kind to offer.

The dusk thickened into the dark and the

coolness of the night came down. A light breeze sang softly among the oaks and the elms, which were invisible at twenty yards, but the Judge sat hour after hour thinking over the case of Jim Fleming and trying to see a way.

His daughter rose at last and went to her room, leaving the Judge alone on the porch. Then a woman came out of the darkness, and there was a sound of some one crying on the steps almost at the Judge's feet.

"Mary Goodson?" he said. He could not see her face, but he knew her voice, and he could picture her face, too, thin and sad, worn like Fleming's, but with the same spiritual beauty.

"Yes. Judge, it is Mary Goodson," she said in a voice singularly soft and melodious, but broken now with spells of crying. "I've come to you for help."

"You want me to save Jim Fleming?"

"Yes, Judge."

"I'm already trying; hut how can I save a man who won't be saved?"

"He didn't do it."

“Ah!”

The Judge sat up straight and stiff in his chair.

“Then who did?”

There was a long silence and the Judge heard the sound of the woman’s low sobbing. But he said nothing. He was a man of wonderful knowledge and wonderful patience, and he knew that she was going to tell what she knew, be it much or little.

Fully ten minutes passed. Then the Judge saw her raise her head in the dusk.

“I don’t know all, Judge,” she said, “but I know a heap an’ I won’t hide any part of it from you. Jim Fleming wouldn’t of a purpose, harm anybody. He’s the best man that ever lived, an’ I, who am not his wife, say so. But I ought to a’ been his wife; I say that to you here, Judge. He’s loved me since I was a little girl, and I’ve loved him, too, but John came: he was bold an’ dashin’ where Jim was only shy an’ gentle. Jim said nothin’ an’ John spoke out. That’s how it was. I’ve never said all this before to a livin’ human bein’, but I’ve just got to say it now.”

She stopped, and again there was the sound of low crying“. Water came in the Judge’s own eyes, and his hand stealing out in the darkness softly touched the head of the woman bent down on the steps of the porch.

“Go on, Mary,” said the Judge at last, but in a tone of the utmost compassion.

“I’ve knowed all these years what Jim was doin’ for me,” she continued, “an’ it’s been a protection to me, like the shadow of a rock in a weary land that the bible tells about. When my boy came, I prayed that he’d grow up like Jim—not like his father, an’ I’ve been down on my knees more than once, thankin’ God because it looked like my prayer was comin’ true. Many a night I’ve looked from our house across the fields and seen the light shinin’ in Jim’s house, so much as to say that he was there, watchin’ over me an’ Harry, an’ would watch over us as long as we lived.”

She stopped again, but the Judge waited in patience and silence. He knew that this was not alone the story of the tragedy in the field, but the story of the tragedy of a woman’s life as well,

and in good time she would come to the case itself.

“John never paid any attention to it all.” she resumed, “an’ I suppose he didn’t care. Then he heard in the town about Jim workin’ on our farm at night, an’ a lot of foolish talk besides that wasn’t true. He knew it wasn’t true, but he was drinkin’ a lot an’ he got madder than a hornet. I was in the field huntin’ for a turkey and he come to me there. Oh, Judge, he called me names that no woman can stand, least of all from her husband! He picked up a stick an’ he made at me! He would have killed me, Judge, an’ I’m sorry now he didn’t, but my boy Harry, he’s eighteen, you know, was workin’ in the next field just across the fence, an’ he come arunnin’. He grabs his father, tears the stick out of his hand an’ throws him down on the grass. Harry’s big an’ strong and John hit the ground mighty hard. Then Harry left him there an’ took me in a hurry to the house because I had fainted. When I come to I told Harry that he must go away, an’ go at once. There was no tellin’ what John would do when he come back to the house. I couldn’t have my son

raisin' his hand against his father, even in self defense, an' I made him go, I gave him some money I had in the house and he started in an hour. He's with my kinfolks now, way out in one of the valleys of East Tennessee, an' he don't know yet that his father's dead. He'll never know just how it happened."

"How about John?" asked the Judge, "When did you find him?"

"Not till a long time afterward. He didn't come home that night, an' I didn't think anythin' of it—he often stayed out all night; but when he didn't come the next mornin' either, I had a terrible thought, an' I went out in the field where the scuffle took place. There John was lyin' flat on his back, stone dead. An' he'd been dead many hours."

The woman stopped again and wept silently.

"There wasn't any sign of a blow on him," she resumed at last, "an' I thought it might pass for a sudden attack of heart disease or apoplexy—you know how John drank—but that very afternoon, Jim, who wouldn't harm a fly up an' says that he

did it.”

“Why do you think Jim Fleming said it?” asked the Judge.

The woman suddenly raised her head, and, dark though the night was, the Judge saw that the movement was one of pride.

“It was to save me and my boy, Judge, you don’t know what it is, you can’t ever know what it is for a woman to be loved as I have been, by a man as good and pure as Jim Fleming. I can guess what happened. Our farm joins Jim’s. He was close by an’ saw all the scuffle. When Harry hurried to the house with me he come up an’ he saw John lyin’ there on the ground dead. The first thing that he thinks of is that Harry will be tried for it and then he thinks of me—of me, Judge! He makes up his mind, don’t I know Jim Fleming? Then he goes away leaving the body where it is, an’ when it’s found he says that he did it. Oh, Judge, how can I let him suffer for what he didn’t do.”

Judge Braxton made no reply, and again the woman asked her agonized question:

“An’ oh, Judge, how can I ever tell the court that Harry, my own boy, was the cause of his father’s death?”

“You can’t do it.” said the Judge decisively. “Besides it isn’t true. It was the man’s debased and evil life coming to the end that he had made for it. I’m Jim Fleming’s lawyer, Mary, but I’m not going to tell in his behalf the tale that you’ve told me tonight. You’d better go home. I will help Jim and you, too.

The woman melted away into the dark, and the Judge sat on the porch far into the morning. When he rose at last he turned his face in the direction in which the jail lay and he raised his hand to his forehead in a gesture of respect.

The senior counsel and the junior counsel visited the accused again the next day.

“Jim,” said the Judge, in his gentlest manner, “I know now how it all happened. You are shielding Harry Goodson, and his mother. You must withdraw your plea of guilty. I can save Harry, too; at the worst, it was but an accident

that occurred when he was defending his mother.”

Fleming gazed at the Judge in mild surprise, and when he spoke his tone was reproachful.

“Has Mary been tellin’ you about John’s attack on her?” he asked. “I saw a little of it before I come up, but they separated and Mary and the boy went to the house. I guess that’s what made Goodson so mad an’ when he saw me he just jumped in an’ thought he’d take it out of me.”

That helpless and hopeless look once more came into the eyes of Judge Braxton and he glanced at the junior counsel.

Mr. Mansfield shook his head and his gesture said clearly: “It’s no use.”

When they were outside again Mr. Mansfield said:

“He’s as innocent as you or I, Judge, but he’s afraid we can’t get the boy clear, and he’s afraid, most of all, that the woman he loves will be involved. Besides he’s fixed it so cunningly that even Mary Goodson’s story wouldn’t clear him, so long as he sticks to his own.”

“It is true,” said the Judge, and after a long time, he added: “Since he swears that he’s guilty we can’t do anything but ask for the mercy of the court, as you suggested. Perhaps it’s the best that things are going as they are; otherwise the world would lose one of the bravest deeds that I’ve ever heard of. But Jim Fleming is the only man I know who could do it.”

Fleming never veered a particle from his original story, but both the junior counsel and the senior counsel made moving pleas for him. Every man on the jury had wet eyes when the Judge made his great speech, telling of the high character of Jim Fleming, though he never once mentioned Mary Goodson and their love.

The jury brought in a verdict of manslaughter in the second degree, and the sentence was for only two years in the penitentiary, which with the usual commutation for good behavior would be reduced to about a year and a half.

Mary Goodson asked for an interview with the condemned before he was sent to the prison in

Frankfort, and she stayed with him an hour. When she came out she met Judge Braxton at the corner, and the Judge noticed a wonderful, glorified light in her eyes, that made her positively beautiful.

“Judge,” she said, “I’ve just been to see Jim Fleming, an’ I told him I’d marry him the day he come home from the penitentiary.”



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## Justice Intervenes

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Judge Braxton was weather-wise, as became a man who had ridden a troubled legal circuit a full forty years among the hills of Southeastern Kentucky, and the aspect of the noon sky, with those venomous little clouds over there just above the crests of the peaks, did not please him; it foreboded cold rain, cold wind, snow, and divers other things unpleasant. The Judge, so-called from that term on the county bench when he was a young man, but ever since a practicing lawyer, nearly always for the defense, was not fond of storms at any time: but now he had an additional reason to wish a quick and easy journey.

When the minute hand of his watch last passed twelve it marked the beginning of the afternoon before Christmas and the Judge, who had a numerous family, always wished to be right in the center of his tribe on Christmas eve. A difficult

case, now settled happily, had taken him into the wild mountains, but by hard riding he could reach a railroad station before dark, and then in two hours he would be in his own town, helping to decorate the huge Christmas tree, with young faces around him and happy voices in his ear.

The Judge, at the present moment, looked upon a prospect very different from that of his usual Christmas eve. All around him rolled the hills, bleak, sterile, shaggy with short bushes, and unlovely. Over them loomed a sullen gray sky that brought out everything bad and that hid everything good. Not a house, not a human being, save himself, was in site.

The Judge bestowed a few more anxious glances on the western horizon, where the venomous little clouds were gathering more size and venom. A chill wind blowing down from the peaks cut across his face, A short while before he had been uncertain whether it would be a cold rain or snow, but now it was certain to be snow. He rode steadily on for a long time, always growing more anxious, and at last the snow came, a peculiarly wicked, trying kind of snow that

enveloped him, now in little white whirlwinds, and then slashed across his face like the sharp edge of a knife. But the Judge was a plucky man, and he still had that vision of the Christmas eve, the glittering Christmas tree, and the firelight flickering on the wall. He struggled gallantly on, now turning his face sidewise to the wind and the snow and letting the horse pick the road.

It was slow progress, and the Judge, with a sinking heart, realized it. Also, his ears and his hands and his feet were growing cold, and he was not a young man. As the afternoon waned, it was borne in upon him, with painful certainty, that for the first time in a dozen years he would not spend Christmas eve with his family. He must seek shelter, and he must not delay the seeking of it, as the slow chill was creeping through his body. His decision taken, he let that happy Christmas vision fade quite away. A long life, spent partly in rough regions had taught him resignation, and he turned his mind from regrets to the question of shelter.

He knew the country, and despite the storm and the eternal whipping of the snow in his face, he was able to keep track of the locality. A half

mile farther on was the stout log house of old Jabez White, who had once been a successful client of his in the matter of a disputed cow and there he would certainly find fire, food, and a roof. Such things as those at such a time were not without consolation, and the Judge, stimulated by the thought of them, urged his horse to new speed.

The White homestead, securely anchored in a little cove, presently rose to view among the whirling flakes, and the Judge's tired horse raised his head and neighed; he knew nothing of Christmas eves, but like his master, he knew that food and shelter were at hand. The walls of the house were brown and bare, with every door and window closed, but a comfortable smoke rose from the chimney, and when the Judge knocked heavily he received a hearty welcome.

It was a girl, a trim handsome mountain maid, who opened the door, and she exclaimed in surprise:

“Why, it's Judge Braxton!”

“Yes, my dear, and I've come to spend

Christmas eve with your family,” replied the Judge gallantly.

Annie was only a child when he won the famous cow case for her father, but Judge Braxton remembered her well. She had certainly grown into a fine young woman, and he regarded her with fatherly admiration. Age does not necessarily dim one’s eye for beauty.

Behind the girl came her parents, full of voluble surprise and welcome.

“Why, Judge,” exclaimed old man White, “you’re a sight for sore eyes, an’ it’s a tall piece of luck for us to have you with us Christmas eve. It would have been a plumb risky thing for you to go on.”

“So I know, good friends, and I thank you for such a warm welcome,” said the Judge gratefully.

He brushed off the snow, and basked in the ruddy blaze of a big fire of hickory logs, while old man White put his horse in the stable and fed it. There was no constraint, the hospitality of the mountains was at his service, and he knew that these people were glad to house him and attend to

his wants. His coming was an event in their lonely lives, because Judge Braxton was a famous man in his own country, and to the houses at which he stopped he brought the sparkle of a kind heart and a cheerful optimism that let itself loose in effective speech.

Hiding his own disappointment, he exerted himself to please the Whites and gossiped briskly along with stories of the larger outside world of which these people knew so little. The snow and the wind still drove fiercely by and the night came down swiftly, thick and black. Looking out once at the angry blur, the Judge was devoutly glad that he had not persisted in his attempt to make the railroad station, and the savory odors that came presently from the kitchen reconciled him yet further to his situation.

