

CHAPTER XXVI.

CHOOSING A LOCATION.

Having chosen a profession, I found myself at home in the early days of April 1876, a year quite memorable in my life, with a diploma from a reputable law school declaring me a Bachelor of Laws, which was supposed to entitle the holder to admission, with or without examination, to the bar in any of the states of the Union.

Fundamental preparations were thus behind me, - I use this term because whenever a young man, especially a lawyer, feels fully equipped and ceases to study he begins to retrograde and unless this is checked, absolute failure is assured.

I had no money, was even in debt, had no well defined plan for the future and no definite idea where I ought begin and was quite overwhelmed by an impending feeling of helplessness and hopelessness. Indeed, I even began to deplore my choice of a profession and the time and money I had expended in law school, and actually to consider whether I might not better, even now, turn my back upon it all, calling it a mistake, and take up farming as father had originally hoped I might. But now that same gentle, affectionate and wise father, who had at one time urged me to do this, evidently sensing the cause and depth of my discomfiture, took no advantage by pressing it upon me again; but, on the contrary, he studiously prevented me from even talking about it or taking any part in the spring activities on the farm. He evidently had more faith in my future than I, for he seemed to believe that it was only necessary for me to begin and success would ultimately follow.

He was quite anxious that I should begin in Delaware, my home town, - believing I think he might, through his friends, provide some business, for he strongly urged this course. One of our near neighbors, David Bevin by name, a very prosperous Welsh farmer, whose industry and frugality had been rewarded by making him the

wealthiest farmer in the vicinity, also advised this, assuring me he would give me such business as he had, - mainly, drawing notes, mortgages, etc. Several years previous, Mr. Bevin had been Township Trustee, whose duty, among others, was to assess the township for tax purposes, and he had asked me to assist him in a clerical way in making his returns. From this time forward, there continued between us an unbroken and intimate friendship.

Regardless of these small encouragements, I could not escape the conclusion that in the West - that great empire of rapidly settling territory beyond the Mississippi river - was the place to begin; but I was in debt, with not a penny in my pocket, and therefore my prospects of starting the practice of law in that distant country seemed quite hopeless.

In the meantime, hearing that the Supreme Court of Ohio was in session at Columbus, and that upon a stated day applicants for admission to the bar would be passed upon, I went to that city, with my credentials from Michigan University, for that purpose. Curiously, of the dozen or more applicants present, a majority were graduates in the same class with me and it proved almost a reunion of class-men.

The examination as to general principles was exceedingly easy, but, when we were asked to name, describe and elucidate the purpose of each different part of a warranty deed - a most practical thing for a young lawyer to understand - we found ourselves floundering in bewilderment, and were goodnaturedly chaffed by the members of the examining board, who later, however, made amends by congratulating us upon our general knowledge, and all were admitted to practice in that state.

Then, to our surprise, each of the members of the board invited several of us to join him at lunch at the Neil House, then the leading hostelry of Columbus, where all of us directly repaired. This luncheon experience was very valuable to me, as it must have been to other applicants who were favored by sitting at this table. While I cannot recall even the judge's name who was our host, I have never forgotten much of the reminiscences he gave of his own start in practice, and the advice he offered as to where to locate.

Like thousands of young professional men, both in law and medicine, at and before that time, he was a

so-called self-made man,- that is, had supported himself by teaching and working while getting his education. After completing his college studies, being out of funds, he again taught school for a period; during which he borrowed law books and painstakingly read. Thus he studied Blackstone, Kent's Commentaries and other general treatises, as well as the Codes of Ohio.

When he felt fairly well versed in these, he got permission to enter the law office of one of the leading firms of Urbana, Ohio, where he learned something of the practical part of applying what knowledge he had to the ordinary affairs of men. After he quit teaching, to economize, he said, he hired a cheap room and boarded himself. When finally admitted to the bar (he didn't attend law school, as few did at that time - about 1850), he hired a cheap office, provided it with a few chairs, a small bookcase and a table, and with his name underscribed by the word "Lawyer," upon its door, he was ready for business.

But business did not come. At the end of six months, his income was but one dollar which he received from a country friend for drawing a deed. During this discouraging period, he frequently attended court when it was in session to learn what he might of the tactics and manners of the best lawyers. Thus he was a silent, perhaps a pathetic, example of a briefless barrister out of funds.

One day a criminal, charged with murder, was arraigned before the court. Having no means or friends to assist him, he could not employ counsel, and therefore it became the duty of the presiding judge to appoint one. Looking about the court room, and evidently moved by the silent, patient figure of this young lawyer, he appointed him - to the latter's surprise - to defend the accused. This perhaps added but little to the accused man's chances of acquittal. He said he was so astonished and frightened by the judge's action as to be almost speechless; but the judge, seeing his trepidation, called him to his desk and told him he would give him ample time to look into the case and prepare for trial, advising him to keep cool and do the best he could. The members of the bar also encouraged him by offering friendly advice; (and I wish here to say that this sympathetic attitude by prosperous

lawyers to beginners, so usually manifested, is not only one of the most commendable practices among members of the bar, but doubtless has its inception in the recollections of their own early struggles and the kindness then extended them).

When the trial came on, the young lawyer was so self-conscious and distraught as to be scarcely able to proceed. He had no particular theory of defense, but had desperately determined to object - almost seriatim - to everything, hoping in the multiplication of exceptions to lay the basis for error. As carefully as an inexperienced lawyer could, he cross-examined each witness, trying to bring out every extenuating circumstance in his client's conduct and expose any venom or exaggeration in the state's witnesses. Finally, he argued the case to the jury, reviewing with earnest particularity everything which might be properly said in his client's favor. But all to no avail, for the man was promptly found guilty of murder in the first degree.

He prepared a motion for a new trial, founded upon the numerous rulings against his client to which he had objected and made exceptions; then he diligently sought for authorities that might support his contention; and, after several late nights and long days, he discovered one he believed would support his motion.

Upon the hearing, he urged his contentions as best he could, reserving, however, the strongest point for the last. When the court's attention was called to this, and the authority was cited, there was quite a change from the tolerant attitude of the members of the bar, as well as the judge, to one of surprise and interest. The judge asked for the decision, carefully considered it for some time, then called the attention of the State's Attorney to it, asking what he had to say; but the latter could offer nothing to the contrary. After some consideration, the judge granted a new trial and the members of the bar offered the young lawyer their congratulations, while spectators, witnesses and jurors began to look upon him with new interest and respect.

The next day the judge called him to his desk and talked with him about the advisability of discussing, with his client, a plea of guilty and a sentence of life imprisonment instead of hanging. This he did and his client willingly consented.

Proceeding, he told us that from that time forward his business rapidly grew - not a month thereafter was his income less than a hundred dollars. From other sources, we knew that before entering upon the bench he had become one of the conspicuous figures of the bar of central Ohio, while the high position he then held was ample testimony of the esteem in which he was generally held as a jurist.

In discussing the question of a proper location, he went on to say that a young lawyer should be governed in this by where he preferred to live, - whether in a large city or small town, and whether in the East or West. Big cities, he said, had greater ultimate possibilities, while small places were somewhat less difficult to become known in, and living expenses were less than in the larger ones. An income of one or two thousand dollars might be ample in a small place, while several times that amount would be required in a larger one. Generally speaking, he claimed that legal business was everywhere largely in proportion to the population and that young men who must depend wholly upon their own efforts, who went here or there upon the theory that this or that locality would be easier to build up a business in, were usually disappointed and often failed.

My own experience has amply supported his conclusions, and in many instances thereafter did I pass them along to young men asking for advice in these matters.

CHAPTER XXVII.

I returned from Columbus with a certificate authorizing me to practice in all the courts of the state of Ohio, issued under the authority of the Supreme Court, whose seal it bore; but my double problem of where to begin and how to sustain myself during the first year, was in no way lessened. Had I even five hundred or a thousand dollars in pocket, it seemed this alone would give me courage and certainly much relief. Having nothing, not a penny, and in debt besides, it seemed hopeless, unless I again took up teaching, to replenish my purse. This I knew would require at least two years. It is no exaggeration to say that all the past difficulties of my life were overshadowed and outweighed by those confronting me.

My desperation must have been patent to every one and perhaps more potently so to father and mother, for the second day after my return, he called me into the sitting room, where they both sat, and said, "Frank, you are troubled and discouraged. You have no money and are undecided as to where to locate and how to sustain yourself until you can get a start. Now, your mother and I believe in you. You have made good in the past and we are sure you will in practicing law. We have finally concluded that it is better for you to decide where to start; and so long as you do the best you can, we will stand behind you. If you go West, we will furnish you with \$150, taking your note, so if you are unable to repay it while we live, it may be charged against your share of our estate; and if you require more later, we will furnish it if we can."

Oh, what a wonderful father and mother! And I have been greatly concerned ever since as to whether I adequately expressed my gratitude to them, and more particularly whether my after life and its accomplishments, while they lived, caused them to be glad in heart that I was their son and that they had given me the chance. I sincerely hope this may be so. Indeed, I thank God I

was so fortunate as to have built up quite a large and lucrative practice and to have been honored in different ways by the people amongst whom I lived by being elected to several positions of honor and trust while they were still living.

After parting at Ann Arbor, Buckman and I carried on almost a weekly correspondence, and after this offer of father was made, I at once wrote him of my intention of going to settle in the West.

My brother-in-law, Mr. W. A. Smith, who was a clothing merchant, had traded a stock of shelf-worn goods for lots in Pueblo, Colorado, and strongly advised me to go there, saying he believed it would sometime become a large city. My inclination to follow his advice was somewhat strengthened by the fact that a Miss Davis, the daughter of a blacksmith in Delaware, with whose family we were quite intimately acquainted, had married a man engaged in the lumber business in Pueblo, and I was given a letter of introduction to him. All this I duly communicated to Buckman and he was glad to go with me - upon the understanding that we would locate and start business as partners.

On our way out, we crossed the Kansas-Colorado line quite early in the morning. All the day previous, we had traveled through endless stretches of prairie in Kansas, covered, where not under cultivation, - which was but little, - with a beautiful, luxurious growth of prairie grass, which evinced the strength of soil and sufficient rainfall to make it the home of settlers. But when we awoke in Colorado, instead of the fascinating landscape of the day before, the earth was covered with gray-brown sagebrush, growing in sand or soil of almost the same color, broken only by straggling trees and small patches of grass along and near the Arkansas river.

No settlement was seen for scores of miles; each station, distant many miles from the nearest one, seemed made only for the convenience of railroad men, as usually no one was in evidence there but the agent.

To those accustomed to the inspiring sight of spring activities in the East, the prospect was a somber and forbidding one. To the west, there began to

take form, above the brown stretches before us, the dim outline of the peaks of the Colorado mountains, and to the northwest, the monarch of all, Pikes Peak, lifted itself like a lone sentinel above its fellows, with its great slides clothed here and there with fleecy clouds like mantles upon its huge shoulders, above which shown its glittering peak, still resplendent with the winter's snows - a sight never to be forgotten.