He was surrounded by an atmosphere of warmth and jollity in which he could observe only one troubled note, and it was furnished by the handsome daughter Annie. The Judge, always a shrewd observer, noticed now and then an absent look in her eyes, and an anxious curving of her lips. "Something heavy is on her mind," he

said to himself with the decision of certainty.

“Set to, Judge! Set to,” called old man White cheerily. “This ain’t no great shakes by the side of what you’d have had at home, but you’ll find it powerful fillin’.”

“It’s good enough for the best man in the world,” replied the Judge sincerely, as he drew up his chair for his Christmas eve supper of tender chicken, juicy ham that would melt in the mouth, thin hot corn cakes overspread with butter, white biscuits and good coffee. The Judge loved his own people and their ways and he would not have exchanged his supper for any that the best restaurant in New York could furnish.

All sat at the table together and passed the food to each other. The three elderly people kept a constant stream of talk flowing, but the girl had little to say. The, keen-eyed Judge noticed more than once the troubled little twist of her lips, but he did not rally her about it. Judge Braxton had a delicate mind and he was not one to parade the woes of a young girl.

“Snow’s stopped,” said old man White when

supper was nearly finished, “and I guess from the looks of that strip o’ sky showin’ through the window there that it’ll be clear tomorrow.”

“And I can get to the station in time to catch the 8 o’clock train,” said Judge Braxton.

“Wa’al if you’re set on’t, you kin,” replied old man White with a twinkle in his eye. I guess it’s only natural for a man to want to spend Christinas day with his folks.”

“It certainly is,” said Judge Braxton.

They sat a while, talking before the glowing fire, and then all retired for the night—they go to bed early in the mountains. Judge Braxton slept in the sitting room, which was also a parlor and bed room, the old couple withdrew to a sort of alcove, and the girl disappeared somewhere in the half story under the eaves. Then the dying fire ceased to crackle, and stillness came over the house. After a little the storm subsided and the moon appeared on the landscape.

The Judge was very tired, but he did not sleep soundly. His nerves were still suffering from the strain of his long day’s ride, and after a while he

woke from his troubled slumber. Only a few coals yet glowed on the hearth and not a sound could be heard in the house.

The Judge closed his eyes again, but his troubled nerves would not let him go back to sleep; he had no premonition of any grief or danger, merely a weariness so great that it made his body ache and his eyes open again.

He had a thought presently, and he wondered why it had not come to him sooner. He had done a service for these people once, but their hospitality now came at a time when it was sorely needed, and this was Christmas eve. He carried in his saddle bags for his own daughters some pretty little pieces of jewelry, any one of which he could replace the next morning at his own town, and his mind reverted to a bracelet that would just suit the girl, Annie.

Judge Braxton rose from his bed, took his saddle bags from a chair, and, by the moonlight filtering through the window, selected the bracelet. Then he scribbled on a piece of paper from his note book the words: "For Annie, Merry Christmas," and put note and bracelet on the

mantel over the fireplace.

The mantel was near the window, and as Judge Braxton turned away he distinctly saw a shadow pass before the window. He stopped at once and listened intently. He thought he heard the soft crunch of a footstep on the snow outside, once, twice, three times, and then silence. It was more than a thought, it was certainty.

Judge Braxton was a creature of his environment, and he immediately scented mischief. It was a lone house, and the presence of somebody outside at such an hour was a matter that needed looking into. He anticipated no danger for himself, but the home of White was well within the feud belt, and he did not know the old man's private affairs, which might involve some personal quarrel.

It was his first thought to awaken White, but the old man was feeble, and, after all, it might be a false alarm. On second thought, he decided to see for himself. He put on his clothes hastily, but in silence, and then, opening the door, stepped quickly upon the porch in the full blaze of a brilliant moonlight. It was his object to be seen

clearly and at once, in order that no possible lurking marksman might take him for what he was not.

But he saw nothing, that is, nothing human. Around him curved the silent trees, now clothed in a robe of white, and there was not the whisper of a breeze. The Judge walked down to the end of the porch, where the woods came almost to the end of the house and again he looked and listened intently. But he neither saw nor heard anything, and with the thought to carry his search further he stepped off the porch into the snow. Then looking back he saw a tiny beam of light shining on the snow near the far end of the porch.

The Judge glanced up, and he noticed that the light came from a window in the half story under the eaves. He did not have time to think what it might mean, because a low voice, almost at his elbow, called:

“Judge! Judge Braxton!”

It was a friendly voice and it continued:

“Git behind the tree here. Judge; you ain’t got time to go back in the house; if you tried it now

you'd sp'il everything."

A big- hand reached out, and the Judge, half dragged, half willing, stepped behind a tree, a huge beech.

"Don't you know me, Judge?" said the owner of the big hand in the same hoarse, impressive whisper. "I'm Tom Charlton, the sheriff of this county."

The Judge's eyes followed the hand up the arm to a body and head of equally large proportions. The other hand held a Winchester rifle to which the first hand also speedily returned. Yes, he knew Tom Charlton, the sheriff, a man without fear.

"On important an' pressin' business which you were just about to sp'il," continued the sheriff huskily. "I'm huntin' Will Benton. I've been huntin' him for a month, but I've got him now. He ain't a hundred yards away, comin' through the woods this very minute to see Annie White. Listen! You can hear his footsteps in the snow."

Judge Braxton shuddered. The whole story flashed upon him in an instant. He had heard of

young Will Benton, how he had killed a man in a desperate duel, and had been hiding among the hills ever since. Now he was trapped, trapped unconsciously by the girl he loved.

Judge Braxton glanced at Tom Charlton, the sheriff, the man who knew no fear, and who upon occasion could know no mercy either. He had been, in his time, through many rough scenes and he had dealt with many rough men, but never before had he seen the fire burn so fiercely in the eyes of the hunter of men. The sheriff had hunted Benton long and now he had him. The Judge saw the two big hands fondle the rifle and then raise it to his shoulder. Again Judge Braxton shuddered. Yet the sheriff was well within the scope of his duty,

Judge Braxton's eyes followed the line of the rifle's barrel, and he saw a young man come from the woods, stepping warily in the snow. The moonlight was yet brilliant and the Judge thought his face was not bad; it was that of a man very young; there was width between the eyes, and his look was neither mean nor furtive. On the contrary, the Judge, who would remember his

own youth and who was not without experience, saw that the gaze was one of eager anticipation.

“It was the only way I could git him,” whispered the sheriff in self-congratulatory tones, “but I’ve worked it, Judge, he’s dead in love with old man White’s gal, an’ she with him, I reckon. I heard he was stealin’ here to see her an’ I’ve been layin’ aroun’ in the snow waitin’ for ’im.”

The sheriff’s tones expressed nothing but exultation and the merciless zeal of the hunter, but the Judge, despite his sixty years, gulped.

“He killed Zeke Proudfit—shot him to death with his revolver,” continued the sheriff, “an’ his folks have said I couldn’t git ’im. I reckon they’ll laugh t’other way now.”

“You’ve got him; there’s no doubt of that, Tom,” replied the Judge.

Young Benton came to the edge of the little clearing, and the Judge saw that he was looking eagerly at the beam of light from the upper window. Just then there came a vision across the snow, the flitting form of a young girl, with brilliant face and shining eyes. It was Annie

White, and the next moment her arms were around young Benton's neck.

"I don't think you'd better fire now, Tom," whispered the Judge dryly.

The sheriff's rifle was at his shoulder, and he was looking down the sights at the two figures now so close together.

"Of course, I'll wait." replied Charlton. "I don't want to hurt the gal, but I'm goin' to git Benton; he's a dangerous man, hard to be took, an' if his hands don't go up the moment I call, then I shoot. He's swore that he won't be took, an' the odds are ten to one that I shoot."

The Judge looked again at the rifle. He was a tender-hearted man who believed in the goodness of human nature and again he sighed.

"Listen!" he said. "Don't you hear what they are saying?"

The Judge's natural delicacy of mind did not beep him from eavesdropping now, and as Benton and Annie were not twenty feet away he and the sheriff could hear every word they said.

"Yon oughtn't to have come," said the girl.

Benton laughed and stroked her hand.

“Why not, Annie?” he asked. “I’ve rid fifteen miles to be here. There’s no danger; but I’d have come anyhow.”

“I know it,” she said, and the Judge thought he could see her face glow with pride in her lover’s courage. Then she became tremulous again.

“They’re hunting everywhere for you,” she said. “The sheriff has got his dander up, and he says he’ll take you if he’s got to follow you a year.”

The Judge glanced at Charlton, and he saw a slow smile of triumph appear on his face, but Benton’s look became troubled.

“I ain’t afraid of Charlton, Annie,” he said, “but I do hate to be hidin’ out in the hills like a varmint, an’ havin’ to sneak here at midnight to see you when I ought to be comin’ in at the front door, in the day time, afraid of nobody.”

“It’s hard, Tom,” said the girl.

“An’ it ain’t my fault, Annie!” he exclaimed passionately.

“I know it,” she said.

“I didn’t want to kill Zeke Proudfit,” he continued. “It was just forced on me, an’ I’ve been waitin’ for this chance to tell you about it. God knows, I never wanted to kill anybody, not even one of the Proudfits, even if they are ag’in our family. I went out of my way to get shet of Zeke. I took so much that some began to think me a coward—I could tell it in their eyes, Annie, an’ that’s a hard thing to see. I was all for peace, but Zeke he would foller it up. Then he fired the first shot an’ I had to shoot. What else could I do, Annie?”

“Nothing,” she said.

“I’d have come into court an’ stood trial, but all the witnesses were Proudfits and their tribe, an’ they’d swear my life away. I know the lyin’ tale they’ve spread. They say I shot a man when his back was turned an’ he wasn’t thinkin’ of harm, but I’m tellin’ you the truth, Annie.”

“I believe you,” said the girl.

“I believe you, too,” breathed the Judge.

A faint breeze arose and whispered through the

white forest. For a few moments there was no other sound.

“I can’t stand it any longer, Annie,” said the boy—he was little more. “I can’t bear hidin’ out, an’ I won’t come in to court to be hung by them lyin’ Proudfits. I’m goin’ away, Annie.”

The Judge heard the girl utter a little gasp, and again there was silence for a few moments, save for the whisper of a little breeze through the white forest. Judge Braxton glanced at the sheriff, but Charlton’s face showed nothing, and his large hands grasping the rifle, quivered not a bit.

“Where are you going?” asked the girl in a half-choked voice.

“To Oklahoma; they won’t follow me away out there, an’ I’m fixin’ to start right off. But, Annie, I don’t want to go alone.”

She looked up into his eyes and her face whitened, then turned red. She understood.

“I don’t want to go alone,” he said, with the proud faith of one who loved and was loved, “an’ I’m askin’ you, Annie, to come. I’ve got two horses in the brush out there, one for you an’ one

for me, an' I've got a paper in my pocket—look at it; it's a marriage license for you an' me. The county clerk—he's a friend of mine—slipped it to me. At daylight we can be married at the station, an' then we'll be off to Oklahoma. In a year or two the fuss 'll die down, the truth will tell itself, an' we can come back to old Kentucky, if we want to."

"But pa and ma," she uttered tremulously, "they're old,"

"I know it, but one of their married children will take care of them or we can send for them. God knows I wouldn't have you to go with me now, Annie, but we won't have another chance."

She stood looking up at him and her eyes wavered. The Judge repeated under his breath a line of a poem "and through all the world she followed him." He knew already what the decision would be.

Benton, a fine frank young figure, stood waiting. Judge Braxton heard the sheriff breathing deeply by his side. Looking closely he saw the faintest quiver of the large fingers on the

rifle barrel.

“In half a minute she’ll tell him that she’ll go with him,” whispered the Judge. “He won’t throw up his hands if you call, Tom Charlton, and you won’t have the nerve to fire on him.”

“I have got the nerve to do it,” said the sheriff angrily. “Who says I haven’t?”

“I do,” replied the Judge firmly. “And you know, Tom Charlton, that he was telling the truth about that fight!”

“What’s that to me? I’m the sheriff of this county an’ I’ve got to take him or down him.

“You don’t dare. Hear what they are saying.”

Everything’s ready,” continued the boy. “I’ve got shawls out there at the saddles. You’ll keep warm. You won’t suffer. We must go now, Annie, this minute. We’ve got to get the daylight train, an’ we have to be married first, so there ain’t no time to waste.”

The boy’s eyes looked down into the girl’s and hers were yielding. Judge Braxton saw the rifle barrel beside him slowly rising. He put out a hand and pressed it down, muzzle toward the earth.

You'll let them go, Tom Charlton," he whispered.

"I won't!" said the sheriff.

"You will," reiterated the Judge. and his hand pressed the rifle barrel down yet farther. "Hear me, Tom Charlton. It's a little past midnight now, and so it's Christmas morning. I left a present for the girl, which she won't get, on the mantel in the house, but you're going to make her a finer one out here. You're going to give her Will Benton.