We arrived at Pueblo about ten in the morning. It was a little, struggling village, with a short business street, and at this time was suffering from a business depression. I recall that its most pretentious structure was the schoolhouse - then in course of construction - which had been started and built a few feet above its foundation, when, the funds having been exhausted, it must stand so until more bonds were voted and sold.

The business street seemed very empty as compared with those of the towns in Kansas through which we had passed, but upon inquiry as to the reason, we were informed that much of the trade came from long distances and the goods, bought in large quantities, were usually loaded into wagons at the rear of the stores - single bills running often into hundreds of dollars. Then the town was unusually quiet, - no building going on anywhere and the great irrigation projects, which later converted vast areas of the Colorado desert into prosperous communities, were, if at all, little talked of and were considered extravagant dreams of the future.

We stayed in South Pueblo in a small, frame hotel, south of the Arkansas river. Here we met several other young men, come looking for locations also, - a young doctor who resided in Kansas, being here especially for his health. Curiously, when I was in Kansas the first time, I had ridden in the same seat with him when on my way from Burlingame to Newton. He lived at Marion, Kansas, where he was in practice with his father. This unexpected second meeting was an agreeable surprise to both and eventuated in his strongly advising us to return and locate in Kansas.

In discussing a point of location, he very strongly urged us to go either to Cowley, Butler or Sumner county, - preferably the first, for the reason that they were then in process of rapid settlement, the population being all comparatively new and the country very rich in soil and would eventually become thickly populated and very

productive in corn, wheat, hogs, sheep and cattle; and that while neither at present had a railroad, their rapid development must soon entice extensions. He urged, as another reason, that the presiding judge of the newly formed district court, embracing six counties, was a personal friend of himself and father, all having come originally from the same locality in Kentucky, and that his father had officiated at the time of the judge's birth, and graciously offered to give us a letter of introduction.

After carefully considering the whole matter, we finally decided to go back, and carrying the proffered letter of introduction with us, we started the next day.

There is one peculiarity of Colorado, noticed at that season of the year while we were there, which I have never forgotten. It was the last of May. In the forenoon, between ten and twelve, every morning during our stay, there took place a blustering wind, sand and thunder storm, almost as punctiliously as to time as the clock itself. Otherwise, the climate was very delightful, although the altitude was about 5,000 feet.

Here, too, it was we first experienced the illusion, very common in mountainous countries, of seeing water, of its own volition, flowing up hill in an open ditch, while in other places, it seemed to obstinately refuse to run down again. So realistic was its apparent un-mindfulness of nature's laws that one of the guests of the hotel declared, unreservedly, that it did perform this impossible feat, and essayed to explain how this might be done, saying, "In a mountainous country like Colorado, the momentum given to water while flowing down must necessarily cause it to flow up again to an equal height."

The next day, after leaving Colorado, we arrived at Newton, from whence we planned to go to Wichita by train and from there by stage to Winfield,- that being the county seat of Cowley county.

As compared with Pueblo, Newton seemed a very busy little town, its streets now being quite filled with farmers delivering their products and buying goods. Paint and other improvements had changed the wooden and unpainted structures of my visit six years previous, and no longer were the whooping cowboys in evidence; for after the extension of the Santa Fe to the West and South, Dodge City and Caldwell had become their mecca and enjoyed the distinction for many years.

There still stood the curbed well in the center of the main cross streets of the town, and to the south, across the railroad track, the graveyard, so generously started by the participants in the shooting bout the Saturday night preceding my first visit, still being shown to curious newcomers, although it now had many additions.

While several saloons flourished in the place, for Newton was divisional headquarters for the railroad as well as the point where the branch to the south joined the main line, it was as quiet and respectable as perhaps any town of its size and importance in the state.

We stayed at a very respectable appearing hotel, located exactly upon the spot where stood the frontier makeshift of my earlier visit, and there we incidentally learned that a dentist intended to drive to Winfield, in a spring wagon, the next day, and was looking for a party of two who would go with him and contribute to the expense. We immediately got in touch with him and quickly arranged to go.

We spent the afternoon in calling upon lawyers and looking over Newton, and so well were we received and impressed by the business they apparently had, we seriously considered locating there, and had we not already engaged to go with the dentist, we probably would.

The trip across the country was most delightful. It was early June. The prairies outside the valleys were largely unsettled and almost wholly unbroken and unfenced. The air was heavy with the perfume of prairie flowers and the native rosin weed, which raised its yellow head everywhere, while the song of birds, of countless varieties, made the air vibrant, morning and evening, with their choruses. It was a country good to look upon, a land of wonderful promise.

The first day, the trip ran southeasterly, almost wholly over the rolling upland prairies. Only occasionally would we cross a 'draw' or diminutive creek. Neither do I recall passing a single settler's house until late in the afternoon, when we entered the beautiful Walnut Valley, at the village of Augusta, in Butler county. Here, because of the high water, we were unable to cross the river for two days, and spent our time

as best we could, walking occasionally, in our anxiety, to the crossing to note whether the floods were lowering. The village then contained perhaps a hundred inhabitants. Its principal structure was the hotel, which furnished on its ground floor a couple of store rooms and a real estate, notarial and justice's offices. Mine Host, who showed us about, was apparently the leading spirit of the village, for he seemed to direct the activities involved in the various businesses above noted, - besides being agent for eastern monetary concerns which were just then beginning to make loans in this part of the West, at very much higher rates than were possible farther East.

He urgently advised us to locate, stating he felt sure, with his influence, we could soon get a fair business; but we had no hesitation in going on the second morning when the river could be forded.

The friendly interest manifested in strangers, by the people in towns through which we passed, we soon learned was largely an expression of the rivalry between localities, for the purpose of increasing their population and importance; for, at this time, and for several years thereafter, an ever increasing number of homeseekers came to this portion of southern Kansas, which was exceedingly rich in soil, and was, it was then claimed, about as far West as general farming could be successfully carried on with dependable rainfall.

Leaving Augusta early in the morning and fording the river without difficulty, our road led southerly, for nearly forty miles, along the easterly side of the Walnut river and proved to be one of the most delightful drives we ever experienced; for we were perhaps at no time two miles distant from its tortuous course, and often for, quite distances, the road ran near its bank through beautiful groves of oak, hackberry, walnut, pecan and other species of trees whose tops occasionally were so entirely covered with wild grapevines as to hide their identity.

The soil was unbelievably black and rich, as was evidenced by the tall blue-stem grass reaching in places above the backs of our horses, as well as by fields of corn and wheat, - the former being richly green and vigorous, the latter standing breast high, with heads so long and well filled as to tax the strength of their stems to support them, - now just turning into the rich, golden color of ripeness.

A few miles below Augusta our driver halted under a beautiful wide-spreading oak, calling our attention to the fact that but a few years before, when the county was not yet organized, and much lawlessness prevailed, one of its long, strong limbs became the gallows for five thieves, or "stock-rustlers" as they were then called, who were hung by a vigilante committee of the early settlers. They were stood side by side in a long wagon-bed, each with a rope about his neck, the other end securely fastened about the limb, arms closely tied to his side and a sack drawn over his head. At the signal of the leader, the wagon was driven from under, permitting their forms to drop some three feet - there to dangle until dead. There, they were all permitted to thus hang, the remainder of the night and most of the following day, as a warning to other miscreants. They were all buried near by in unmarked graves.

As we passed on down this beautiful, rich valley, averaging perhaps three miles wide, hemmed in on either side by high and, in many places, precipitous, limestone bluffs, our enthusiasm increased, and some twelve miles below Augusta, we came to the village of Douglas, much smaller in population and pretensions than the former, but whose population vociferously proclaimed great things for its future. Some four miles further on, and just below the northern boundary of Cowley county, was a Post Office and store, called Rock Creek, - near which, and perhaps suggesting its name, flowed into the Walnut from the northeast, one of its largest tributaries, Rock Creek. While smaller, it drained a large territory and in a lesser way repeated the conditions of bottom land and timber of the Walnut. A few miles further south was another small stream, called Dutch Creek, upon the bank of which was a Post Office called Akron.

When within a few miles of Winfield - our destination - the road led closely under the eastern bluffs before mentioned. For some time the fringe of trees, denoting the course of the river, had been sharply bearing southwest and was now apparently some two miles distant. Suddenly we came to a sharp elbow in the bluff, and, when we rounded it, we found that it turned almost at right angles to the east, and, to our amazement, there spread before our astonished eyes - to the west, south and also the east, as far as we could see - a pastoral view of surprising beauty and portent. The fringe of trees bordering its outer edge seemed to form almost a semi-circle, and there appeared on every side, between us and

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it, a beautiful expanse of gently sloping, rich, bottom prairie, apparently several thousand acres in extent. Perhaps a thousand acres of this was in ripened wheat, in which we saw several power binders at work, the clatter of whose sickles and machinery was borne faintly to our ears. Also, there was perhaps a larger area in corn, now waist high and so richly green that the slanting rays of the evening sun were reflected from the glossy surface of its quivering blades as if they were myriads of small, scintillating mirrors.

I shall never forget the effect of this view! Each mile down this wonderful valley had increased our faith in the ultimate future of the country, and now the last doubt was gone.

A few miles directly south across this rich valley brought us to the timber again, and there we learned that, at this point, the bank upon which we stood was not that of the Walnut but of Timber Creek, one of the former's chief confluents from the northeast. After fording it and reaching the border of the timber to the south, we found ourselves in the townsite of Winfield.

Before closing the impressions gained from our delightful, two-day trip, I should perhaps refer to another phase of the country's productiveness, - its richness in game. Had Buckman been describing it, he would doubtless have been more enthusiastic, for he was extremely fond of wing shooting, which was abundant everywhere. On the high prairies, between Newton and the Walnut Valley, we passed almost innumerable flocks of prairie chicken, mainly hens with their young broods. Here, too, we saw many coyotes and jack rabbits, while in draws and along small creeks, as well as almost everywhere in the Walnut river bottom, were quail and "cottontail" to an extent I had never before witnessed. In the timber bordering the creek, was also an abundance of squirrel, while the Walnut and many of its lesser tributaries contained fish of many kinds and of large size - for in Cowley County, about twelve miles south of Winfield, the Walnut flowed into the Arkansas river. The latter, during my residence in Kansas - and much later, until great quantities of its natural flow had been diverted for irrigation purposes in Colorado and western Kansas - had a large and continuous supply of water -- so much, indeed, that during my residence in Kansas, there was much talk of a project for making it

navigable, for light draft boats, as far northwest as Arkansas City in Cowley County. From this source, all the larger streams in Cowley County were annually stocked with fish.

CHAPTER XXVIII.

How very little can human beings either foretell or direct their future course. When we left our respective homes in Illinois and Ohio, some three weeks earlier, with the intention of locating at Pueblo, Colorado, neither of us knew there was a town in Kansas by the name of Winfield; and yet, moved by directions and impulses largely beyond our control, we were landed in this very place where we did not know a single person.