"Not I!" asserted the sheriff.

"Yes, you!" said the Judge.

His own large hand closed over the sheriff's large hand and pressed the rifle barrel down still farther, until it pointed straight to the earth,

"You're making her that Christmas present now, Tom Charlton."

The sheriff growled, but under his breath.

"You can't kill on Christmas morning!"

The sheriff growled again.

Two figures, the boy's and the girl's were

flitting into the depths of the forest.

“You’re not a heathen, Tom Charlton,” said the Judge.

The two figures were lost in the white forest and the Judge knew that in a few moments they would be riding swiftly over the snow. Again there was silence save for the whisper of a breeze among the trees.

“I’m a weak man!” growled the sheriff in disgust.

“You’re wrong, Tom Charlton,” said the Judge, “you’re a Christian gentleman.”



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## A Deal with the Prosecution

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Judge Braxton walked slowly down the courthouse steps and thence across the great shaded yard to the mineral well in the corner. There he filled a tin cup with the strong sulphur water and drank it absently. The air was already crisp with the touch of autumn. The grass was withering and the leaves of the great oak and beech trees were turning brown and twisting up at the edges, but the October breeze was alive with youth and strength.

The Judge was not thinking of the things about him. His mind was still on the scene in the court room; the cringing form of the accused man, and the fierce indictment of Harry Maynard, the rising young attorney for the commonwealth. The prosecutor's speech had drawn so much applause that the circuit judge was compelled to rap more than once to check it.

Judge Braxton was troubled. He liked Harry

Maynard; knew that he was upright, able, and industrious, and felt sure that he would make his mark in life. But it seemed to the Judge, at times, that Harry carried the zeal of prosecution too far; in the heat of attack and the desire to convict, he acquired, for the moment, so the Judge thought, a certain savage fire and energy that bordered upon cruelty.

Judge Braxton shook his head again. He knew that he, himself, was not judicial, despite the old title of "Judge" that clung to him from that far-off term of his youth. He could not prosecute, when the law called for a man's life, even if he believed the defendant proved guilty. His heart was too tender. But in most cases before the court there was always a doubt, and he held with the certainty of conviction that if one erred at all it was better to err on the side of mercy. It was this feeling of sympathy and pity, always so strong in him, that caused him to volunteer for the defense of the man Goodsell. Goodsell might be innocent, of the grave charge of murder, and he could not endure to see him convicted merely because he was a poor, friendless tramp.

“Good morning, Judge,” said Mr. Ryan, the editor of the *Groveton Record*, “How is your corn crop this year?”

The Judge and Mr. Ryan were great friends. They had a common bond: each, aside from his regular profession, conducted a farm, and it was known to everybody else except these two that they were the worst farmers in the county. Yet each imagined himself the best, and whenever they met they compared notes.

“Great! great!” replied the Judge smiling. “I think I’ll make at least a barrel more to the acre than you will.”

The editor lifted his chin scornfully.

“More likely to be the other way,” he said. “But that was a great speech Maynard made in the Goodsell case, wasn’t it?”

“A little too good! a little too good!”

“You’ll have a hard time clearing Goodsell,” continued the editor, “Moss was found dead with his skull crushed in; they caught this tramp a half mile away, carrying a big stick, and there were red stains on the end of the stick.”

“He might have been using the stick as a cane. Nearly every tramp has one, and those stains may be pokeberry juice. Most any man strolling a country road, with a stick in his hand, will slash idly at the weeds and grass by the way. You’ve done it yourself more than once, Jim Ryan.”

“Maybe, but I’ve never slashed at anybody’s head.”

While they talked the young prosecutor himself approached. He was under thirty and undeniably handsome, with a strong, clean face. Now that his speech was over he was calm and quiet, with a grave, slightly reserved air that suggested dignity.

“I was just telling the Judge, Harry, how much I thought of your speech,” said the editor, “I’ve heard you make some good ones before, but this seems to me to be the best.”

The prosecutor’s usually pale face flushed a little with pleasure, and the Judge added kindly:

“Yes, son, it was an able speech.”

“And I’ve been telling the Judge that he’d have a hard time stealing Goodsell from Justice,” said

the editor in a jocular tone.

The prosecutor laughed.

“The Judge has snatched a good many out of my hands, just when I thought I had ’em fast,” he said, “but I don’t believe he’ll do it this time.”

The Judge smiled amiably, but said nothing. Neither of the other men could tell what was going on deep down in his wise old mind. The editor said something more about the crops, boasted a little over the Judge, and then left them. The Judge and the prosecutor walked together toward their homes, which were on the same street, but they did not allude to the case of Goodsell.

Maynard lived in a neat red brick cottage, set back like all the houses of Groveton in an ample yard, well shaded with many great trees, and his mother, seeing the two men approaching, came down to the gate to meet her son. She nodded pleasantly to the Judge but gave Harry a look of affection and pride. Her son was the greatest man in the world, but she seldom went to the court to hear him speak. In her own youth she had seen

too much of crime and misery, and she had been brought into too close contact with them. Her husband had died a drunkard, and her other son, the elder, had gone to the bad. Now, she was a wan and faded woman of nearly sixty, but with a peaceful face.

“Harry thinks that he has me beat this time, Mrs. Maynard.”

“I don’t know, but I’ll let you two fight it out,” said Mrs. Maynard; she liked the Judge. Her own troubles, so long-continued, but now happily over, instead of embittering and hardening her, had made her kinder and more gentle.

“It’s a fight, sure enough,” said the sanguine prosecutor. “But this time I think I’ll win, and I’ll get a little revenge for some of those old cases.”

Judge Braxton laughed, and leaving the two together, walked on. It was yet a half mile to his house, and as he walked his trouble returned to him. A thought was working deep down at the bottom of his wise old mind. He was struggling with a memory, and, before he had gone many yards, he paused and looked back. Maynard and

his mother were just going into the house. To the distant view of Judge Braxton the prosecutor's shoulders looked square and aggressive. He watched the young man until he went into the house, closing the door behind him, and then he shook his head once more.

“It's not well to be too hard—it's not well to be too hard, even when one is the attorney for the commonwealth,” he murmured. A slight look of melancholy over-spread his face, but a moment later it was dispelled as he came to the gate of his own home which he loved. He, too, was to have a welcome. His wife was inside the house, busy with the household duties, but his favorite daughter was in a hammock on the lawn, reading a book. She put down the book when she saw him, and went with him to the great front porch, where she took a chair by his side.

“Aren't you glad to get away from that terrible trial?” she asked.

“I don't know—I don't know,” he replied musingly. “Somehow I take a deep interest in it.”

She laughed. He always took a deep interest in

his cases; that was why he was such a great lawyer for the defense.

“I suppose that the tramp, Goodsell, appeals to your sympathies,” she said. “I am sure that any tramp would.”

He smiled and patted her tenderly on the head.

“Now, don’t you go to blaming me for having a soft heart, daughter,” he said.

“I don’t,” she replied, “I’m proud of you for several reasons, and for that, not least of all.”

The Judge had little to say during the ample supper, that was equivalent to a dinner in large cities. No one annoyed him. They knew that he was thinking of the case, and around him a stream of talk from his children and grandchildren, nephews and nieces, flowed on, unheard by him.

After dinner he said to his wife:

“I’m going down to the jail to see Goodsell. Don’t wait up for me, as I may have to stay quite a while.”

He walked back into the town, still deep in thought, and went to the jail on the slope of the hill on the southern side of the square. Hurd, the old, one-armed ex-confederate soldier, who was elected to the office of jailer term after term, received him.

“I guess you want to see Goodsell, don’t you, Judge?” was his rather garrulous greeting. “But I doubt if you can get anythin’ out of him. He’s all crushed; same as if a pile driver had hit him square on the head. Don’t look like much of a man, anyway.”

“No, he isn’t much of a man,” repeated the Judge. “I think that’s why I’m defending him. But I want to see him, Hurd. As his counsel, I must have a long talk with him. Will you kindly see that we’re not disturbed?”

“Sure, Judge,” replied the hearty jailer, “Have you et’? Yes! Then you can’t take a bite with me; but you’ve got to do it some other time. I’ve got some mighty fine roasin’ ears.”

He showed the Judge into a cell, and then, putting a candle on the table, went out, leaving

him with the prisoner.

Judge Braxton stood for a few moments at his full height—he was six feet two—and gazed intently at the accused man. Goodsell lay on the little iron bedstead that was set in the floor, and Hurd’s definition of him as one “crushed” was correct. The Judge could see neither nobility nor courage in the lax figure of the mean, unkempt face. He was a tramp, a hobo, in every sense of the word, one who was a tramp because he was fitted to be a tramp, and because he was born to be one. But these facts made no difference to the Judge. He had come there for a purpose, and he was resolved to carry it out.

“Brace up, man!” began the Judge, “I’ve something important to say to you.”

The tramp slowly raised his head, when he heard the commanding tones.

“Sit up, I say! Here, be a man, if you can!” The Judge put out the stern words like pistol shots.

The tramp sat up with a jump.

“Now, keep your eyes on mine, and no lies—understand!” continued the judge. “Stop that!

Don't look away, and if you don't tell the truth—every word you say—I'll see you hanged myself.”

A frightened look came upon the face of the tramp. He cowered away, and every line of his features showed fear. But the stern eyes of the Judge—eyes that had looked deep into the eyes of many an innocent or guilty man—held him, and would not let him turn his own aside. Slowly, under that penetrating gaze, he steadied himself, until he sat erect, and much of the fear went from him. Then the Judge began to ask him questions, and the tramp made replies that the wise old lawyer, who could look into the hearts of men, knew to be true.

It was more than three hours later when Judge Braxton came from the cell of the accused tramp and his face was very grave. Moreover, the features, usually so full of resolve, expressed doubt and indecision.

“Well, Judge,” said the cheerful jailer, as he let him out, “you and that tramp must surely have had a powerful lot to talk about.”

“We did, Hurd, we did.”

“And powerful interestin’, too?”

“Very interesting.”

Judge Braxton stepped out into the cool night air, and pushed back his soft felt hat from his forehead. The town was asleep—there was little to keep Groveton awake after twelve—except for two or three lights that twinkled here and there. Nothing met eye and ear but the peace of an early autumn night.

“Lord,” muttered Judge Braxton, devoutly quoting as best he could an old text, “thou certainly dost move in a wondrous way thy wonders to perform. Now what shall I do in this most singular case?”

He walked home very slowly, his head bent down and his hands clasped behind him, a favorite attitude, when he was thinking deeply. But before he reached his own house he had decided and his decision was expressed in his own words.

“I shall wait. Pride goeth before a fall and so does hardness.”

All were asleep at his house. His dog came across the lawn to meet him, but did not bark, merely licking the hand that never struck him.

The Judge stroked the woolly head a moment or two, before unlocking the door and going to his own room. The decision taken, his mind was at peace now, and the moment he was in bed he fell asleep.

After the indictment by the grand jury and a preliminary examination, the case was continued, the time for the real trial being set a month later. It was popularly reported, and reported truly, that Harry Maynard was preparing for the effort of his life. He had worked up the case against the tramp to its last and minutest detail, and it was said that his speech would be terrible in its denunciation. But Judge Braxton was singularly silent. He had nothing to say, even to his friend, the editor, and once, when the prosecutor asked him in a jocular way if he thought he had any chance he merely replied:

“Softly, Harry, softly. What was it the old

Frenchman said; ‘Not too much zeal?’”

The day of the trial drew near. Chilly November was at hand, and a raw wind whirled the dead leaves about the courthouse yard. The night before, Judge Braxton walked downtown and went directly to the office of Harry Maynard. He knew that the prosecutor would be at work there on the case which he was to argue the next day in court, and when he knocked at the door it was Maynard’s voice that said, “Come in.”

The young man looked up in surprise when he saw the face of his visitor.

“Why—Judge!” he exclaimed.

“Yes, Harry, it is I,” said Judge Braxton, in a singularly gentle and winning tone, “and I have many things to say to you; important things about the case.”

Maynard’s surprise deepened and his face became cold. Judge Braxton read his expression. It said: “This is unprofessional; we are to meet as antagonists in this case tomorrow.”

But the Judge was afraid of no man, least of all when on an errand of mercy. He took a chair

uninvited, and sitting down, looked steadily into the eyes of Harry Maynard.

“I said I had things of importance to tell you,” he began quietly, “and they are important, but much more important to you than they are to me.”

The prosecutor’s lip curled a little with irony and unbelief.

Judge Braxton’s voice suddenly became stern and fierce. He spoke to the bold prosecutor as he had spoken a month before to that shivering tramp in the jail.

“I’ve a story to tell to you, Harry Maynard,” he said, “and whether you choose or not you have to hear, because it is for your good as well as that of others. Sit still, man, and listen.”