The vehicle, which conveyed us hither, stopped in front of the only hotel the village possessed. It was a small, narrow, two-story, frame building, containing an office, dining room and kitchen on the ground floor, while in its upper part was a small parlor and perhaps ten rather small bedrooms, arranged on either side of a narrow hallway, from which each was entered. It stood at the extreme northerly end of all other business houses fronting upon either side of the principal street of the town.

After registering and storing our baggage, it was with much curiosity we leisurely walked down on one side and back on the other of this street, especially noting the appearance and character of its stores and the names on the signs of lawyers.

After supper, as the days were then long, we made a much longer excursion which largely encompassed the whole town. It contained but two brick structures, each two stories high, one occupied by a hardware store, the other by a bank. The room occupied by the bank was elevated some three feet above the sidewalk, giving space and very good light to the semi-basement beneath, - the latter being entered from the sidewalk, by stairs leading down at right angles from the south side of the building, and, to protect passers by from falling in, an iron railing some three feet high guarded its outer edge. This basement had also an exit in the rear and was perhaps 24 by 50 feet in area, occupying the entire basement of the build-

ing. These facts are here mentioned, as later this room became our first law office, as no other was then available.

With perhaps two exceptions, every other structure in the business center was one story and all were frame.

The inhabitants of Kansas at this time were so given to accentuating the importance of their towns, counties and state by over-estimating their population that I hesitate, even now, from the habitual precautions I then practiced, for fear of offending these early enthusiasts, to venture boldly to declare what I then thought to be the number of people who lived in Winfield and Cowley County; but that of the former could not have been greatly in excess of 300,- about half of the amount then claimed,- and that of the latter, about 5,000 - perhaps correspondingly below the amount claimed. This practice was not carried on because of a wanton disregard of truth, but rather to shield their adopted locality from invidious comparisons with other surrounding localities, whose inhabitants, it was believed and declared, were viciously unmindful of the truth in all such matters.

The county occupied an area of 33 by 36 miles in extent, containing 1188 square miles,- 990,320 acres. Arkansas City, situated at the confluence of the Walnut river with the Arkansas, twelve miles to the south, had a lively and most progressive population and was Winfield's chief competitor; and, for this reason, a bitter strife for supremacy in importance and population always existed and doubtless does yet. However, it being situated but three miles from the southerly border of the county, it had no possible chance of becoming the county seat. Winfield, on the other hand, was almost in the exact center north and south, but was unfortunate in being only ten miles from the west border.

In order to cripple Winfield, which had previously been declared the county seat, the leading supporters of Arkansas City purchased a section of land eight miles directly east of Winfield, in the exact center of the county, sub-divided it into town lots, leaving a large square in the center for public buildings, called it Tisdale, built several buildings, and then began to circulate a petition, which was very largely signed by the inhabitants in the south and eastern part of the county

who would be nearer this location than to Winfield, asking the supervisors to call an election and submit the question of changing the county seat from Winfield to Tisdale.

After numerous protests and petitions were filed by the friends of Winfield, and much acrimonious discussion had taken place, the friends of Tisdale and Arkansas City succeeded in having the election called.

This had taken place some three years before our advent, but the scars made by that contest and the animosities it engendered were yet freshly in evidence and were never wholly healed during the twelve years of my residence in that country; and, while the early population of each place has largely been supplanted by newcomers there since, or by the posterity of the early settlers who can only have reminiscent knowledge of the early troubles, I have no doubt the animosity still exists.

Many curious incidents and stories were still afloat after our arrival as to the manner in which this contest was carried on, and, as the conduct of the election that decided it was in many ways similar to county seat contests taking place in many other portions of the state - before and afterwards,- I may be pardoned for briefly referring to it here.

Voters at that time were not required to register and a residence of but six months in the state enabled any male citizen over the age of twenty-one to vote; and, as there was a constant stream of settlers coming to, or passing through, the county, there was but little accurate knowledge available indicating the number of legal voters at any given time. Then, also, the rules governing the conduct of elections were not so strict as later,- there being one judge and two clerks, the decision of two of them deciding any questions raised by challenge. Partizans, on either side, it was declared, connived at or participated in all kinds of illegal practices to secure votes for their respective sides - even to ballot-box-stuffing. Indeed, the only restraint upon either was imposed by the fear that the vote favorable to its side might be so patently beyond the number of actual voters as to cause the precinct to be cast out ipso facto.

These elections differed little from county seat contests occurring in other counties in Kansas and the West generally during their settlement. Therefore, after stating that after much bitter contention and litigation, continued for several months, Winfield was finally declared to be the county seat and has retained that distinction ever since.

The foregoing will briefly convey to readers sufficiently interested to follow this narrative so far a fair comprehension of the character of soil, extent in area and amount of population Cowley County had at our advent; and also the divisional strifes that separated the people into factions which incidentally affected our chances of success. To make this information complete, I will here add a brief invoice of our joint resources.

Knowing that we were almost equally provided, I shall begin with my own, about which I am quite sure: Cash, about ninety dollars; in my trunk and upon my back were all the other personal effects I possessed, - my graduating suit, almost new; two other suits of much less original cost and value, now considerably worn; three pairs of underclothes; a half-dozen white shirts; an equal number of neckties, collars, handkerchiefs, pairs of socks; two pairs of shoes; two hats, and one overcoat.

Together, we had a few law books, which we augmented by purchasing the Code and Session Laws of Kansas and also three State Reports, - that being the number then issued. These were bought out of our small, joint funds and comprised our entire law library.

To some this might not appear an encouraging start, and much less so, perhaps, when I state that, with the exception of \$200 presented me by father and mother, at my marriage more than two years later, was all the money I ever afterward received, either through gift or inheritance, for my share of father's estate, - which had, among its inventoried assets, the notes I had previously given for money advanced to me - perhaps of little value - and to pay which and the accumulated interest upon, I gladly surrendered my entire share.

However, the potency of this start lay not in what material things we had, but almost wholly in the fact that we must entirely depend upon ourselves, which thus stimulated us with a resourcefulness and determination as well as economy, which, had we an abundance of money, must have been lacking.

CHAPTER XXIX.

SECURING AN OFFICE.

The night of our arrival we explained to the landlord that our object in coming was to locate and practice law. This information, perhaps, added little to recommend us to him as boarders. However, being a man of few words, he did not so express himself; but, on the contrary, answered our many questions about practicing lawyers as well as bankers and business men in the town; and although not so glowingly as did many others we later met, he expressed much confidence in the future growth and importance of this particular part of the state.

The next morning, after an early breakfast, we started out to meet the business men and, incidentally, find a suitable office. We soon learned that the people of the town and locality were divided hopelessly into two factions, each being headed by a bank and newspaper, - the one by J. C. Fuller's bank and The Winfield Courier; the other by M. L. Read's bank and The Winfield Telegraph.

So bitter was the strife between these factions, for predominance in local affairs, they agreed only upon one thing, - that the town and locality were destined to become the best in the state, provided always, that the faction to which the person, at the time addressing us, belonged, had the entire direction of its destiny.

We were, however, very graciously received and the day marked the beginning of many reliable and cherished friendships, which lasted while we lived there, and many of them for years thereafter.

Had there been two available offices - the one belonging to a member of one faction and the other to a member of the other - our selection of either would have been accepted as an affront to the other. Fortunately, there being but the one, - the basement under M. L. Read's bank, previously referred to, - we escaped this unfortunate dilemma.

It was, at the time, occupied by a house painter and therefore was not available for several weeks; and, to economize in the meantime, we secured board and lodging with a most estimable, elderly widow lady, Mrs. Newman by name, who, assisted by her two unmarried daughters, provided board and rented rooms to a limited number. Among those we first met here, as a fellow boarder, was A. T. Shinneman, a tall, angular man, perhaps eight years my senior, in many ways a typical frontiersman, especially in speech, appearance and personal courage. This casual meeting ripened into a strong attachment between us, which resulted to our mutual benefit, four years later, when he was elected to the office of sheriff, and myself, to the office of county attorney. During our respective incumbencies of these offices, I prosecuted many notorious frontier criminals, who were brought to the bar of justice through his brave and untiring efforts.

The last arrest made by him resulted unfortunately in his death, at the hands of a desperado, who had several charges of murder against him, and who discharged three pistol balls into Shinneman's body while the two were at grips when the arrest was made. Although wounded beyond the hope of recovery, this brave officer held his victim until help arrived and he was securely shackled. Shinneman died three days later, and so highly was he regarded and, in spite of every precaution the presiding judge of the district and myself could take to prevent it, the night following his death, the jail was broken into by a vigilante committee and the culprit was taken out and hanged by a rope from the railroad bridge across the Walnut river on the edge of the town.

Indeed, a most interesting volume might be written of the activities of Shinneman in bringing to the bar of justice noted criminals who rendezvoused in the Indian Territory which was, at the time, almost an asylum for fugitives from justice of the bordering states, among which, of course, was Kansas, and many of whom I prosecuted.

While awaiting preparation of our office for occupancy, the time necessarily hung somewhat heavily upon us, as there was little we could do. However, the afternoon before the Fourth of July, 1876, at which time a great, general celebration of the Centennial of the signing of the Declaration of Independence was to be held in Winfield, the chairman of the committee on speakers came to our boarding house and informed us that one

of the chosen speakers for the next day had just wired it would be impossible for him to attend, and the committeeman had come to get me to fill the vacancy.

Apropos of this, I will here insert an item, appearing in The Winfield Courier more than forty years later, giving some information about our arrival and my effort to fill the vacancy above referred to:

"Reminiscences. A Letter Which Will Be Most Interesting to Old-Timers. In a recent number of the Courier, the following appeared in the Forty Years Ago items:

"F. S. Jennings of Delaware, Ohio, and G. H. Buckman of Delavan, Ill., graduates of Michigan University law school, are here looking at Winfield with a view to locating and following their profession. They are delighted with the country and town."

"They located in Winfield and in time rose to the top in their profession. Mr. Jennings was twice county attorney and once senator from Cowley county.

"In 1891, Mr. Jennings moved to San Diego, California, where he accumulated great wealth and is now rated a millionaire.

"Recently the Forty Years Ago editor received a letter from him which will interest many of our readers, most of it follows:

"I was not aware how widely the 'Courier' is circulated, and my friends scattered, until I received from many different points of the compass either a copy of the 'Courier' of June 14th last, or a clipping from the same issue embracing an item published in the column headed 'Forty Years Ago,' - and at the head of which your name appears; such item announcing the arrival of Judge Buckman, then just plain George, and myself at Winfield.

"How many changes time has since wrought. Then Wirt Walton, under the guiding hand of Mr. Millington, wrote spicy paragraphs for the 'Courier,' controlled then, I believe by E. C. Manning. If I remember rightly, at that time, Ed. P. Greer, its present editor and proprietor, and of wide influence in Kansas, was a little 'devil' in its printing office. This was before Bill Hackney had

become immortal as a character in Kansas, and when men like William Allen White, Victor Murdock and others - young men, now of national reputation, were unknown children living in 'Boyville.