Maynard moved nervously in his chair, but the Judge put his broad hand on his shoulder, and the prosecutor, feeling not alone the physical but also the mental powers of the man before him, sank back, helpless and overmastered.

“What is it—go on,” he murmured weakly.

“I wanted to tell you,” said the Judge, speaking

with quietness and deliberation, “that a long time ago I knew a boy who was weak rather than bad. But weakness may lead to badness and crime. I who have dealt for more than forty years with such men should know—and this boy grew no better as he grew older. He went the other way. He entered manhood a liar, a drunkard, and a thief. He had friends who tried to save him, but in return he merely insulted them. Finally he robbed a man of a large sum of money and was forced to disappear.

The prosecutor stirred uneasily in his chair, but the large hand of the Judge pressed him down.

“It is a pertinent tale that I tell,” said Judge Braxton. He looked deep into the eyes of Maynard, and Maynard shivered.

“The man disappeared, as I said,” the Judge continued in his quiet, even, tones, “and two or three years later news came from Texas that he had been killed there in a brawl. It was a mistaken report. I know it, no matter how I know it, but I know it. Whatever induced the sunken and degraded man to tramp back a thousand miles to the town where he was born no one can

tell, not the man himself. But he was under another name, and before he reached the town he was arrested for a murder. He dared not tell his true name, because a robber does not come into court with a good character. Time and the mire had made such changes in him that nobody knew him, nor did he himself in his maudlin and crushed state notice the name of the young prosecutor who worked up the case against him with such terrible industry. And yet, if he had looked more closely at that prosecutor, he might have known him.”

“Good God—Dick my brother!” exclaimed the prosecutor, seeing it all with the terrible eyes of revelation.

“Yes, Dick Maynard. You were only a small boy when he went away, and you could not recognize him in that crushed lump of humanity, sitting before you in the court room. Do you wonder now, Harry, that I said to you ‘Not too much zeal.’”

The prosecutor shivered and covered his face with his hands. The kind eyes of Judge Braxton looked down at him pityingly, and his broad hand

pressed his shoulder in sympathy.

“I have promised Dick that he shall be saved,” continued the Judge, “but he is not to tell any one who he is and he is to go away from here forever. We have your mother to think of, Harry. Dick Maynard is past all hope of reform, and, living and known to her, he could bring her only misery.

“But what am I to do?” groaned the prosecutor. “I, too, am ruined. My whole reputation is at stake. I cannot withdraw from the case on the very eve of the trial. What would they say? The public would be sure to learn the reason!”

Judge Braxton’s face grew stern again, and he looked down with rebuke at the bent figure before him.

“You should think of your mother first, Harry,” he said, “and then, if any space for thought is left over, of your own reputation. But you have your speech ready, Go on, make it in the courtroom tomorrow, and I will reply. I do not care to boast, but I know that I can save your mother—and Dick—and you.”

“God bless you, Judge Braxton,” said Harry

Maynard, speaking humbly for the first time.  
“You are a good man.”

The Judge rose, and again his look changed from sternness to pity. Then he went quietly from the room.

The court room was crowded to suffocation the next day when the trial began and everybody noticed the extraordinary pallor of the attorney for the commonwealth.

“Working himself to death,” they said.

Old Judge Braxton, the victor in a thousand legal battles, sat placidly within the bar beside his client. Goodsell wore a suit of cheap but clean clothes and his hair was combed neatly. His eyes, shifty and evasive, rested fearfully, at times, on the attorney for the commonwealth, and then they would turn with a kind of appealing confidence to Judge Braxton. But they would meet nobody’s gaze squarely.

“Looks like a murderer,” the spectators said.

The evidence was finished, and Mr. Maynard rose for the prosecution. He was so pale that his

lips were blue and the people wondered. The room was hot and close almost beyond endurance, and the prosecutor reeled slightly, then put his hand on a table for support.

Harry Maynard began to speak with his face to the jury, but he felt that Judge Braxton was looking at him, and he must look back at the Judge. Gradually he shifted around until he met the stern, accusing eyes. He grew, if possible, paler than ever and a million motes danced in the air before him. He strove to collect his thoughts, and go on, but he faltered. He felt that his feet were growing weak and he knew that the people were looking at him in amazement. He began to stammer and the dancing motes fused into a black mass. Then he fell in a faint into the arms of a court officer, who was quick enough to catch him.

“Overwork,” said the people, but Judge Braxton muttered under his breath: “I was sure that he would fail, strong though he is, truly, pride doth go before a fall.”

After a while, when the confusion was over and the prosecutor was revived, Judge Braxton

rose for the defense. He was a perfect lion in the path of the prosecution. People said that the old Judge had never been in better form and he used all the numerous and powerful weapons in his arsenal—logic, denunciation, pathos, irony, and appeal. He painted a picture of the tramp, Goodsell, poor, friendless, unknown, and penniless, and he showed him to the jury a martyr, not a criminal. Then he took up the chain of circumstantial evidence and shattered it, link by link.

“Gentlemen,” he said in conclusion to the jury, “I would not convict the mangiest cur in Groveton of stealing a bone on such evidence as this.”

The jury, after half an hour’s retirement, returned a verdict for acquittal, and when the people went out of the courtroom they said to each other, in a tone indicating that they had known it beforehand:

“Judge Braxton wins again.”

An hour later the tramp was speeding on a fast train into the far Southwest from which he would

never return.

“Father,” said Judge Braxton’s daughter that night when they sat alone before the fire. “Tell me, in confidence, do you think that man was really innocent?”

“God knows,” replied the Judge slowly. “And in such a case as this, the best that humble mortals like ourselves can do is to give him the benefit of the doubt.”



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## The Silent Stranger

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Judge Braxton was a brave man, but Gilman, the wildest county in the circuit that he habitually rode, lay on the slopes of the mountains, a broken region of uneasy summits and narrow valleys, and none knew better than he the doubtful character of many of its inhabitants. In the little court-house at Westfield he had defended more than one whom he did not believe to be at fault, because his bullet had sped too true, somewhere in that, quarrelsome region. He would have abandoned the county long ago, but he had practiced there in his youth, and the sentimental tie was strengthened by the urgent calls which old acquaintances often made for his services. The Judge was like the Texan's pistol; when he was needed he was needed badly.

Judge Braxton, as he rode on, was troubled more and more by the aspect of the country, which was without the grandeur of high

mountains or the mild beauty of low rolling-hills, just a succession of steep bleak ridges, with narrow rocky valleys between. Westfield, too, was yet a good ten miles away, and already in the East, the dwarf-forest and the low crests were beginning to show somber tints. Night was not far off and it would come with a moonless dusk and a chill wind. Judge Braxton liked the prospect but little. Hardened as he was by years of lonely riding, habitual exposure, and now and then danger, the landscape seemed weird and forbidding to him, as if it contained the portent of trouble.

He whipped up his horse, and when he reached the crest of the ridge, he saw another man and horse, at the summit of the next slope, outlined against the blood-red setting sun. They were so sharply defined that, the judge could trace almost every detail of a powerful figure sitting easily in the saddle, and he felt a distinct thrill of gladness, because he could now have companionship on a rough and dark ride. Judge Braxton was of an eminently sociable nature, and it seldom took him more than five minutes to become acquainted

with anybody.

He urged his horse to greater speed, and the distance between him and the stranger narrowed so rapidly that he would overtake him about the bottom of the next slope. But he was surprised that the man did not slow up and look back. Travelers were all too few on the mountain-roads for one, with the horse-hoofs of another ringing in his ears, to ride steadily on, and never once turn his face to see who came.

Judge Braxton's curiosity was now aroused, but as he came nearer the manner and figure of the stranger did not cause any increase of confidence. Obviously, he was of stalwart build, and the hair under the broad brim of his soft hat was dark, long, and slightly curling. He looked around, at last, but not until the second horse was almost beside him, and then he disclosed a strong, powerful face, almost covered by thick dark beard, through which two burning eyes shone like lights in the dusk. Their gaze, too, was so distinctly hostile that Judge Braxton, the friendliest of men, felt repelled, and the last thought of companionship on the ride

disappeared from his mind. He saw clearly that here was one who neither wanted nor would have a comrade.

“Good-evening,” said Judge Braxton politely.

“Good-evening,” responded the stranger in a surly tone. His left hand held the reins, and, as he spoke, his right hand dropped toward his hip. Judge Braxton, always a keen observer, noticed the movement, one full of significance in the mountains, the act of a man who intends to be ready at an instant’s notice for any danger, and he did not check the speed of his horse, intending to ride on now and leave the stranger behind. He wanted companionship but not the companionship of this man.

Judge Braxton’s ready mind had jumped to a conclusion. The celebrated outlaw, Tom Bose, who ranged over a wide circuit in the Southwest had appeared lately in these hills, and two or three tales of his robberies had come out of them to the lowlands and to the ears of the Judge. This was Tom Bose! His surly manner, his obvious desire to be let alone, the quick movement of his hand toward his hip and his resemblance to the

floating descriptions of him that the Judge had heard were sure indications of it. Yes, this was Tom Bose! He could not doubt it! The Judge looked back once, and the man was still slowly riding on, his set, grim face looking straight ahead, and his right hand still lying on his hip. At the next crest the Judge looked back again but the stranger was lost in the valley below.

Judge Braxton did not reach Westfield that evening. The night suddenly came down over the hills so dark, and so grim, and the wind rose suddenly, so sharp and so chill, that he turned into a side-road, sought the two-roomed log cabin of a humble farmer whom he knew, and slept peacefully on a pallet by a hospitable fireside.

Judge Braxton had not realized the night before how tired and worn he was, but the good people of the cabin let him sleep late, gave him a good breakfast, over which he lingered long, and it was full noon the next day before he rode into Westfield, to find the little town in a state of excitement, the like of which it had not known since the days of the civil war, when Bragg marched through its single street with an army of

forty thousand men. Two hours before the arrival of Judge Braxton the Westfield stagecoach had been held up and robbed by a single horseman, a powerfully built man, with thick, dark hair, who had got clean away with considerable money taken from the mail and the passengers. He had secured a long start before the news reached the town, and, with a good mount and confederates somewhere, it was more than probable he would not be caught.

Judge Braxton felt a pang of conscience. He had seen Tom Bose in the road at the coming of the twilight the day before, and he should have ridden on to Westfield, despite the dark and the cold, to give warning. It was his first impulse to tell of the brief meeting by the wayside, but a tinge of shame over his dereliction—Judge Braxton's heart never beat with a dishonest impulse—and a feeling that, after all, it could neither help nor harm, caused him to keep silent. So he listened without comment, while several of the passengers who had been robbed told how the man looked, and the description answered in every detail to the one whom he had seen.

“Tom Bose! Tom Bose did it!” was repeated throughout the hamlet—all leaping to the inevitable conclusion—and to most minds the name conveyed a certain feeling of awe, mingled with horror. Feuds they knew, and to violent quarrels of men in drink they were accustomed; but here was a crime done for gain, and that to them was the worst of all crimes.

The sheriff and a dozen deputies, all armed and all fearless, rode away among the hills, and meanwhile the term of the Gilman circuit-court, with its usual calendar, opened—it could not be postponed even for a stage robbery by Tom Bose—and Judge Braxton was counsel in a half a dozen cases which would keep him in Westfield a week or more. Two of those cases would require all of Judge Braxton’s skill, penetration, and dexterity, but, despite them, his mind reverted to the stage robbery and the dark man by the roadside. If he had only ridden on and given warning! The Judge’s conscience was a very tender one, despite forty years of the law.

The first day of the circuit-court was completed and, as usual, the lawyers gathered in

the public-room of the little hotel. It was a frame-structure, rude in many respects, but this room, on occasion, could wear a cheerful aspect, and good company was gathered there. The lawyers, who moved with the court from county-seat to county-seat, represented most of the intellect and culture of the region, and all had known one another for years. Now they were sitting around a great wood fire, which crackled and blazed and threw pleasant ruddy gleams across the floor, and, after the custom, they were telling good stories picked up in many years on the circuit. Judge Braxton sat at one corner, a place of honor always accorded to him, and, at the other corner sat Circuit Judge Talbot, whom he did not like. Talbot had an oblique glance, and Judge Braxton held that a man who is always honest will always look you squarely in the eyes.

The commonwealth's attorney had just finished a story on himself, telling how he had been cleverly defeated once by Judge Braxton, just as he thought he was tying the noose around the accused man's neck, when someone knocked heavily on the door. Landlord Shippen promptly

opened it and disclosed a group of men on horseback, all armed and stern of face, and, sitting on his horse in the center of the group, another man with his hands tied behind him.