"How long it seems and what a flood of memories comes to me as I look backward along my path. Since then, the activities of many of the leading spirits of that time, who helped to cause the material growth and write the history of Cowley county, have ceased forever. James E. Platter, D. A. Millington, Wirt W. Walton, M. L. Read, M. L. Robinson, J. C. Fuller, Judge Gans, Judge Troup, E. C. Manning, A. J. Pyburn, J. B. Lynn, Judge McIntire, Amos Walton, Major Heath, Robert Burden, Sheriff Shinneman, Captain Siverd, and many, many others readily recurring to me, were pioneers there, when the item was published.

"While it was doubtless but an item of passing news to the few hundred people residing in Winfield at the time, to us it was a momentous event, as it was our initial start in the serious struggle of adult life; and how we existed for the first two years I can not now understand, as we had practically no money and not a single friend or acquaintance in the county at the start.

"When visiting me several years ago, while talking over early experiences, Judge Buckman called to my mind how at a week's end, with pockets empty and a board-bill due, we called Sid Majors, the good boniface of the old Central Hotel, I think, aside, and solemnly informed him of our deplorable condition; and how he patted us on the back and said, 'That's all right, boys. Pay when you can.'

"Personally, I feel a great debt of gratitude to the early settlers there, - so very many of whom became thereafter my personal friends and fortunately many my clients; and I can now recall hundreds that seem as near and dear to me as if we were related, rather than merely acquaintances and friends; and though I have formed new ties of friendship in California, none seem so near and dear as those of the days of my early struggle in Kansas, and among whom I delight and presume to hold you as one.

"This clipping recalls my first public appearance in Winfield. The afternoon before the Fourth of July, 1876, A. B. Lemmon came to Mrs. Newman's where we lodged and boarded, as we then had no office, and requested me to fill a vacancy on the program of the next day, caused by the inability of one of the chosen speakers to be present. I had then but little experience in public

speaking, and none in the open air, and strenuously declined; but through the insistence of Mr. Lemmon, seconded by Mr. Buckman's efforts, I at last consented.

"The sentiment to which I was to respond was certainly worthy of a better representative for it was 'The Day We Celebrate.'" After consenting, I spent a most uncomfortable, sleepless night, trying to arrange in my mind some expressions worthy of the occasion; but, the next morning, when I saw the processions pouring into town, from every road leading toward it, and watched the grove west of the Santa Fe depot, where the celebration was held, constantly filling with the great crowds pouring in, I realized how impossible it would be to make my voice carry to its out-skirts, my trepidity increased until positively, as the time approached for my appearance, I was in a 'blue-funk' - so that when I was introduced to the great audience I could scarcely control my legs, and walk to the front of the platform, where I grasped the edge of a long board, serving in place of a table, to steady myself.

"What I said I shall never know, but I have a humiliating sense that it was in no wise equal to the thoughts I had hoped to express; and, while I was occasionally stopped by generous applause - which I considered came through sympathy rather than approval - and at its close was followed by quite a hearty outburst, I left the stand at once, humiliated and chagrined, and quietly wending my way through the crowd went out of the grove to a point in the southern part of the town where, off at one side by myself, I lay down on the grass to watch a ball game.

"A few minutes afterward a gentleman came by, stopped, looked at me a moment, and then extended his hand, saying, 'Young man I want to congratulate you on that speech you have just made.' I looked at him with pity for his judgment and contempt for his sympathy - which I thought he was trying to express; but courtesy compelled me to accept his proffered hand, when he continued: 'I am glad to meet you; my name is J. S. Hunt, and I hope we shall become better acquainted.' The next day I was even more surprised at the report of the exercises contained in the 'Courier,' written I presume by Mr. Walton, and which gave me, as I remember it now, rather a prominent notice, and which I considered entirely undeserved.

"I have made many public addresses, but none, the circumstances surrounding which, I can so vividly recall, as this.

"I treasure the memories of my life in Cowley county beyond any others except those of my childhood; and when I go back for a visit, while I am saddened by the vacancies death has left in the ranks of my old-time friends, yet I never cease to yearn to return again.

"Please forgive me for this rambling reminiscence of the long ago, which the notice referred to has caused me to spill upon you, and with very kindest regards to Mrs. Short, and best wishes to yourself and all my old-time friends, I remain,

Most truly and sincerely yours,

F. S. Jennings."

CHAPTER XXX.

OPENING AN OFFICE.

It must have been near the end of July, 1876, before our basement office was vacated and put in condition for our occupancy. To furnish it required the purchase of a bookcase, table, five chairs, a spittoon, a broom and duster. The two latter were especially necessary because of the amount of dust and debris carried and deposited in our open stairway by the vigorous and unceasing Kansas breezes coming steadily from the South. Even these implements for office cleanliness were entirely insufficient for all emergencies; for, upon returning from the country one evening near sundown, I found the stairway and door of our office entrance thickly covered with countless grasshoppers - bushels of them there were - more indeed by far than I had ever seen in so limited an area, for in many places they seemed several inches deep. From whence they came and why, to such unpromising place for food, I do not know. However, they seemed so insistent upon getting into the office that myriads were clinging to the outside of the door while equal numbers had gathered upon the panes of the window, apparently peering in to learn why they were so ungenerously refused entrance. It was impossible for me to go down without crushing them upon the stairs and floors, so I entered the office through the rear, and when I opened the front door they evidently accepted the act as an invitation to enter, and before I could rush back and get the broom to sweep them out, they had poured in in great numbers, forming quite a semi-circle around the entrance door. Vigorous sweeping, however, finally dispelled them so I could close the door again, and I left the office as I had come, determined to let them extricate themselves as best they might.

In the morning, to my delight, they were gone, although there were many evidences of their visit patent in the stains they left on walls and floor, for grass-

hoppers are almost as filthy in their chewing and spitting habits as are many human - or, at least, partially human - beings who filthily chew and spit indiscriminately.

While in the country this particular day of the grasshopper episode, the lawyer with whom I was riding called my attention to the gray, smoky appearance of the many clouds that were much in evidence in all parts of the sky, saying that, unless they were caused by smoke from prairie fires, they were unquestionably grasshoppers; but, as we had noticed none on the ground, I thought little about it until reaching my office, when I was entirely convinced he was right. Many times thereafter did I see these same peculiar clouds, so ominous and destructive when they came to earth.

Returning to our office preparations again;- we also had a sign painted bearing on either side the information, "Offices of Jennings & Buckman, Attorneys at Law," below which was a hand pointing to the basement.

To further advise the public that we were located and ready for business, we inserted a business card in the respective newspapers of the town and county. Lastly, we acquired a small, inexpensive day-book, with limber backs, containing perhaps 200 pages, in which we scrupulously thereafter set down the amount of all expenditures for the firm as well as every item of income.

How delighted I would now be if I still possessed this insignificant little account book, for it would tell, much more accurately and pathetically than I possibly can, the pitiful story of our tragic condition during the first two years of our practice. Had we been forced to depend wholly upon our professional income, we must have failed, but occasionally one of us would get a few days employment in other lines, in which event the other kept a lonely and disappointing vigil for clients.

I recall at one time, when we were at sore straits, the treasurer of the county, who was making up his tax rolls, asked me to assist him, which I gladly did, and received for my services a twenty-dollar gold piece, the first I had ever possessed and certainly the most appreciated. Soon after this, I was invited by the County Superintendent to deliver a talk before the County Teachers

Association upon "Constitutional Government." My natural shrinking from making formal talks was difficult to overcome, but I thought no opportunity should be lost to make us better known, and accepted. This attempt could not be properly dignified by calling it an address, for I began by asking questions of the teachers present, of whom there were perhaps eighty. This put them and myself at ease, and the half-hour passed interestingly and, I hope, instructively to all. While most of those present, including the County Superintendent himself, had rather a hazy idea of the value and purpose of a constitution, I was quite surprised and pleased that one county school mistress had very clear and definite ideas about it and answered questions most intelligently.

The result of this talk was that a short time thereafter the County Superintendent invited me to become a member of the Teachers Examining Board. The superintendent, principal of the Winfield schools and myself thereafter formed the board for several years and until my professional and other duties made it impossible to longer continue as such. For this I received \$3.00 per day while engaged in preparing questions, conducting examinations and passing upon the standing of applicants.

CHAPTER XXXI.

GETTING CLIENTS.

I shall never forget the coming of our first client. It was perhaps within thirty days after our office was opened. I remember I was alone, brooding and disconsolate; nothing that I could then foresee was at all promising. The time, I recall, was shortly after noon. I heard vigorous, noisy footsteps coming down the stone stairs from the sidewalk. At first I supposed it was Buckman, for it seemed no one except he or myself ever did come down. The unusual noise told me it was not he, and in a moment a big, raw-boned, dark complexioned man with big, brown eyes, bewhiskered and unkempt face, clothed in the common garb of a farmer, - his pants in the tops of his cowhide boots - stood before me. He looked inquiringly and intently at me for a moment, and then, as if believing he must be in the wrong place, said:

"Aint this the office of Jennings and Buckman?"

I answered, "yes."

He still looked at me as if deliberating, and then, in a blunt voice, asked, "Where is Jennings?"

I saw he was not encouraged by my appearance, as indeed he had a right not to be, and with much uneasiness, I answered, "I am he."

"The hell you are!" he blurted out. "You don't look like you could try a law-suit. Are you the feller that made a speech on the Fourth of July? Oh, you can't be, for from what the paper and some of the neighbors who heard it said it was a purty good one."

I was dumfounded, for he stood almost menacingly before me, as if I were an imposter impersonating another.

"What is your name and what did you have in mind in coming to this office?" I inquired.

"Well, sir, my name's John Funk. I live up on Dutch Creek and the man that owns the adjoining farm to mine has brought suit against me and another neighbor, claiming the boundary line between hisn and our lands is not on the line where the Government stakes were put, and if he beats us will get some ten acres of our best bottom land. This means considerable to us and we dassent take any chances on a poor lawyer, you understand. From what I had heard I fust thought you might do, but now, as I see you, I doubts it."

While he was talking, my mind worked excitedly and rapidly, trying to think of something to say that would change his doubts. "Mr. Funk," I replied, "if you are not in a great hurry, I wish you would take a seat and let me talk to you a few moments."

"All right, young feller; fire ahead," he said, and sat down and I proceeded:

"You are not yet a middle-aged man, and perhaps have no son ready to go into business; but, did it ever occur to you, that, if you had, and no one would employ him, it would be impossible for him to start? I confess I am young and inexperienced, but I have spent two years hard study to fit myself to practice law, and while I may not appear very promising to you, yet I believe I can claim this: That, in the general principles, I am as well posted as many lawyers with more experience and practice. Some one must give me my first case, and take chances. There is one thing in favor of a young lawyer without practice, - he has much more time to give to a case in looking up the facts and the law than an older and busier one, and I assure you I shall leave nothing undone to protect your rights should you employ this firm. Why not you be the man to give us a chance?"

He pondered a moment, and then said, "There's considerable in what you said, young feller, and suttently you got some cheek; and, by G-d! I will let you try -- but, first, what is your fee?"

"Twenty-five dollars," I blurted out, for I was informed that that was the minimum charge for a case in the District Court; and he replied, -

"All right - go to it. And, remember, don't fail."

It was thus I first met the somewhat remarkable and notorious John Funk. He was certainly given to much profanity and bluntness of speech. His swarthy complexion, manner of dress, restless, piercing eyes, dark and unkempt hair and whiskers and unmistakable fondness for red liquor gave him the characteristics of the popular stage villain of that time.

And yet, strangely enough, nearly every one, in a way, respected him; for beneath his rough exterior there appeared, to those who knew him best, a kind and sympathetic nature which made him a helpful friend and sympathetic neighbor.

We eventually tried and won his case, to his great satisfaction; but he never offered to pay, nor did we deign to present a bill, for our services. Indirectly, however, his remuneration was very ample, for had he been actually employed to look up business for our firm, he could scarcely have been more effective. But of this, be it said to his credit, he never made mention - our information invariably coming from clients who told us that John Funk had sent them, telling them that we would "treat them right."

CHAPTER XXXII.

OTHER CLIENTS.

The second client came from another quarter of the county. He was a young, married man, lately from Missouri, Charles Fisk by name, who had taken an upland claim on the rolling and, in many places, rocky prairies on the high lands between streams and which, because of their unfortunate nature, were the last to be settled.

Previously, stock-men had used them for grazing purposes and because this use cost them nothing, not even taxes, naturally they tried to prevent their settlement.

Fisk, regardless of all this, filed upon an eighty, built a small shell of a house and broke up and planted some twenty acres in millet and corn. His nearest neighbor, more than a mile distant, was a cattle man who had previously used the land about him for grazing, and took much pains to let the new settler know he was unwelcome, still permitting his cattle to range, as before, without a fence or other restraint, - even going so far as to indirectly warn Fisk that his presence in the neighborhood was unwelcome.

Fisk, like many early settlers, had little money; and to relieve this impecunious class of settlers from the necessity of fencing to save their crops, the legislature, the winter previous, had passed what was called a "Herd Law," requiring cattle- and other stock-men to keep their stock up or herd them; otherwise, they would be liable for all damages they caused - regardless of whether the trespassing was done upon fenced or unfenced land.

After Fisk's crops had well started, the cattle of this stock-man, being still permitted to run at large, repeatedly raided them until they were practically destroyed. Then Fisk sought redress by law.

I have always believed he came to us, not from choice, but because other lawyers refused his case. Be that as it may, we were glad he came, and after carefully looking up the law, brought suit in Justice Court, as was provided for in the Act to which I have previously referred.

The law, being newly passed, no interpreting decisions had then been made, and Johnston's lawyer - one of the ablest at the local bar - urged every objection to it possible, especially contemning on the ground that it was unconstitutional - all of which he argued with much vigor. This was his only chance for success, as the fact that our client's crops had been destroyed by the defendant's cattle was indisputable.

Because we were beginners and not familiar with the practice in Kansas, the Justice, seemingly, did not take us seriously, but was moved and controlled wholly by the defendant's counsel and almost invariably decided every disputed question against us.

This was so patently unjust to us and our client as to be observed by the many onlookers, as was evidenced by their remarks about it and expressions of sympathy after the case was adjourned for the day. That night, as I lay thinking it over, I deliberately determined that, should the Justice continue his unwarranted discriminations when the case began the following morning, I would openly denounce him as a sycophantic tool of defendant's counsel, and a poltroon.

Without doubt, some of those who had witnessed his unfairness and lack of courtesy to us, the previous day, must have mentioned it to him, or, if not doing so directly, by speaking to some of the Justice's intimate friends; for when the case was resumed the next morning, his conduct toward us was entirely changed. He even went so far as to reverse some of his unfair rulings of the previous day, and finally gave us judgment for the full amount of our claim, to which we were unquestionably entitled.

His changed attitude, however, in nowise lessened my contempt and mistrust of him. During the remainder of his term, I was compelled to try quite a number of cases before him, when he accorded me proper courtesy and fairness; but I never forgot his despicable conduct upon this first trial.

Indeed, at the end of his judicial term, when he was a candidate for reelection, I urged my partner, Buckman, to run against him; and regardless of the aid given him by attorneys who had profited by his unfair partiality, Buckman beat him by a decisive majority.

The manner in which Mr. Fisk finally paid our fee of ten dollars, reminds me that, for sentimental reasons, I had determined to present my mother the first fee received for trying a law suit. Fisk, however, was so pressed for means to supply his family with food, he had none left to pay us. He and his wife had become so discouraged by their first year's experience and his wife was so homesick for Missouri, they determined to abandon their claim and go back.

Being a man of honest purpose, however, he wanted to settle all his indebtedness before doing so. Late in the Fall, he came in and related the pitiful story of his first year's experience in Kansas. He also told us he had brought with him a small cook stove, bought the year previous, which he had hoped he could sell for enough to pay our fee, but had not succeeded, and proffered it to us in lieu of cash.

The idea of two impecunious bachelors, without conjugal prospects, acquiring a cook stove was so preposterous as to convulse us with laughter; but when he explained he thought it might be exchanged for an office stove, we became sobered and interested. So we went with him to the store and soon consummated the trade, thus providing ourselves with a stove to heat our office for many years and until we occupied elegant offices in a new bank building, heated by steam.

CHAPTER XXXIII.

Our third case was brought in the district court in behalf of an old colored man named Steven Brown, who had contracted to harvest and stack eighty acres of wheat for the owner. The old man, with the assistance of several strapping sons, claimed to have carried out his contract in a workmanlike manner.

Shortly after the job was finished, and before it was paid for, an extraordinary rain and wind storm occurred, which blew the tops off the stacks, exposing the remainder to a heavy drenching and great damage.

When the old negro presented his bill, the owner refused payment, claiming several times the amount of the old man's bill - because of injury to the stacks and which he alleged was due to the negligent manner in which the stacking had been done.

This was another of quite a number of cases in which we were employed during the first two years of our practice, because other and busier lawyers did not care to take them; for the old man urged, as the chief reason why we should act for him, that he could not get anybody else to do so.

After carefully going into the matter and learning from the old man and his sons the way in which the job was done, and having had considerable personal experience in stacking myself, we concluded he was entitled to his pay, and we brought suit.

The defendant did as he had threatened, - put in a very heavy claim for damages caused by the unworkmanlike manner in which he alleged the work was done.

When the trial came on, we demanded a jury. We put the old darky and his sons on the stand to prove the contract and completion of the work and the manner in which it had been done, and then rested.

The defendant introduced many witnesses showing the damage he had sustained because the tops of the stacks had blown off, exposing the remainder to damage by the storm, and which they claimed was the result of the negligent manner in which the work had been performed. Upon cross-examination of his witnesses, however, each of them was compelled to admit the extraordinary nature of the storm which followed the stacking, and also that all other wheat in stacks in the neighborhood had suffered equally with that of the defendant.

The case - being the first one in the county in which a colored man had sued a white man - attracted considerable public attention; but I cannot claim it was well tried by us. It may be that our inexperience and consequent unskillfulness in combating the vigor of the defendant's more experienced counsel, together with the natural sympathy excited by the old colored man, proved the determining factor, but in any event the jury decided in our favor.

Upon the hearing of an argument for a new trial, made by defendant's counsel, I used very vigorous language in denouncing the defendant, who was supposed to be a man of considerable means - having served one term as county treasurer - for not settling the old man's claim promptly; and, when deciding the motion, the presiding judge remarked that he thought the young counsel for the plaintiff was quite justified in the caustic language he employed in commenting upon the conduct of the defendant in not paying for the work, and decided the motion in our favor, it pleased me greatly.

The defendant appealed the case, and it was more than a year later before it was finally decided in our favor. In the meantime, the old colored man and his sons had paid our fee of \$25 by laying flagstone sidewalks about a large lot Buckman and I had bought together, and had also joined our other early clients and friends in recommending us to the favorable consideration of others.

CHAPTER XXXIV.

OTHER BUSINESS.

Our early cases were so nearly resultless in a pecuniary way that, had they been our only reliance, our condition must have become desperate. It was so discouraging that, to economize further, we purchased an inexpensive bedstead, mattress, bedclothes and washstand at a second-hand store and set them up in the rear part of our basement office, to save room rent. We used this together until Buckman was married, and thereafter I occupied it until I was married.

Most fortunately, however, to add to the amount received from employment by us for services as attorneys outside of the pale of our profession, we soon formed valuable and lasting friendships with sympathetic business men of the town and county - especially merchants and bankers in Winfield.

Among these, my memory still very gratefully recalls the proprietors of M. L. Read's bank and also those of the opposing bank, as well as Samuel H. Myton, the leading hardware and implement dealer in the county, and many others.

All of the banks and most merchants had, at the time, what they called a regular attorney, and none of them perhaps would have then cared to risk us to conduct any important litigation. Yet they did turn over to us, for collection or renewal with security, stale and doubtful paper, almost invariably, however, for small amounts, and with the exception of that received from Mr. Myton, rarely exceeded \$100 in amount. Myton sold all kinds of farm machinery - perhaps half of that used in the county - and so diligently did we look after the business thus entrusted to us, within a year, although we had no agreement to that effect, we really attended to all of his legal business, which consisted largely in collections, drawing new notes, preparing chattel mortgages and furnishing him with such advice as he might ask for. For the latter, of course, we did not even presume to make a charge.

For the collections thus made, we received commissions - usually ten per cent,- and when paper was renewed, a small charge from the debtor for preparing the papers.

Our necessities made us very diligent in caring for these collections and our services were correspondingly profitable to our clients; hence this source of income made it possible for us to exist and, best of all, brought us in contact in a business way with hundreds of farmers, every one of whom we regarded as a possible future client.

While our employment demanded that we must secure payment or renewal with security, we invariably treated every one, except those whom we believed to be dishonestly refractory - which was very rare - with sympathetic consideration. Often, when we believed a farmer could not possibly meet his new paper at as early a date as he suggested, we frankly told him so and suggested he take a little longer time. Thus we rarely made an enemy for the house whose papers we were collecting, and in many cases made lasting friends for ourselves.

CHAPTER XXXV..

PROFESSIONAL ETHICS.

In this connection, it is perhaps as appropriate as in any other to outline our code of ethics in meeting the public as an attorney.

Unless I have entirely failed to convey my real feeling toward my father and mother, every reader must have gathered 'ere this that I deeply and most affectionately regarded them.

I cannot say that I formally considered this and reached the conclusion to be guided in my conduct toward my clients by the way I would like to have had my father treated under similar circumstances; and yet somehow, subconsciously perhaps, a feeling akin to this always influenced me in meeting them.

More especially was this true regarding farmers, whose soiled clothes, work-hardened hands, often unkempt appearance, bespoke the ceaseless grind on the farm. Many, very many indeed, of these I met thus during the twelve years of my active practice, unknowingly owe to my good father and mother, rather than to me, the sympathetic courtesy and respect I always accorded them.

However urgent might be my personal requirements, I never permitted it to influence me in advising a client to bring a law suit, or to take any other course, by which I might be financially benefitted, unless I was as sure as if advising my own father, that it was the best course to pursue.