There was for a moment a deep silence, and even to the experienced eyes of Judge Braxton it was a grim scene: the sheriff and his deputies, wordless and motionless, and the captured man, the highwayman, sitting there among them, he too without word or motion. The Judge recognized at once the stranger whom he had met by the roadside. There was the stalwart figure, the same thick dark beard, and the eyes shining through the tangle like fire in the dark. But these eyes did not seem to the Judge to express fear or any other emotion that he could read.

Well, we've got him," said the sheriff, at last breaking the silence and showing pride "It's Tom Bose, right enough. He answers every description. We overtook him in the mountains, ambushed him, and nabbed him without firing a shot."

"Did you recover the money?" asked the circuit-judge.

“No, we didn’t,” replied the sheriff, and his tone showed disappointment. “Of course he hid it somewhere, expecting to come back, and get it, when the county had grown quiet.”

“Very likely,” said the circuit-judge. “It is the trick a clever man would have played. You have done well, Mr. Camp, and in Tom Bose you have made a most important capture.”

The sheriff bowed and did not try to conceal his pride. A crowd was gathered already; the news that Bose had been taken spreading fast. But the prisoner still said nothing, and seemed to regard the people with an incurious eye. Once his glance met Judge Braxton’s and the Judge thought he saw in it a faint gleam of recognition, even a touch of appeal, but he was not sure. The next moment the man’s glance passed on, and did not meet his again.

Judge Braxton was on the point of telling of his meeting in the road with the stranger but he checked himself, he had a feeling that it was irrelevant; but deep down in his heart he knew that it was because of that faint and perhaps imaginary touch of appeal in the prisoner’s eyes.

Judge Braxton could never resist the cry of help and he suddenly remembered that Tom Bose, after all, had his good qualities. He was said to be a generous bandit, and circumstances, rather than innate disposition, might have made him the outlaw that he was.

“Come, boys,” said the sheriff to his men, and they rode away toward the jail, the prisoner, his hands bound behind him, still in the center of the group but riding firmly, his head erect, and saying not a word.

The lawyers turned back to the warm, light room and the circuit-judge said:

“I scarcely expected the good fortune to try Tom Bose, but he’s bound to come before me now, and it will be a noted case.”

His tone was so hard and callous; he seemed to think so much of the reputation to be gained from the case and so little of the accused man’s fate that Judge Braxton, back in his old corner by the fire, frowned. The circuit-judge saw the frown and said nothing, but a little later his gaze rested a moment on Judge Braxton and the look was not

wholly that of a friend.

The prisoner was indicted by the grand jury on the following day, and the day thereafter he was to appear for trial. The witnesses were close at hand and the circuit-judge was heard to remark that he intended making short work of the trial.

“Bose is sulking.” said Harry Carver, a young lawyer just admitted to the bar, to Judge Braxton. “He denies, of course, that he is Bose, but he refuses to tell his name, where he came from, and what he was doing in this county. But he is Bose, all right; he answers to the descriptions exactly, and his inability to give a good account of himself, as shown by his silence, condemns him. Moreover, three men who were on the stagecoach have seen him, and swear that he is the man. He’s as good as convicted now.”

“I suppose he is,” said Judge Braxton. “Who’s his lawyer?”

“He hasn’t any,” replied Carver. “No money; besides he doesn’t seem to want any lawyer.”

“Of course judge Talbot will have to appoint somebody,” said Judge Braxton. “Every man is

entitled to counsel. Why don't you push for it, Harry? You might make a reputation out of it?"

"Too much of a forlorn hope," said young Carver with a shake of the head.

But it was in Judge Braxton's mind to suggest him for the place.

The prisoner was brought into court the following afternoon, heavily guarded, and with arms bound again. The sheriff intended to take no chances with the famous Tom Bose. But the condemned man made no effort to escape, and preserved the same obstinate silence about himself; he would do no more than say he was not Tom Bose; beyond that he would neither affirm nor deny anything.

"Have you a lawyer?" asked the circuit-judge sharply.

"What do I want with a lawyer," replied the prisoner sullenly.

The spectators laughed and Judge Talbot frowning, rapped for order.

"We must comply with the forms of the law," he said in acrid tones. "The State says that every

man brought to the bar shall have the service of counsel, and, since you are not able to provide a lawyer, it becomes my duty to appoint one for you.”

The circuit-judge paused, and glanced over the array of lawyers within the bar. Judge Braxton caught his eye and looked suggestively at young Harry Carver, but the eye of the circuit-judge passed on, and then came back again, with a malicious gleam in it.

“Prisoner at the bar,” he said in thin, dry tones, “you are without money and without friends, accused of a very grave crime. You need all the help you can get, hence I appoint as your counsel Judge William Braxton, who men say is the best criminal lawyer on this circuit.”

A murmur of amazement and protest ran through the courtroom. Young lawyers, with their reputations yet to make, were invariably appointed for such service, which was, in the nature of it gratuitous, and it was an insult to Judge Braxton’s age and eminence to choose him for the defense.

The circuit-judge's eyes dropped to the desk before him, and he busied himself with his papers. A deep flush overspread his smoothly shaven face, but it passed in a moment, and then he took his resolve. Talbot had meant not only to insult, but also to injure him, by assigning him to a hopeless case, one that he was bound to lose, and, with it, something of his prestige. But it was like a call of battle to Judge Braxton, and he promptly accepted the gage.

“I take the case, gladly, your honor,” he said in a firm, strong voice “because I am convinced not only that this man is innocent, but also that I shall clear him.”

Again the murmur of surprise ran through the courtroom, and Talbot lifted his head quickly, gazing at Judge Braxton in astonishment. He recognised the note of defiance in the Judge's voice, and deep down in his malicious heart he was afraid; afraid of some new wonder, of the kind that Judge Braxton more than once had brought to pass. But second thought told him the case was impossible for the defense, and he said in his thinnest and driest tones:

“How long a postponement do you wish, Judge Braxton, in order to consult with your client?”

The bound prisoner had stirred once in his seat, between two deputies, and now his eyes, usually so inexpressive, met those of his counsel, and Judge Braxton read in them wonder, appeal, and perhaps a little faith. Something in the Judge’s heart stirred—nature had made him for the defense—and he was not sorry now that a malicious judge had given this desperate case to him. He named a period of postponement that he considered long enough, and the Judge and the commonwealth’s attorney agreeing, the case was moved down the docket to the appointed time.

The prisoner was taken from the courtroom back to the jail and presently Judge Braxton followed, slowly and absorbed in thought. Talbot’s oblique and malicious gaze rested on him more than once, but the Judge did not see, nor seeing would he have cared.

Yet the Judge was deep in doubt. He could see no light ahead. Since the prisoner, through some strange and sudden obstinacy would not speak in the courtroom, how was his counsel to make him

do so? But he had never known a case he was more anxious to win, and he had several motives. At the jail he was greeted familiarly by the jailer, who said to him, shaking his head:

“I guess you’re up against it this time, Judge. It was a mean trick of Talbot to appoint you to such a case. I’d have refused the service.”

“But I want to serve,” said Judge Braxton. “The man is innocent.”

The jailer winked at the wall, but he took care that Judge Braxton did not see him, and then he escorted the lawyer to his client’s cell, leaving them there together.

The prisoner was sitting on a stool, his thick, powerful shoulders bent over, and his face resting on his hands. His attitude was that of despondency and sullen resignation.

“Bose,” said the Judge meaning to feel his way, “what forced you into this life?”

“My name ain’t Bose,” said the man emphatically.

“Then what is it?”

Silence, and a sullen man sat staring steadily at the opposite wall of the cell!

The Judge talked to him a long time. He did not really expect answers to his questions, but he was a reader of minds, and what he wanted was time for observation. He drew the man's eyes to his with his steady gaze and presently he said:

“If you are not Bose then, why were you running away?”

The stranger's eyes fell, but he raised them again and in a moment he said:

“What makes you think I was running away?”

“You would not ride with me, or even speak to me, when I passed you on the road. In this country no innocent man ever does that.”

“You believe I am Tom Bose?”

“No,” said the Judge, “and I mean to prove that you are not, with or without your help.”

He remained two hours in the cell, but he drew no direct statement from the prisoner save that he was not Tom Bose, Yet it could never be said of Judge Braxton that he wasted two hours on a

legal case, and when he came from the cell the jailer noticed a certain change in his appearance.

“Between you and me,” said the jailer that night to two of his cronies, “the old Judge has got a scheme in his head, or I’m a poor guesser. Because Talbot appointed him he’s goin’ to clear that man, or turn the whole county upside-down.” But his cronies shook their heads and said it was impossible.

“Tom Bose can’t get off,” said they.

The Judge endured the good-natured raillery of his fellow lawyers, and a few days later returned to his home in Groveton. An hour after his arrival there, he was in the office of the *Record*, where he found the editor, Mr. Ryan, with whom he seldom agreed on any topic, but who was perhaps his warmest personal friend. Mr. Ryan sat on the small of his back in a deep armchair before a table, a pot of ink at his right hand, and a pot of mucilage at his left, the two being used in just and equal proportions.

“Do you keep any of your county exchanges, Bob?” asked the Judge.

“I throw ’em all in the corner there,” said the editor. “And after a while, when the corner fills up, the scrubwoman cleans ’em all out. The corner is nearly full just now. By the way, I hear over the telephone from Westfield that they’ve got the notorious Tom Bose, and that you are to defend him.”

“Yes, and I’m going to acquit him, too.”

The editor laughed.

“If you do that.” he said, “it’ll be the biggest feather that you ever plucked for your cap, but at the same time you’ll be turning an unmitigated scoundrel loose on the state.”

The Judge said nothing, but putting on his glasses, went to work on the huge heap of county-weeklies, going with care through every one, no matter how small and insignificant. He didn’t cease his task, until dark came, making evasive replies to the editor’s polite or flippant inquiries, but, when he finished at last, he said in his most ingratiating tone:

“Now, Bob, I want you to do me a favor.”

Mr. Ryan could no more have denied the favor

than he could have set fire to his own office, and they talked together earnestly for half an hour.

Judge Braxton went back to Westfield at the appointed time for the trial, and, when he entered the little town, the group of lawyers and old associates greeted him again with incredulous remarks.

“We don’t see any evidence piling up in favor of Bose,” they said. “He’s lying in the jail there, as sulky and silent as ever, and three of the passengers who were robbed are here, ready to swear that he is the man who got their money.”

“Men under the influence of great excitement at the time are often mistaken about identity,” said the Judge briefly, and passed on.

But his tone expressed so much confidence that a rumor spread through Westfield and grew all the next day. Judge Braxton, stirred perhaps by Talbot’s malice, had steeled himself for an unexampled effort, ran the story. He was going to secure the acquittal of a man whom everybody knew to be guilty; he was going to give liberty to

the worst criminal in the state, and a growl, low but deep and dangerous, went up from the people of Gilman county, at best a rough-handed class, but the Judge in his room at the hotel, deep in the preparation of his case, knew nothing of it. Once he was called to the telephone, then a novelty in the hills, and he remained there talking a quarter of an hour, but he returned immediately thereafter to his room and his case. He ate supper absently, not noticing the dishes as they were placed before him, and afterward, feeling the need of fresh air, stepped out into the street.

Night had come, but there was a good moon and Judge Braxton instantly came back to earth. His acute senses were conscious of a change. The atmosphere was different; the usual noises of the town had ceased, and to the Judge's mind the silence was full of menace. The town had seemed crowded during the day, why were all these men gone from the street? The answer was at hand.

From the far end of Westfield, toward the jail, suddenly burst a cry that swelled at once into a loud threatening roll, like the roar of an escaped wild beast; and wild beast it was! The Judge

knew too well. It was the shout of men, maddened by drink and the lust for blood.

The Judge stood for a moment, quivering, then ran with the speed of a young man directly toward the noise.

“They’ve broken in the jail and they’ve got Bose,” cried a boy. “They’re going to hang him to a tree in the courthouse square.”

Judge Braxton, in a moment, was in the dense throng of men, who, faces inflamed and cursing, struggled about the prisoner, and hurried him on to the fatal tree. He had made a good fight, he was very powerful, and more than one man was bruised and bleeding, but they carried him forward nevertheless, and the spirit of mercy was not in them.

Every instinct in Judge Braxton, a man of gentleness and of the law, recoiled at the sight, and he cried to them to stop. He even sought to thrust them back, but they pushed him out of the way, though offering him no violence, and said:

“No, Judge Braxton, you can’t cheat the law! Hang he will before he is half an hour older.”

Men have often said that Judge Braxton never made a better speech than he did that night to a mob, wild with drink and the spirit of vengeance, while his client stood pinioned among them, one end of a rope around his neck and the other flung over the branch of a tree above his head. He rushed on before them, sprang upon the courthouse steps, and his tremendous voice rang out, alternately threatening and pleading for delay. His very earnestness and power compelled them to pause, at least for a moment.

“What are we to wait for?” asked the leader of the mob.

A yell of derision went up from the crowd, but the Judge was undaunted. He looked down at the throng, their eyes bloodshot in the moonlight, and his soul sickened within him at the sight.

“There’s a messenger coming,” he said. “He ought to be here. He will be here in an hour at the furthest. Wait or you’ll have the sin of blood-guiltiness on your souls, I tell you, it’s not Bose you have!”

The roar of derision again went up from the

crowd and when it died the leader said:

“Bose, you’d better begin to pray.”

That instant the clatter of a horse’s-hoofs was heard, and Judge Braxton looked up in thankfulness. The prisoner did not move. It may be he thought the world had already passed for him.

“Wait!” cried the Judge again in a voice of thunder, “The messenger is coming. Don’t you hear him?”

The crowd suddenly fell silent, and the horse’s-hoofs rang loud on the hard road, There was something weird and chilling in the sound made by the unseen messenger, and the men in the crowd began to feel afraid, as they would not have been of a visible presence.

A man and a horse shot out of the darkness, the man leaped to the ground, and ran to the judge, handing him an open newspaper.

“Thank God!” said the Judge, “I telephoned Mr. Ryan to wire you at the station to hurry, but I didn’t think it would be so close a shave as this.”

Then he turned to the crowd, and his strong

face was full of the authority of a righteous cause.

“Men,” he cried in tones that rang out on the night, “this is a copy of the *Groveton Record*, printed this morning. It contains a full account of the capture at Harley, Tennessee, two hundred miles from here, of Tom Bose, the notorious outlaw, of his confession of his identity, and of many crimes, including the robbing of the stagecoach in Gilman County, Kentucky, two weeks ago. In the name of the law I demand that you release the innocent man whom you have here.”

The crowd melted away in the darkness, and the Judge was left alone with the stranger, around whose neck the rope still swung. But the Judge himself cut that rope, and few acts ever gave him greater pleasure.

About midnight, Judge Braxton was talking in his room to a large man who wore a thick, dark beard. He had drawn from his pocket a copy of a little county-newspaper, but it was not the one that had come that night.

“I have here,” he said “the picture of a man named Sam Watson, who in a fit of anger struck down his brother in Moss county, in the northeastern part of this state. It would serve very well as a picture of you. The man thought his brother was dead and he fled, but the brother will get well and I should advise Watson to return and make his peace, because he has been punished already,” said the Judge, looking squarely into the face of Watson.

“He will go,” said Watson with tones of deep gratitude, “and he will always remember the Judge who didn’t turn aside from him.”



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## The Last Call

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Groveton was in festal garb, which is always more brilliant by night than by day; then the crudities and ugly spots are hid by the kindly dusk, and the buildings rise in the shadow—majestic like old castles; what is bad is covered by the dark, and what is good is shown by the clusters of electric lights.

Judge Braxton felt aglow. Both his heart and mind were touched. It was Home-Coming week for the first time in his state, which is of the west or south, whichever you choose to call it, and the sons and daughters of the old land had come in thousands from every point of the compass to feel once more the touch of the soil from which they sprang. This is a prolific state, and besides increasing its own numbers it had been helping for generations to populate other states: north, east, south, and west. Hence, when all its children were invited to come back and sit for a day or

two, welcome guests at the mother-hearth, they poured in in a flood, first upon the chief city, and, then, after the celebrations there, upon the numerous county-seats where the welcome was more intimate and more particular, because everybody not only knew everybody else, but also was more or less related to the whole county.

All day long the people had been pouring into Groveton, and Judge Braxton, who had taken a conspicuous part in the early ceremonies, now wandered away from his family and friends, and occupied a secluded place at a street-corner, choosing for a little while to be alone in a crowd. It was easy, even for a man so well-known and so striking in appearance as the Judge to hide himself, because the town was so densely packed that the multitude had no chance to observe one of its units.

Judge Braxton had borne a great part in the day's festivities, and now for a brief space he would be a looker-on, a careless member of the crowd, just as if his youth had come back again.

The little city was full of his kindred. Many old ties were pulling at him, and there was faint

moisture in his eyes. It was not the great crowd, nor the parade passing through the streets, nor the continuous stream of blazing fireworks, but the thought of the old home that had seen his birth and the sixty years of his life, and the many old friends scattered now through other states whom he had met eye to eye once again.

In it all, there was, to him, a something apart from the crowd, the noise, and the lights; something finer, something intangible, and spiritual. Judge Braxton was neither excessively sentimental nor superstitious, but it seemed to him that the dear dead were close by.

An acquaintance touched him on the shoulder, and smiling, passed on. Another hailed him from the street, but he, too, passed on, and the Judge mechanically followed the crowd and the parade. Days in June have been called rare, but they are no better than the nights, and a glorious soft breeze swept over the hills. It touched Judge Braxton's face and he felt like a boy again.

At the crossing of a street the crowd suddenly thickened, and pressed upon itself. An old man in front of Judge Braxton staggered and went down

upon his knees. The Judge shot out a strong right arm and pulled him back to his feet.

“Thanks,” said the old man in a thin voice, “I am not very strong, and I could not have recovered myself without you.”

The Judge did not notice until then how very old the man was, and how very weak. His face was withered like a dried apple, and his hands had the incessant trembling movement of an octogenarian. His years were many and he looked them. He was poorly dressed. But in his eyes shone the glitter of a youthful excitement.

“Won’t you let me help you?” said the Judge, touched with sudden sympathy. “This is a big crowd, and ‘united we stand, divided we fall;’ that’s the motto of our state, you know, and it’s an especially good one for us, tonight.”

He concluded with a laugh, and not waiting for an answer, hooked his strong, muscular arm under the old man’s thin, weak one. The stranger leaned heavily upon him, but seemed to be unconscious of the act.

“You like it, don’t you,” said the Judge. “We

are trying to do the handsome thing for all the wanderers from the parent nest.”

The old man straightened up a little, and leaned less weight on Judge Braxton’s arm.

“So you are glad to see us all,” he said, turning his flashing eyes upon the Judge. His eyes were the only vital thing about him, and they were still glittering with excitement.

“Yes,” replied Judge Braxton, “and I’m glad you are here.”

“You’ve always had a kind heart, Judge Braxton, kinder than most!”

It was uttered in a high, thin voice, a cry drawn from the depths, and the Judge not knowing what to say, was silent. But he held the thin, weak arm more firmly, and he was moved by a great sympathy. That the man should know him did not seem strange; often people whose faces he could not recall greeted him by name.

“You are one of us,” he said at length to the stranger. “I’d know the accent of our state anywhere; we never lose it, no matter how far or long we may wander.”

“No,” said the old man, “we don’t. I ought to know it.”

The Judge looked at him again and with renewed interest. His wrinkled, ancient face bore the marks of a sun hotter than that of this temperate state.

“You, I judge, have come far?” said Judge Braxton.

“Yes,” said the stranger, “I have. Nobody else knows how—well, it doesn’t matter, but away out there in West Au—”

He stopped short, and looked suddenly and intently at the Judge.

“And you’ve come all the way from West Australia,” said the Judge with a good-humored laugh. “Why, that is just about as far as one can get from this state. Do you know there is a prize for the native who comes farthest. Why don’t you report for it?”

“West Australia? West Australia!” exclaimed the old man fretfully and angrily. “I haven’t said anything about West Australia. Why do you put such words in my mouth? I was never within ten

thousand miles of West Australia.”

“I beg your pardon,” said the Judge, “I thought you were going to say West Australia, The fault was mine.”

Judge Braxton was not offended, nor did he suffer any loss of sympathy. The old man seemed as a child to him, to be treated as a child, to be humored as a child.

“Of course you are glad to be here,” he said, by way of making conversation, rather than with any particular meaning.

The old man turned his eyes once more upon the Judge. The wild, peculiar glitter in them had deepened.

“Glad to be here!” he exclaimed, as if his reserve of the previous moment had been utterly forgotten. “Oh, it’s God’s country! It’s sweeter and dearer than any other! I love it all! Every inch of it! How I’ve looked forward to it! How I’ve dreamed of it! And once, I thought I should never see it again!”

His voice died away in the tremulous wail of old age. It was all inexpressibly pathetic,

indescribably sad, and Judge Braxton felt the protecting thrill that strength has, alike for infancy and senility. It seemed to him that he could divine the history of the old man; someone who had gone long ago into a desert place of Arizona or Nevada, and now, after years of waste and loss, had crept back to the old home, which glowed for him with the beauty of fact, and all the added beauty of illusion. He would have asked him his name and something of his story, but delicacy restrained him, because he saw that the ancient stranger was shaken by a great emotion.

“I’ve seen it, I’ve seen it all,” he said, “and it isn’t changed. There are new buildings, and more of them, but it’s the same town, and the same state, and the same people, God bless ’em! There’s nobody like ’em!”

Judge Braxton smiled.

“There’s never anybody like our own,” he said, “and I guess God was wise to make us all that way. But the parade is getting ahead of us. It ends down at the big hall, where there are to be speeches. I made mine today, and so they have let

me off tonight. If you want to hear 'em we'll go on together."

"Of course I want to hear 'em," replied the old man, "and I thank you for helping me. It's a bad thing to be as old and feeble as I am and—but I'm here, though I had to come far, and I mean to see and hear everything. These are my own, and all the others are nothing."

They walked on together, the Judge's strong arm still under that of the old man and supporting him. The stranger was as eager and excited as a child. He exclaimed upon everything, and Judge Braxton felt his arm trembling continually. He showed familiarity with the town despite the change of recent years, and called each landmark by name, as he came to it.

The parade ended at the public hall, according to plan, and the people poured into it in a torrent, to hear the conspicuous sons of the county speak to the home-comers. Judge Braxton was entitled, of course, to a seat on the stage, but the old stranger appealed so much to his sympathy that he resolved to protect and guide him. He helped him through the human flood and down the aisle

to good chairs near the front, where they sat down together.

The hall blazed with many lights, but all the rough places were covered with flowers and flags and banners. The town is noted for beautiful women, and they were all there in beautiful toilets. The Judge beheld around them a panorama of shifting and vivid colors, above which rose a mass of eager faces. He felt a thrill, intense and deep. It was his own whom he beheld, gathered to do honor to those who had come back once more to the native earth, and he enjoyed the fact that he had already done his part, and could now be a spectator, just “one of the boys.”

He looked down at the old man, who lay rather than sat in his seat, limp and crushed by the color, the light, and the shifting emotions on the many faces. “Poor old fellow,” thought the Judge, “I don’t know that it’s so well to come back at eighty.”

It seemed obvious to Judge Braxton that the stranger was alone in the town. Perhaps all the relatives for whom he had cared were dead, and

his acquaintances may have traveled the same road; if so, he must have left the state a long time ago, fifty years maybe. "A half century," thought the Judge "blots out many human things."

The crowd was slowly hushed into silence, and then, when a band began to play, thousand of voices took up the tune of an old song, the song of this state. Its words are simple, but its fame is world-wide, it is hackneyed, time-worn, played and sung well and ill, but no son of this state can ever hear it without a thrill, and the thrill grows deeper if he is far away in some strange land.

Now something of this feeling stirred Judge Braxton. as the mighty chorus swelled and filled the hall. He had a singular sense of aloofness, of detachment, of being far away, as he sat there with the ancient stranger whose name even he did not know.

Presently he heard a sound beside him, under, rather than over, the note of the song, and he looked around. The old man had sunk farther down in his seat, and he was crying, not easily nor gently, but with deep sobs that were torn up from his chest. It was something more than the

pathos of age or the sadness of coming back to find all one's comrades gone, and the Judge was too moved to speak. He put one hand on the old man's shoulder and let it rest there protectingly, as a father soothes his frightened child.

"It does move one," he said, after a while, "especially one who has been away a long time."

Others may have noticed, but in the surcharged atmosphere and excitement of that moment they said nothing. The song died and the famous sons of the county, both those who yet lived in it and those who lived elsewhere, began to speak. Now the old man raised up, and his living eyes, in which the vital spark glowed so deeply, began to sparkle.

He knew all the middle-aged and older men on the stage, and he ran over their names gleefully, like a child.

"There is Carter, who was state senator," he said, "a great speaker and an able man. His hair's whiter than—and Powell who was lieutenant-governor, and Bright who was circuit-judge, and

Barton, who beat McLeod for the legislature in '82, and Wilson who was in congress. I didn't think they'd bear their years so well! And how glad the people are to see them! My God! My God!"

He suddenly put his face in his hands and crouched down in his chair again. Judge Braxton, in his time, had heard many cries of grief and pain, but never one like the "My God!" that was wrenched now from the throat of this little withered old man. Unconsciously he put his hand back on the stranger's shoulder, and kept it there.

"Listen to Senator Carter," he said with an attempt to cheer, "that was a good joke he got off. Hear the people laugh!"