Often would men come to my office, still under the smart of some trivial wrong done them, determined upon redress at law, and I would patiently listen to their

excited story, and then say, "I will have to carefully think this over before I shall be able to determine what is best for you to do. Go home, talk it over with your family and come back in a day or two." After thinking it over, they seldom came back - except to thank me, - but they remained my friends.

Of this class I recall one particular instance of many others so illustrative as to be worth describing: A man named Green, whom I had previously known in Illinois, and whose children attended the school where I had taught, moved to Cowley County and bought a large farm of bottom and prairie upland to the extent of some 1600 acres, and who had employed me to examine his title deeds and take care of such other matters as needed legal attention, came to my office one day quite determined and excited, and said:

"Frank, I want you to come out to Maple Township tomorrow and defend me in a suit brought against me by a carpenter who did some repair work in my house. He did the work so outrageously bad that I refused to pay the last part of his bill, and now he has sued me."

"How much has he sued you for?" I inquired.

"Thirteen dollars," he replied; "but it isn't the amount - it is the principle of charging for work that was done so badly. Actually, some of the batten doors he made fell to pieces in a few weeks just by being opened and shut."

"Only thirteen dollars!" I exclaimed! "I would have to charge you twenty dollars to try the case, for it would take the best part of two days going and coming and trying it; and then, too, when there is a dispute about wages, public sympathy is nearly always with the laborer and the chances are much against your winning."

"I don't care for the cost - I just want to make an example of him," he replied.

Then I said, "Now, Mr. Green, I have known you a long time and I respect you too greatly to accept your employment, even though I may earn a fee, when I know it is better for you and all concerned that you pay this small bill and the few dollars there may be for costs up to this time. And, therefore, I will tell you, just as I would my own father under similar circumstances, that I

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want you to go to the Justice's office, pay the bill and the costs up to this time and avoid the worry and possible chagrin of being beaten, besides saving the amount of my fee."

He warmly protested against humiliating himself by doing this, but after much persuasion, he calmed down and agreed to do so.

The following afternoon, he again came to my office, very excited and mad, and informed me that when he reached the Justice's office, he found the carpenter there. The two had gotten into a quarrel about the manner in which the work had been done, almost coming to blows. So Green refused to settle as he had agreed to do and declared he would spend every dollar he had rather than let a man treat him as the carpenter had done. Finally, after much persuasion, I agreed I would try the case, although I warned him that I feared the result would be disappointing.

The trial resulted as I had opined, - the sympathy being with the carpenter, who claimed he had made the doors as best he could out of materials furnished him by Green, and that he had told Mr. Green the nails he had provided for them were too short to be properly clinched.

Green, however, determined to appeal the case to the district court, against my advice. So, I told him I could not conscientiously act for him further, and therefore, if he persisted in this course, he must employ other counsel.

At the trial in the higher court, many witnesses were summoned on both sides, and as they had come from long distances, the costs piled up enormously, - so much so indeed that the \$13 in dispute was but a speck as compared with them, especially when the attorney's fees were to be added.

The trial again resulted against Green.

I had taken no part in the trial, except to give such information to the lawyers trying it as I had gained at the Justice's trial, and had said nothing further to Green about the matter.

A day or two afterward, he came to my office much humbled and disappointed, but still resentful and determined to appeal to the supreme court. He claimed

his attorneys had tried the case badly, and he wanted me to act for him in making the appeal.

This I frankly refused to do, not only because I could see no chance for a reversal, but even if this were accomplished, it would have to be re-tried, and I was sure would result as before. Finally, I told him that if he would abandon the foolish notion of appealing, I would carefully examine the records of the court, and if I found substantial grounds for doing so, would file a motion asking the court to re-tax the costs, which might, I thought, result in having the costs of attending witnesses, if any, summoned by the plaintiff and not used, taxed to the plaintiff instead of to him. He finally consented to this, and upon going over the records, I found the plaintiff, in his anxiety to make the costs as heavy as possible against Green, had summoned many witnesses for the purpose of attacking Green's veracity, who had not been used, as well as witnesses upon other points, whose testimony proved incompetent; and upon the hearing of the motion, the court re-taxed the costs, assessing the service and attendance of all such witnesses against the plaintiff.

By this means, as each party to the suit must bear his own attorney's fee, neither gained by the suit and both were immeasurably worse off financially.

From this time on, Mr. Green was a very tractable and submissive client.

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CHAPTER XXXVI.

LOSING MY PARTNER AND GETTING A NEW ONE.

When we located in Kansas in 1876, that state was in many ways essentially a young man's country. Their very youngness denoted an inexperience, that could neither be concealed nor denied; and therefore, they were received, patronizingly sometimes, but almost invariably without prejudice. Upon the other hand, professional men of middle age or more, coming there to follow their professions, caused comment and demanded explanation; for people naturally wondered why, if successful elsewhere, they had come to the frontier.

It was not surprising, therefore, that, in many instances, young men grew in the esteem of these generous frontier folk more rapidly than older ones.

I have previously spoken of our inauspicious start and early vicissitudes; yet, notwithstanding these, within two years we had, if not a substantial, at least a steadily increasing clientele. I was also, now, almost invariably accosted by my first name, and often, by a familiar slap on the back, denoting approving friendliness. In four years, having been elected county attorney, I had far more to do than I could possibly take care of without assistance. Up to this time, Buckman had taken little or no part in trial work - devoting his time wholly to office and judicial duties.

After some mutual consideration, it was determined between us, that our business now required the attention of both, and therefore he resigned his commission as Justice.

He was little better equipped for trial work, in an experimental way, than when we arrived at Winfield; but I felt quite sure, having presided at the trial of many contested cases, and being thoroughly grounded in

the principles governing the introduction of evidence and the examination of witnesses, he would soon become a fair trial lawyer. However, his first venture proved so discouragingly disastrous as to result in wholly changing our plans and separating us as partners.

Soon after his resignation, we had legal engagements in two parts of the county on the same day, - one at Dexter, a small village in the southeasterly part of the county, the other at Arkansas City. The latter, being a city of about the same population as Winfield, contained many lawyers, but the former had none.

Buckman having the choice, decided to go to Dexter, thinking perhaps, he would have less opposition there. His choice was most unfortunate for him, and, perhaps equally so for me, for both he and the Justice were quite overwhelmed by an ignorant, loud-mouthed pettifogger, who represented the defendant, and whose arrogant assurance, violent gestures and ponderous voice made him as invulnerable to Buckman's objections and the rulings of the simple Justice as were the Spanish windmills to the attacks of Don Quixote.

The result was, that for nearly two days, he overwhelmed them with the sheer force of his "cheek" and raucous voice, until both were utterly worn out, and glad to let the accused defendant go to stop their torture.

I shall never forget Buckman's disconsolate appearance upon arriving at the office after returning home. His eyes were inflamed by sleeplessness; he seemed bent, fatigued and entirely distraught by the unfortunate experience through which he had passed. After briefly giving the details of the trial and its result, he astonished me by saying that he did not believe he would ever become a successful trial lawyer, and expressed deep regret that he had resigned his office as Justice. His statements indicated that he had firmly determined upon a course, after much deliberation; for he then proceeded by asking if I did not think he might be re-appointed Justice, in the place of a man who had served in that capacity in the same township with him during his former incumbency and against whom serious charges of malfeasance had been filed, and who, it was generally believed, would either have to resign voluntarily, or be removed.

I remonstrated most vigorously, but to no avail; for he seemed to have become irrevocably determined to get back his former position if possible.

Soon thereafter, the Justice, whose delinquencies had become so notorious, voluntarily resigned; and with the aid of other friends and myself, Buckman was appointed to fill the vacancy thus made.

Buckman's wife - a most estimable woman - had great influence over him, and I doubt not but that she had urged him to the step; for his duties as magistrate were very congenial and fairly remunerative, and, what both doubtless most appreciated, never took him from home, - thus giving them unrestricted opportunity to enjoy to the full the social amenities of the town, of which both were exceedingly fond.

I have, and doubtless he did, often thereafter, speculate as to the effect upon each of us by this unexpected severance of our relations as partners; and, I am still of the opinion, that it resulted more or less unfortunately for both.

Buckman had a discriminating knowledge of the law and its application to a given state of fact, and could write an excellent brief. Yet, during our four years together, I cannot recall that he ever examined a witness or addressed a jury. These particular functions, without any formal understanding to that effect, were invariably left for me to perform.

Elsewhere, I have briefly and very inadequately epitomized the life of Buckman, who passed away some ten years since from the effects of a chronic cerebral trouble, resulting in high blood pressure and, finally, death.

CHAPTER XXXVII.

I was in no haste in choosing a new partner; although I knew I must do so, or hire assistance. I use the word "choosing" because I was, directly or indirectly, approached by many members of the bar who sought a partnership. Perhaps it was three months later before I decided, and my choice was as great surprise to M. G. Troup, whom I invited to become my partner, as to anyone in the county; for, at the time, he had been practicing but a short period, nor had he a very flattering business. He was, however, very widely and favorably known in the county, for, previously, he had served three terms as county clerk and had studied law while so engaged.

He was an excellent office man, fine bookkeeper, and had several clients of means and prominence. I had known him quite intimately and was sure he was painstakingly industrious. He was more than ten years my senior, yet gladly accepted the conditions I proposed, - an equal partnership in civil business, under the firm name of Jennings & Troup.

It proved satisfactory and remunerative for us both; and continued for the ensuing eight years, until the close of 1888, when I removed to San Diego, California.

These eight years were by all odds the most strenuously busy of my life - as I did all the trial work, except in the District Court, where Troup sometimes assisted. He kept the books, and with the aid of a stenographer and clerk, did all the office work. He was quite proficient in the examination of titles, because of his long experience and familiarity with the county records; and by reason of it, the firm did a very large portion - perhaps more than half - of this character of work; as often titles would not be accepted, unless passed upon by our firm.

During this period, I never had what could be properly called a vacation; for, while often away from home, it was invariably on business. Indeed, my services were becoming so much in demand, that when I was absent on legal business, clients coming to consult or engage me from other localities or adjoining counties, would sometimes wait for several days until my return.

I also recall numerous instances when men, charged with offenses, preferred remaining in jail until my return rather than employ other counsel.

From the time the new partnership was formed until I removed to California, few firms in the state had a busier practice or were more widely known, although doubtless many of them had larger incomes.

It is, however, impossible at this time for me to make even a brief review of the many hundreds - indeed, thousands - of cases in which I was engaged, excepting that, in variety and importance, they embraced almost every phase of human activity and misfortune in a civil, social, religious or criminal way. In contemplating these extremely busy years, a very large proportion of trial cases in which I was engaged I can recall but dimly, if at all. Curiously, too, many of those I best remember are not so much marked by their importance as by some particular deeply impressed upon me when they were tried. And of these, even, space and time forbid my describing but few.

CHAPTER XXXVIII.

PECULIAR LAW SUITS.
A HORSE TRADE.

Before proceeding, I wish first to emphasize the many peculiarities of the frontier Justices, jurymen and people generally at that time:

They were usually poor - seldom greatly removed from actual want - yet, generally speaking, they were ready to extend help and consolation to those less fortunate. This made them tolerant of human frailties and inclined to temper the wind to the unfortunate. However plain the law or stubborn the facts might be, they were easily persuaded by sympathy to moderate their harshness in behalf of the weak and erring. Then, too, they believed in fair play rather than statutory law or the cold reason of judicial decisions, and were more often than not suspicious of lawyers.

Keeping these idiosyncracies in mind, one can more readily understand that, if a lawyer once gained their confidence and approval, what he said and did had much weight with them - perhaps at times more than it deserved.

I shall now proceed to describe some of the peculiar law suits in which I was engaged - asking readers to bear in mind all the peculiarities I have before mentioned:

One morning in June, 1878, a couple of young men came to my office to engage me to defend them in an action brought by a man to whom they had traded a team of horses for a pair of mules. The man with whom they had traded, after possessing the horses for a few days, becoming convinced he had gotten the worst of the trade, demanded the return of the mules and the rescission of the bargain. Upon their refusal, he sued them for damages.

The suit was brought before a country Justice, residing about eight miles from the county seat. This fact in itself was generally regarded by lawyers as a suspicious circumstance - especially if the Justice happened to be a neighbor of the plaintiff, as was the case in this instance. I learned from my clients that no summons had been actually or legally served upon them, but that the inexperienced constable, who attempted it, read its supposed contents to them by moonlight; but left no copy with either.

A very recent decision of the Supreme Court of Kansas, considering an attempted service somewhat similar to this one, had held that a defendant might appear in person or by counsel before the court issuing it - especially, and for that purpose alone - and have it set aside, and that such appearance gave the Justice no jurisdiction over the defendants which would compel them to proceed with the trial.

On the day set for trial, armed with this decision and a formal motion to set aside the service, I went out with the two defendants in an open wagon, drawn by the very mules they had gotten in the trade. It was an oppressively hot day, shortly following one of the most remarkably heavy and destructive rain storms I ever experienced - even in Kansas, perhaps the most capricious and variable of all states of the Union as to climate.

It came at night, between 10 P.M. and 5 A.M. My wife and I had just settled in our first home, which was newly built, and the day before had planted some shrubs in our yard, and, to shelter them from the pitiless rays of the sun, had placed boxes over some and tubs over others.

Before retiring that night, as there was some evidence of an approaching storm, I went out and turned back the sheltering covers. The following morning, upon awakening in an upstairs bedroom, I was astonished to see the plastered ceilings and walls almost as wet as if the house had been bodily submerged. Going down below, I found the water, caught in the small opening in the top of the kitchen chimney, had flowed down through it, the stovepipe, and stove, and spread largely over the kitchen floor, while the plastered, outside walls of all the rooms below were literally soaked with water.

Then, when I went into the yard, I was amazed to see the tubs, which I had left right-side up when I turned them back from the plants the evening before, were filled to overflowing, although their position prevented them from receiving any water except as it fell in drops from the sky. How much had run over I could not know, although, soon after, it was discovered that wherever a water-tight, empty barrel, with one end out, stood open to the rain, it was filled to a depth of more than thirty inches.

At eight o'clock that morning, I went to the bank of the Walnut river, a half mile distant, and, while, as shown by the banks that its current had now subsided many feet below its peak, it was still flowing an enormous volume of water, upon the surface of which was carried wreckage of all kinds,- stacks of wheat, pig pens, cow sheds, and chicken coops, in some of which were still the foundering occupants ordinarily using them; and there were also other equally convincing evidences of the destructive force of this almost unbelievable rain storm, which had lasted but a few hours.

The memory of this disastrous flood is now recalled by thinking of the ride behind the mule team that day; for in one place the road led through a large area of upland prairie, apparently but slightly depressed below the surrounding land - so slightly, indeed, as not to be recognizable with the unaided eye. But on one side of our road, for perhaps half a mile, was a row of cottonwood trees, whose tops reached some thirty feet from the ground, and in their limbs were innumerable sheaves and even shocks of wheat which had lodged in them while the whole of this slightly depressed area was filled perhaps twelve feet deep by the enormous flood.

When we arrived at the Justice's house, we found a curious crowd gathered, and numerous places were pointed out, where milch cows and horses had been tethered on the slightly rolling prairie and had been drowned like rats in a trap by the rapidly rising waters, which their ropes prevented their escaping. We were also shown the place where a settler's house previously stood until it was swept away by the furious waters. The father and mother, with two small children occupied it. They were awakened by the noise of the storm and found water coming through under doors and through the cracks in the flooring.

Looking out, by the aid of lightning they saw they were surrounded by the threatening water which was rapidly rising.

The husband decided to bring one of his large, heavy horses into the house, thinking its weight might hold it down. He did make the attempt, but the water was so turbulent and covered with debris as to make it impossible, and he was glad to get safely back to the house again. This proved a poor refuge; for, as the rain fell and water about them rapidly rose, they realized that unless the rain slackened they would soon be borne away.

To prepare for the worst, each took a child in arm, ready to do quickly whatever was necessary to escape if opportunity afforded. But the storm continued, the water rose and dashed against the house, and soon it began first to lean and then to move. When finally it lay upon its side, they managed to crawl out the door before the interior was filled with water. But the rain beat pitilessly upon them and in the flashes of lightning they saw they were surrounded by a sea of water; and now, as a corner of the dwelling would touch the ground, the house would slowly turn over, compelling them to crawl up each approaching side to keep on top.

The mother, soon becoming frightened and exhausted, had little mind or strength left, and when the floating house struck some object, which caused it to lurch, she and the child were swept into the water. In attempting to save them, the father lost the child he held. A moment later, during a flash of lightning, he caught sight of his wife's arm, reaching above the water, and, grasping it, pulled her back upon the floating house, which soon grounded, and they were later safe upon land again. ~~Their children were never recovered.~~

Returning to the tale of this law suit: We arrived early, that I might have time to examine the papers and the constable's return upon the summons, and file my motion to set the service aside.

The plaintiffs' counsel was some eight years my senior, and previously had served two terms as county attorney and was esteemed one of the leading lawyers of

the locality. When the case was called, I presented my motion announcing my special appearance, read the decision to the court and asked the Justice to set the service aside, and he promptly said, he supposed he would have to do so. But before he had completed his statement, counsel for the plaintiffs arose and vigorously protested - using the argument that, as counsel on both sides as well as all parties were present, the motion ought to be overruled and the case proceed - which was, of course, purely fatuous pettifoggery.

His argument seemed to appeal to the Justice, for after a little hesitation, he decided with him; but, before he could complete his statement, I was upon my feet, vigorously protesting, and calling attention to his defiance of the plain mandate of the highest court in the state, et cetera, when he again decided in my favor. Then the other attorney, taking the floor, proceeded to re-argue the case from his standpoint.

This resultless and ridiculous procedure lasted for more than an hour, during which the simple Justice alternately decided each way, while everybody sweltered in the hot, sultry room, upon which the rays of the afternoon sun beat mercilessly.

Finally, while the opposing attorney was again arguing the point, I stepped outside, beckoning my clients to follow. There I informed them that we could do either of two things, - decline to proceed further and leave and later restrain the collection of any judgment rendered; or, we could remain, try the case and, if beaten, appeal - advising the latter course; and to this they consented.

Returning to the room after the close of plaintiff's argument, I arose with such seriousness as I could muster, and said: "While I have been amazed and chagrined at the conduct of this proceeding so far, during which counsel on the opposite side has openly advised Your Honor - a mere country Justice - to disregard the plain mandate of the highest court in the state - thus laying your conduct open to serious question, if not of contempt; and certainly raising in my own mind a question whether my clients can have justice at your hands, I have concluded, after consulting them, to try the case before you, taking such course thereafter as the result may demand."

The plaintiff, a man of nearly fifty, was first put upon the stand; and, to qualify himself as an expert, gave a long, detailed story of his experiences with and general knowledge of horses; and then testified that the horses, traded for the mules, were affected with a serious ailment, somewhat difficult to detect, which rendered them much less serviceable and valuable than they otherwise would be - to his great damage. I took him up quite sharply on cross-examination, leading him with much particularity over his past life, - the number of years he had been in the livery business in different places; how often he had bought, sold and traded horses; what he knew about diseases of horses and their treatment, etc. Then I said:

"Now, sir, having had this long and varied experience, you regard yourself as an expert, do you not?"

"Yes, sir," he replied.

Then I slowly and rather accusingly asked, "Did you ever make a horse trade in your life unless you thought you were getting a little the best of the bargain?" He hesitated, without answering. Then I proceeded: "Let me ask you, then, sir, did you ever trade when you believed you were getting the worst of the bargain?"

Hesitatingly, he replied, "I don't know as I did."

"Then, sir, is it not true that you really always thought you were getting a little the best of every trade you made?"

"I expect I did."

"Now, sir, after more than thirty years experience, handling, buying, selling and trading horses, expecting always to have a little the best of it, you meet a couple of inexperienced young men and deliberately trade a pair of mules for a pair of horses, thinking you got a little the best of it; and then, finding perhaps you had not, you squealed on the trade and sued them for damages, did you not?"

He stammered, hesitated, crossed and re-crossed his legs, and in a most pitiable way, looked at his counsel, the Justice and the crowd of spectators without reply.

"That's all," said I, dismissing him with a gesture of contempt.

The next witness was an older man, with wider experience and more resourceful as a witness. After qualifying to testify as an expert, he went on to tell what the trouble or ailment of the horses was and how much their value was lessened by reason of it. Upon cross-examination, I pursued much the same course as with the plaintiff himself - perhaps less vigorously though. After he had reiterated his qualifications and large experience in handling horses, buying, selling and trading, and I was about to ask him if he ever had squealed on a horse trade, he divined my purpose and blurted out,-

"But I never did squeal on a horse trade."

"Is it not true, sir, that no reputable horse trader ever does?" I asked; and before plaintiff's counsel could object, he replied,-

"I guess not."

At this, the onlookers burst into a laugh, apparently of approval, in which I noted even the Justice joined.

By this time, it was almost dark, and the plaintiff had rested his case, when I arose, with such assumed appearance of confidence as I could muster, and advised the Justice that we would rest our case upon the plaintiff's own testimony and without argument. Plaintiff's counsel, after a slight hesitation, consented to do so, also. - The Justice promptly decided for my clients.

CHAPTER XXXIX.

There were two sequels to this trial, which perhaps are sufficiently interesting to relate:

The very vigorous, not to say acrimonious, arguments indulged in between plaintiff's counsel and myself, touching questions arising before the Justice, evidently impressed everybody witnessing the contest that, if we were not enemies of long standing, the trial of the case had at least caused us to become temporarily so; for our retorts were vitriolic and inexplicable perhaps to onlookers upon any other hypothesis. When the Justice decided in my clients' favor, the opposing counsel, with much feeling, arose and expressed his disapproval, and declared he would at once appeal the case. Upon the other hand, I heartily commended the court's action.