In fact, Senator Carter, a broad-faced, smiling man of sixty, was making a brilliant, humorous speech that kept the audience in a joyous mood. Judge Braxton, despite the man beside him, was forced to smile.

"Ah, yes," said the stranger, "it's Carter. I should have known him anywhere; he hasn't changed at all. When he first came to the

legislature in '74 he was just the same, ready to crack a joke at anything, always in for any fun that might come his way.”

Judge Braxton sat up a little straighter and gazed curiously at his companion, but he could make nothing of him. The old man's fit of garrulity was succeeded by a spell of silence. Sometimes he closed his eyes and seemed to be oblivious of all that was passing round him. The Judge surmised that he was busy with memories, and he did not interrupt him. The evening moved on; speaker followed speaker, the band played now and then, and more songs were sung. There was laughter, cheers, and the varying gleam of bright faces and brilliant dresses. The air grew warm, and painted fans, shaken out of their folds, waved back and forth, adding to the shifting colors.

Judge Braxton returned, after a while, to his own people; but just before the exercises were over he came back to the little old man in the chair. The people were rising to go and he looked down at the huddled figure.

“Wake up! Wake up!” he said with a cheerful

pretense of believing that the man was asleep; “it’s time to go home. It’s ended for tonight, but we’ll do it all over again tomorrow.”

The old man roused himself, as if he had, in truth, been asleep, and stood up.

“Yes! Yes!” he said. “Oh, it’s been a great night to me—a great night! And I thank you, Judge Braxton, for your kindness to a poor old stranger.”

“That’s all right,” replied the Judge cheerfully, “but we’re not through the woods yet. There’s a great crush around the doors and you’d better let me see you safely outside.”

He hooked his arm under the old man’s, and presently they were in the street, where a large part of the crowd yet lingered, and where the sound of many voices arose.

“I’ll leave you here,” said the stranger, “and again I thank you, for your kindness to me.”

“You must come out to the big picnic tomorrow,” said Judge Braxton, “I’ll expect to see you there.”

The old fellow released himself from the

protecting arm, and slipped away in the crowd. The Judge watched him a little, noticed his uncertain steps, the signs of weakness or excitement, and thought once of following him to protect him further, but decided not to do so, and a moment later the stranger was out of sight.

Then he walked slowly home, where his old friend, Senator Carter, who was his guest for the night, received him with reproof and upbraiding.

“Where have you been?” asked the senator, “You were not on the stage at all tonight.”

“I was better employed,” replied the Judge. “I was taking care of an old gentleman, a friend of mine.”

“Who was he?”

“I don’t know,”

“What! you don’t know?”

“No, I don’t. I never met him before this evening, and he didn’t tell his name. But he was a home-comer, all right. I don’t think I ever before saw anybody so deeply moved.”

Then he told Carter of the old man, and

described his appearance, but the senator shook his head.

“I think you’d better stick to your original guess of somebody returning from Arizona or Nevada,” he said, “only you put the date of his emigration too far back. I guess he lived up there somewhere about the capital, and became used to public men.”

The next day a huge picnic, or what is known in the language of this state as a barbecue, was given on the grounds just outside Groveton. Oxen and pigs were roasted whole, and ten thousand people were scattered through the fields and meadows. The morning was glorious, a brilliant June sunlight deepening the green grass and foliage. It was all cheerful and intimate, and in the Judge’s mind the sense of kinship to everybody was strong. He roamed about from group to group, always welcome and always helping in the fun. He came presently to a magnificent grove of oak and maple, and there, standing where the trees grew thickest, he beheld his companion of the night before, looking yet older, weaker, and thinner in the disclosing

sunlight.

The Judge saw the stranger before the latter noticed him, and he stood for a while, watching his ancient face and figure. The sunken eyes were filled with longing, and now and then the tremulous hands were outstretched, as if they would grasp at something, Judge Braxton felt again the desire to cheer, to give him companionship, and he walked briskly to the old man, who was half-hidden by the tree-trunks and clustering bushes.

“I’m glad to find you once more,” he said cheerfully. “Why don’t you come out into the open and get something to eat? Join the crowd. Everybody will welcome you. We’re all native sons together.”

The old man’s eyes brightened at the meeting, and he put out a tremulous hand.

“Thank you.” he said, “but, I think I’d rather stand here and look on. I’m too old to share in lively doings, but it’s good to see ’em all again. How happy they look! So free! so fearless!”

“They are certainly free and they have nothing

to fear.” said Judge Braxton.

It was again on the tip of his tongue to ask the old man his name and whence he came, but, as before, the sense of delicacy restrained him. Since the stranger had volunteered neither, it would not become him to be inquisitive, and he remained with him a while, pointing out well-known men, and gossiping lightly of the subjects, which were common to the county.

“I’m content just to stand here and watch ’em,” said the old man.

Judge Braxton left him, but after a while he returned, bringing him something to eat, and found him yet standing in the covert, his position unchanged, his eager, longing eyes still on the multitude. He pecked like a bird at the food that the Judge brought him, and it was obvious to the Judge that his mind was on other things.

Judge Braxton, actuated by the double motives of curiosity and sympathy, unconscious perhaps in the first case, remained by the old man and took up the thread of light and cheerful talk. The other was silent, but the Judge, as on the night

before, noticed that the thin, age-old hands never ceased to tremble.

Many people passed near them, saluting the Judge as they went on, and presently when one came, a tall man of seventy with a massive figure and a face yet ruddy and youthful, Judge Braxton had an idea.

“Do you see the big man near us?” he asked. “That’s Mr. Wharton; he was governor of the state in the early eighties and a good governor he was. I know him well, and I should like to introduce you to him. I think you’ve come very far and you’re very—Oh, well, he’d certainly be interested in you. Just wait a minute, won’t you, and I’ll bring him?”

The old man uttered a cry, and, with a vigor he had not shown before, suddenly clasped his two tremulous hands around Judge Braxton’s.

“Don’t! For God’s sake, don’t!” he cried. “I won’t see that man! I won’t speak to him! I won’t let him see me! I won’t let him come near me! I entreat you not to bring him!”

Judge Braxton was never more surprised in his

life, and he had never before seen so complete a picture of terror. The figure of the old man shrank and cowered, but he clung to the Judge's arm with the strength and tenacity of despair. The Judge was conscious that some underlying, but deep, motive stirred him to such a frenzy, and he could not continue in the face of so strong a protest.

“Oh, certainly, if you don't wish it,” he said, “but Mr. Wharton is a fine man. I should have been glad for you to meet him.”

The massive figure of the former governor passed on and was lost in the crowd. The terror in the stranger's eyes seemed to die a little, but he became weak and sank to the ground. A sudden shock had overpowered him, and he was relaxed and all but lifeless. Judge Braxton hastily brought him a stimulant and also Bob Ryan, the editor of the *Groveton Record*.

“Something is the matter with this old man, a comrade of mine, of last night, Bob,” he said. “I wish you'd help me, I've taken an interest in him, because he's been watching everything so intently, and because he's been acting queerly. I

confess I can't make him out."

The stranger now sat on the grass with his back against a tree. His whole figure drooped and his eyes were dim. Mr. Ryan looked closely at him, and then shook his head.

"I don't make him out, either," he said, "but he'll have to be sent somewhere and that pretty quick. I'm thinking his race is nearly run."

Judge Braxton felt a sense of comradeship. He and the old man had been together and he did not mean to desert him now. The truth of Mr. Ryan's words was obvious and he asked the stranger his address. After many attempts he obtained it—an obscure street in an obscure part of the town. Then he called a carriage and put the stranger in it.

"I'm going with him." he said.

"I think I'll go, too," said Mr. Ryan.

The stranger collapsed on the carriage-seat, and, as they drove swiftly, he babbled vaguely of many lands.

"He's had a shock of some kind—a great shock," said the editor, "and it's shattered a frame

as old and feeble as his.”

Judge Braxton said nothing.

They reached the place, a plain, cheap house. It's owner knew nothing of his tenant, except that he had paid in advance and was very quiet. They carried the old man to his room and put him in his bed. Then a doctor came, prescribed a soothing medicine, and went away.

“All I can do is to make his going as easy as possible,” he said as he left.

Judge Braxton sat by the bedside a part of the afternoon, and Mr. Ryan came in twice.

But Judge Braxton was thinking. His mind had traveled far back to his first term in the house of representatives, thirty years before. As a young man, he had gone to the state capital, full of zeal, and in those eager days all impressions bit deep. Wharton was the governor, James the lieutenant-governor, Mapleson the secretary of state from the same county as himself, and Honest Tom Todd the treasurer. Honest Tom Todd! The treasurer's office was always his for the asking. No man more open and frank of face and manner

than he! He was like a rock on the hills, they said, and that was why they called him Honest Tom Todd. How clearly he remembered the shock and the tragedy! Honest Tom Todd a defaulter! The money of the state, a vast sum, lost in wild speculation. It was Wharton, the stern governor, who had discovered and exposed it, but Honest Tom Todd fled between two suns, and had never been heard of again.

It was all clear. There are things that solve themselves when a hint is given. Full cause had the stranger for his terror at the sight, of Wharton. Judge Braxton looked at the shrunken form on the bed, and remembered, despite the changes. His feeling, then was only pity.

“God, what a punishment!” he thought, “for an old man to be wandering thirty years and alone, about the world—and always afraid!”

When Bob Ryan came in the second time Judge Braxton raised his hand.

“Quiet, Bob,” he said, “Honest Tom Todd is dying.”

Mr. Ryan started, but saying nothing sat down

by the bed, and waited with Judge Braxton. Just before the end the old man revived a little.

“I came, too, to the call.” he said.

Then Honest Tom Todd passed on to a world where only the infallible sit in judgment.



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## A Case of Restraint

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Judge Braxton walked slowly up the single stony street of Shadwell. His usually cheerful face was overcast, and his heart was full of sadness. They were going to hang Bob Turner; and a hanging, all done by due process of law, was an event in the little mountain town, which lay at the extreme eastern and rough end of the circuit ridden by the judge.

The execution was to be public, and it would probably be the last of its kind in the State, because the new law making all hangings private was to go into effect six months later. But the people of the hills, meanwhile, showed by every sign that they intended to take advantage of the great free show about to occur in Shadwell.

Judge Braxton was sad for several reasons, and this was one of them—the morbid curiosity that could draw men, and women, too, from such great distances and over such difficult roads to

see a human being jerked out of life at the end of a rope. It is true they were a rough stock, with few softening influences in their lives, but such facts as these offered little excuse to his merciful heart. An execution should never be turned into a circus.

Judge Braxton was now a “judge” in name only, the term coming from an almost forgotten period of service years ago, but he was by nature—his kind heart would not permit otherwise—and long training a lawyer for the defense. As such he had no equal in his district.

People had been coming into Shadwell all the morning on horseback, in wagons, and on foot, their faces, whether young or old, whether of man or woman, alight with curiosity. None, apparently, took any thought whatever of the poor creature who was to furnish the day’s entertainment, and the fact lay heavy upon Judge Braxton’s mind. He did not blame them in particular—they were under their rough exterior a kindly people—but he did blame human nature.

He walked on up the street toward the court-house, and he was sorry that his business had

kept him in Shadwell the day of the hanging. But he would avoid the gruesome scene and leave at twilight, riding all through the summer night, as he often did when the period of great heats came. Morning would find him in the low country, and far from the spot at which Bob Turner's troubled spirit had taken its departure.

It was very warm. The full day had come and the sun was blazing on the high hills. Shadwell was a poor little town of log or frame houses, and the people had not yet found sufficient enterprise to plant shade-trees in their single street. Judge Braxton was a heavy man, and his brow grew damp and his breath short. He tilted his straw hat on the back of his head and wiped his forehead with a great white handkerchief.

The narrow street was already filling, although the hanging was several hours away, and all the crowd was in holiday dress. The women were clad in gay calico dresses, and their faces were protected by huge sunbonnets of very bright colors. The men who wore coats had already taken them off, and many had begun to trade horses or jack-knives in the street. A huge

mountaineer, attired in a suit of checked calico fastened with large glass buttons, attracted admiring attention. Everybody knew him to be a famous moonshiner, but everybody also knew that there was not a revenue officer within thirty miles of Shadwell.

The notice drawn by Means, the moonshiner, was only second to that bestowed upon Judge Braxton. Here, as everywhere, the judge was liked and respected, and many whom he knew, and more whom he did not know, came forward to shake his hand. He received them all with the same smile of genuine welcome. Judge Braxton was a democrat from head to heel, and loved his kind.

“Judge,” said Means, the moonshiner, “if ever I’m arrested for anything you’ve got to come an’ defend, even if you’re a hundred miles away.”

The judge looked quizzically at the yellow-bearded, calico-clad giant who stood before him, the sun’s rays glinting off his glass buttons.

“I’ve already read up on the law for your case, Billy Means,” he said, “because if ever I’m called

upon to defend you I know it will be on a charge of making mean whisky, and selling it for two prices, somewhere out in the mountains.”

The crowd burst into a roar of laughter, and the big mountaineer tried to hide himself, calico suit, glass buttons and all, behind the throng.

“An’ what would you defend me for, Judge Braxton, if I’d happen to call on you?” said a little yellow-faced, mean-eyed man.

“I wouldn’t defend you at all, Tom Gasson,” replied Judge Braxton, giving him a look of withering contempt, “because I never take the case of a man whom I know to be guilty.”

Again the crowd burst into loud laughter, and this time it contained mingled notes of derision and satisfaction. The yellow-faced man slunk quickly away. Tom Gasson was suspected of shooting his neighbor’s stock, than which there is no meaner crime in the Kentucky mountains, and he was known to be a scoundrel.

“I’m glad you gave him that shot. He deserved it,” said Conroy, the storekeeper, to Judge Braxton.

“How much does he owe you, Jim?” asked the judge.

For a third time the crowd burst into a roar of laughter, and as on the first occasion, the laugh was now thoroughly good-natured.

Jim Conroy reddened a little, and then he joined in the laugh.

“Forty-seven dollars and sixty cents,” he replied frankly. “And I’ll tell you what I’ll do, judge—I’ll cut off the forty-seven dollars and sell the whole account to you for the sixty cents.”

The judge shook his head.

“You don’t seem to me to be an object of charity to-day, Jim,” he said, “and I need that sixty cents.”

Then the two walked on together.

“I wanted a chance to speak to you, judge,” Conroy said. “Bob Turner has heard that you’re in town, and he’s anxious to see you.”

“What good would that do?” asked the judge. He never liked to go to an accused or condemned man to whom he could carry no hope.

“I don’t know,” replied Conroy thoughtfully, “but do you know, judge, I used to like Bob Turner? Of course he killed that man, and I s’pose he ought to hang for it, but I hate to see a fellow have to shuffle out of this world with ten thousand people watching him do it.”

“I don’t mean to see it,” said Judge Braxton emphatically.

“But you’ll see Bob Turner before he goes, won’t you?” continued Conroy. “I think it would be a real act of charity to strengthen him to face the crowd and the rope.”

“Do you think so, Jim?” asked the judge earnestly.

“I know it would,” replied the storekeeper with conviction. “I was in there myself at daylight to tell him good-by—as I told you, I like Bob—and he was asking hard for you. It’ll be a good deed, judge, to see him.”

“Very well,” replied Judge Braxton. “I’ll see him.” He could not resist such an appeal.

As he continued his walk up the street toward the jail he recalled Turner's trial. He had been present a year before at a session of the circuit court in Shadwell when it occurred, and he had noted at the time how the defense had been mismanaged by a young and not very bright attorney. The judge, with his wonderful eye for weak points in the attack, had longed more than once to show them to Turner's lawyer, but he was not a man to meddle in business that was not his own. Turner had been found guilty, had been condemned to death, and the Court of Appeals had denied a new trial.

"If I'd been in the case I'd have shattered the prosecution," thought Judge Braxton. "What excuse can there be for a lawyer who muddles his defense when his client's life is at stake!"

He came to the jail, the only building in the place not of wood. It looked gloomy enough, with heavy iron bars across the windows and two deputies, rifle in hand, on guard before the door. Already hundreds of spectators hung about, watching the walls that held the doomed man, and the judge was forced to press his way

through a dense group before the entrance.

One of those whom he touched, a woman, turned and looked at him. It was a fierce old mountain face that gazed at him from under the sunbonnet, lean and wrinkled, black eyes burning, and thin gray locks falling on her brown forehead.

The judge started and suddenly wished himself in some other place. It was Bob Turner's mother!

He was so used to appeals for help that he thought she was going to cry out to him to save her son; but she said nothing, merely kept her concentrated, burning gaze upon him, and he passed uneasily on until he reached the doorstep where stood the deputies armed with rifles.

"I want to see Turner," he said. "Jim Conroy tells me that he has asked for me."

"That's all right," said the jailer, appearing at that moment in the doorway. "I was in the cell when he asked Conroy to bring you, an' if Bob Turner, on the last mornin' of his life, wants to see Judge Braxton he kin do it."

The riflemen passed him in, and the judge

went with the jailer to the cell.

Judge Braxton's heart was heavy within him when he saw Bob Turner, a stalwart mountain youth, now in the last stages of despair, his healthy tan replaced by the jail pallor. He seized the judge's two hands in his and clung to them as if here at last was a man who could save him.

"Judge," he exclaimed, "it's mighty good of you to come! I ain't any coward, judge—don't think that—an' if I killed Jake Filkins, as they said I did, I'd go to the gallows without a whimper. But it's awful, judge, to have to die for what you didn't do! I say it right now, over an' over again, that I didn't kill Jake Filkins! Oh, judge, if I'd 'a' had you to defend me I'd 'a'—never been here!"

"It is best to be resigned, my son," said a voice from the dark corner of the cell.

It was the minister, Mr. Perkins, that said this. He was staying with Turner in his last hours, and would accompany him to the gallows.

"But I ain't resigned!" exclaimed Turner with energy. "I'm an innocent man, an' they ain't got a

right to hang me for what I never done. Can't you do somethin' for me yet, judge? I've heard talk of such things as new evidence, an' writs o' error. Can't you get one o' them, judge?"

Judge Braxton slowly and sadly shook his head. The eyes of Bob Turner were honest, and he had never seen a guilty man act like this in the face of death. An able and energetic lawyer might find new evidence enough for a writ of error, but the Court of Appeals was far away in Frankfort, the nearest railway station was fifty miles distant, and it was but three hours to the hanging.

"If I could do it I would, Bob Turner," he said impulsively, "because I believe you are innocent."

The young man fell back in despair, and the minister began to say to him consolatory words that he did not hear. As soon as he could Judge Braxton left the cell with the jailer, both with tears in their eyes.

"If there were time, he might get a writ of error," Judge Braxton said to the jailer as they stood a moment in the doorway behind the armed

guards.

“I guess there ain’t no writ o’ error for him this side o’ t’other world,” said the jailer; “an’ he ain’t likely to need such a thing there.”

“No,” said the judge sadly, and he went out into the crowd which had now pressed up to the very door-step. A lean, fierce old face on the very fringe of it looked out at him from the absurd folds of a yellow sunbonnet. The judge’s heart sank. She had heard the words that passed between him and the jailer there, and she would have the misery of living and knowing that her son might have been saved had the right lawyer defended him.

But the mother of Bob Turner said never a word; only she stared so intently at Judge Braxton that he became nervous and bumped rather heavily against the big, square figure of a man. He drew back with a hasty apology, but the man merely said quietly: “It’s all right, jedge. I knowed ye didn’t mean to do it.”

Judge Braxton started again. The man was Big Seth Turner, Bob Turner’s oldest brother. He

looked at Seth curiously, but the mountaineer looked away, and a moment later was lost in the crowd which was continually increasing in area and thickness. It was slow work making a passage through the people. Presently Judge Braxton came to a man who said to him:

“How’s he bearin’ up, jedge?”

“As well as you would in his place,” replied the judge shortly, and then looking at his questioner, he was sorry that he had given such a reply to what he had taken at first to be idle curiosity. The man was Bob Turner’s first cousin, Eli Skaggs.

“I’m glad to hear it, jedge,” said Skaggs in a low tone. “Bob’s a brave man.”

“And not a bad one,” said Judge Braxton impulsively.

“Thank ye, jedge,” answered Eli Skaggs quietly.

The judge at last made his way through the crowd and stood on the far side of the street, where a lean, hawk-nosed, little old man with singularly fierce, bright eyes, presently came and

stood beside him. It was Bud Murray, the brother of Bob Turner's mother.

"It's like a pass'le o' crows, judge, chatterin' round somethin' dead," said the old man in a tone that sounded like the snarl of a wildcat.

"It's a heathenish curiosity," said the judge, and it was on his tongue to ask the old man why he, too, had come to see his nephew die. But a sudden thought leaped to life in his mind and he refrained. Neither he nor Bud Murray spoke again, but the judge looked closely and thoughtfully over the crowd. Not far away he saw another brother of Bob Turner, and then two more uncles, and then, one by one, a dozen cousins scattered through the crowd.

Judge Braxton turned and walked very slowly down the street. His heart had been heavy with sorrow, and now his mind was heavy with thought. Naturally a man of uncommon powers, his perceptive faculties had been trained to the highest pitch by his long life in the law.

Moreover, he knew thoroughly the people of his circuit, and now he had no doubt that he saw the truth.

What should he do? Judge Braxton was a man of the law, and he had a jealous regard for its fair name. What should he do? The finger of right pointed one way, and then it pointed another. Long his mind followed the pointing finger on either course, and then he made his choice. He was an outsider here. He had not interfered when the bungling young lawyer allowed the rope to knot itself around Bob Turner's neck, and he could not seek now to interfere with the drift of circumstances.

He wiped his forehead once more with the great white handkerchief, and continued his slow walk to the little hotel at which the lawyers stopped. It was one of the hottest days ever known in Shadwell, and he was glad to get inside and drink a glass of cool lemonade. The public room was crowded and there was but one subject of talk—the hanging of Bob Turner, which was now but two hours away.

“I think you'll be left alone here, judge, when

the event comes off,” said a lawyer named Johnson. “I know you won’t go to such a thing, but I don’t know anybody else who won’t.”

“On the contrary,” replied Judge Braxton, “I am going.” The lawyer showed surprise. “I didn’t think you were willing to see a fellow human being put to death,” said Johnson.

“Just this once,” replied Judge Braxton.

Time passed rapidly; and then, as if by one impulse, all the great crowd moved toward the open fields near the jail, where the gallows had been erected. Judge Braxton went, too, and in that moment of excitement he was not noticed. He caught a glimpse of the gallows, a crude affair, but deadly enough, and he shuddered.

Then he looked away. Despite his emotion, he was watching closely. His eyes were searching for a figure, and presently he found it. Only the lean, fierce old face in the yellow sunbonnet showed above the mass, but the mother of Bob Turner was there, near the front of the crowd.

The great throng made little noise save for its heavy breathing and the tramp of many feet. It

was silent with expectation. The sun, now at the zenith, poured down fiery rays, and every face was wet with perspiration. All the men were in their shirt-sleeves.

The judge brushed against a wiry old figure.

“It’s a hot day, jedge,” said Bud Murray as he passed on. The throng covered all the field except the space around the gallows, where two deputies stood guard, and the lane between the gallows and the jail.

A deep murmur ran through the crowd, and then came silence—a silence deep, intense and painful, that endured for a full five minutes, when it was broken by a sudden involuntary cry from thousands of throats:

“There he is!”

The jail door had opened, and out of it came Bob Turner, pale, but composed now. By the side of him walked the minister, Bible in hand, and on either side of the two was a deputy with a rifle. Behind them came the jailer.

The judge saw well from his point of vantage and a great lump came into the throat of the

tender-hearted man. It was a bright and beautiful world, even in these stern mountains. What a terrible thing for a man to come forth from a dark jail merely to look his last upon it!

The crowd, after the single burst, became silent again. Then it pressed closer, still curious and perhaps a little awed.

Judge Braxton's eyes searched eagerly for the absurd yellow sunbonnet, and at last he saw it at the very edge of the crowd, at the narrowest portion of the open space down which the solemn procession was passing. The yellow sun-bonnet never wavered. The old woman was at least steady.

They walked very slowly. The minister was speaking in a low tone, as if he would strengthen Turner, and the condemned man seemed to be listening. The judge could count their footsteps, and never before in his life had time seemed to drag so heavily. The brilliant sun blazed down upon the multitude and brought out every curious face like carving.

Presently the grim procession came to the

point at which the unwavering yellow sunbonnet, near the front of the crowd, showed to Judge Braxton. And then the heavy, ominous silence was broken by a sharp, piercing cry that cut the air like the slash of a knife.

No two accounts of what followed have ever agreed, but to Judge Braxton it seemed that a body of at least twenty men was suddenly detached from the rest of the crowd and hurled in one mass upon the prisoner and those around him. The deputies and the jailer were seized in powerful arms and their weapons wrenched from them.

Shouts and the sound of struggling followed, the entire multitude, driven by curiosity, closed in, and a cloud of dust raised by the rush of thousands of feet rose above them all.

Amid the cries and confusion nothing more was known for several minutes. Then some one shouted in a tremendous voice, "Look!" and pointed to the mountainside.

Bob Turner, on a great black horse, waved his hands once toward them and then galloped away

in the forest.

“Ye’ll git that writ o’ error yet an’ clear him, won’t you, Judge Braxton?” whispered Bob Turner’s lean, fierce tiger-cat of an old mother in the judge’s ear.

“I will,” said Judge Braxton. And he did.



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● Credits

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