My clients were greatly elated and they expressed themselves so, as we walked out to the wagon to begin our rough, eight-mile journey back to Winfield. Night was closing in, and as the opposite counsel went by to his livery-rig, he very politely asked me to ride back with him - suggesting I could thus get home earlier and more comfortably. I thought so too, and excusing myself to my clients, accepted his invitation.

The following day, they came to the office to settle my bill. I noticed they seemed under some restraint, not at all in keeping with their happy state of the night previous; but I said nothing about it and had not the slightest suspicion what had caused the change. When they had paid my bill and were about to depart, one of them, with some hesitation and embarrassment, asked me if I thought the plaintiff would appeal the case. I replied that I didn't believe he would, but of course I did not know. Then he went on to say that, after I had accepted the invitation to ride home

with the plaintiff's counsel, the bystanders had suggested the possibility that he and I would connive together to have the case appealed so both could receive an additional fee. The very fact that they spoke of it convinced me they were suspicious and also explained their changed demeanor from that of the previous day, which wounded me deeply.

For a moment I felt like denouncing them as being ungrateful and unjustifiably suspicious, but I intuitively knew this would do no good. Then there suddenly occurred to me the only way by which I felt I might convince them of their wrongful suspicions:

"Well," said I, "I certainly am surprised at what you say, and more so, perhaps, that you evidently think it may be true; and to convince you of your error, I must tell you that, if it is appealed, you will have to secure another attorney; for under no circumstances shall I further act for you."

They were amazed at the earnestness with which I spoke and at what I said, and begged me not to desert them. But I was obdurate, and they went out of my office greatly depressed.

The case was not appealed; and later I received numerous evidences of their appreciation of my efforts in trying their case, as well as their belief in my professional rectitude, for they were the cause of sending numerous clients to me thereafter.

Suspicious such as I have above referred to, may perhaps sometimes be well grounded, but to the credit of the profession, I must say I never knew of an instance where it could be reasonably based upon the action of any of the lawyers of my acquaintance.

The other sequence elucidates a phase of the judicial ethics of some of the country justices on the frontier at that time: A few weeks later, this Justice came to my office and discussed the case in a very friendly way; and among other things, said:

"Do you know, it was against my personal interests to decide against the plaintiff in that case, for he owed me quite a little bill and had agreed to pay it

out of the judgment he expected to get against those young fellows; but when I heard the testimony of the plaintiff and his witnesses, and after your cross-examination, I had to decide against him. And now I suppose I will never get it."

I was startled at first, thinking perhaps he was corrupt and was hinting that my clients should reimburse him; but, as I looked into his face - that of a reasonably just and upright man - I saw my suspicion was ill founded and that he mentioned it to impress upon me the fact that, regardless of his personal interest in the result, he could decide the way his judgment and conscience dictated.

CHAPTER XL.

A LAW SUIT CHARGING THE DEFENDANT
WITH DISTURBING THE PEACE AND QUIET OF
ALMIGHTY GOD.

During the second year of my incumbency of the office of County Attorney, I received by mail an unexpected call from the Justice of one of the remoter townships in the county, stating that a criminal case was pending before him, to be tried upon a date mentioned, and requesting my presence. Upon the day named, I started sufficiently early, so that I might arrive in time to examine the papers and also look into the facts upon which the charge was based, before the case was called.

This township was peculiar in that, while it had a large population, several school houses and one Post Office, it had no village - not even a store. For these reasons, and because the people were generally law abiding, I had previously less occasion to visit its population in an official way than that of many others.

Upon arriving at the place, I found the school house quite filled with the neighbor-folk; and, although his attorney had not arrived, the defendant, surrounded by many of his young sympathizers, was present, and the group seemed quite hilarious and hopeful.

On one side, in the front part of the house, many of the church members, through whose complaint the arrest had been made, were gathered. They seemed depressed and disheartened, and I soon learned from them that the defendant was the leader of a gang of less daring followers; and, as such, had tried to break up the protracted meetings being conducted nightly in the very school house where the trial was to take place.

Previously, and but few times and very casually, had I met the Justice, who was to preside; and who, perhaps, was better known for his idiosyncracies, in manner and dress, than otherwise. His dignified bearing and proverbial taciturnity had doubtless contributed more to his election than any other known fitness he had for the position. He was of medium height and weight, smooth shaven and wore his hair quite long, its evenly trimmed edges reaching below his coat collar.

Upon this occasion, he wore a long-tailed, black coat, with vest and pants to match, and, about his high, white shirt collar, was an imposing, somber tie. His shoes were freshly and brightly shined, and altogether his appearance seemed incongruous in contrast with those of his neighbor country-folk. Indeed, he strongly reminded me of some of the gamblers whom I had seen years before on a visit to the frontier in Kansas.

His most distinguishing feature, however, was his solemn, cryptic face; and, as he formally replied to my many inquiries, I could note nothing that evinced bias or inclination, one way or the other, in the case pending before him. Indeed, he appeared as enigmatical as the image of the Blind Goddess herself, holding evenly the scales of justice.

My first concern in these country cases was to examine the formal complaint, to learn whether it charged a statutory offense. In this case, I was astonished to see that the defendant was charged with having, on a certain date, and diverse other occasions, "unlawfully, wilfully and maliciously disturbed the peace and quiet of Almighty God!" My surprise was further increased, when, by comparing the handwriting in the body of the complaint with the name at the bottom, as attesting magistrate, that it was all written by him.

From previous experiences with country justices, I had learned it was a delicate matter to correct papers prepared by them, by casting them aside and filing new ones instead; and in this case, I realized it might be doubly so. Therefore, after briefly thinking it over, and becoming convinced that defendant's counsel would do so, if I did not, I concluded

to leave the unpleasant task for him to perform. However, to be prepared, I called for paper and hastily drew a complaint, charging the offense to have been committed against individuals, instead of the Deity.

In my conjecture as to what defendant's counsel would do, I was not mistaken; for, soon after his arrival, he called for the papers, as I had previously done. Knowing the surprise awaiting him, I naturally watched, with amusing curiosity, the varying expressions recorded on his face as he proceeded with its reading. First, was incredulity and astonishment, then determination and, finally, a sort of triumphant exultation.

The defendant's counsel was one of those august appearing, measured and meticulously speaking, dignified attorneys often met with in the South and, occasionally, in the West, who had but lately come to Kansas from Missouri.

After reading the remarkable document, he arose, as soon as the case was called, with the solemnity and dignity, as if addressing a bench of distinguished judges, and proceeded unsparingly to denounce this unfortunate complaint.

Perhaps he thought I was its author; for he stingingly referred to it as the product of a mind little versed in criminal pleading, and finally demanded that it be quashed and the defendant immediately discharged from custody.

To lessen the embarrassment of the Justice, I arose, expressed some surprise and regret at the unjustifiable acerbity of defendant's counsel, and also mildly contended that the same legal acumen, which was supposed to be employed in the drawing of complaints and indictments in higher courts was not ordinarily possessed or expected in justice courts; and that, where a complaint, in these lower courts, advised the defendant substantially of the offense with which he was charged, and had caused his arrest and brought him before the court, as it had undoubtedly done in the case at bar, it certainly was unbecoming for defendant's counsel to be so unsparing in his criticism. "We are here," I said, - "the defendant, his counsel, myself, representing the state,

the witnesses for the state and defendant -- every one informed, in a substantial and general way, of the intended charge against the defendant, and ready to proceed, If, however, Your Honor has any doubt of the legality and sufficiency of the complaint, I am prepared to file a new one instanter, which will, I hope, meet the approval of the fastidious mind, even, of the learned counsel for the defendant, so that the trial may proceed without further delay."

As I resumed my seat, there was a momentary hesitation, before the court arose - as he invariably did when making a decision - and said: "I agree with the prosecuting attorney, that all concerned are sufficiently advised by the complaint as filed, as to the offense for which the defendant is being tried, and I overrule the motion of his counsel, and order the case to proceed."

To a disinterested, observing onlooker, it would have been, perhaps, difficult to decide by our respective faces whether defendant's counsel or myself was most disturbed by the Justice's decision; but apparently there was nothing to do but submit, and proceed. I consoled myself, however, with the thought, that if the defendant were found guilty, his conviction would have as salutary effect upon him and his sympathizers, as if the complaint were in proper form; and that, should he appeal to a higher court, the complaint could be, there, amended and the case tried de novo; while, should he resort to habeas corpus proceedings, and were discharged, he could be arrested upon a warrant, based upon a proper complaint, and tried again.

There was an abundance of indisputable evidence, introduced through members of the church organization, showing the reprehensible conduct of the defendant in his malicious attempts to break up the meetings being held in the school house.

The force of this evidence, defendant's counsel sought to minimize by a very ingenious cross-examination, in which he attempted to confuse and discredit them, as witnesses, and also as church members, by asking whether any of the teachings of Christ warranted His followers in resorting to law. "Did He not teach patience, forbearance and long suffering?" Indeed, he evinced a knowledge of the Bible, and especially of the New Testament, far beyond my own, and I learned later he was not only a member of the

Christian - then called the Campbellite - Church, but occasionally lectured or preached.

To counterbalance the effect of this ingenious cross-examination, I brought out, in much detail, the forbearance that had been practiced by the church members under the malicious attacks of the defendant, - how they had repeatedly gone to him, begging him to desist; how he had rebuffed them, made light of their meetings, scoffed at their religion; and that they had resorted to the protection of the law only after entreaty and all other peaceful means had failed.

At the conclusion of the state's testimony, defendant's counsel unctuously declared he had no testimony to offer and would rest upon the state's own evidence.

By this time, the daylight of the afternoon had been exhausted, and the court adjourned to seven in the evening for the argument. When that hour arrived, the school house was crowded almost beyond capacity, for country folk, then, were generally as much interested in a neighborhood law suit as in any other kind of public entertainment.

When the case was called, I opened the argument with a terse, brief statement of the facts proven by the state's witnesses, which I claimed proved beyond the possibility of doubt that the defendant, without cause or provocation, had viciously, purposely and almost fiendishly attempted to disturb the peace and quiet of the members of the church organization, who were conducting nightly services at the school house. This he did, I claimed, not, perhaps, because of any personal animosity to the members themselves, but, rather, to show his contempt for God and His worshippers.

Defendant's counsel followed with a most remarkable, spectacular and vicious attack upon the complaining members of the church, who instituted the prosecution. He speciously charged them with having forgotten the example and precepts of Christ, who taught meekness, long-suffering, charity, forbearance and forgiveness. He quoted familiarly and fluently many passages of the scriptures which he unctuously claimed condemned them for resorting to law. His irony and sophistry were most skilfully veiled beneath

a solemn and accusing voice and manner. Indeed, I was startled at the thought of its effect upon the Justice; for, as he proceeded, the defendant and his sympathizers frequently broke forth into almost boisterous applause, which went unrebuked by him.

My own limited knowledge of the scriptures, as compared with defendant's counsel, forbade my entering into a discriminating discussion of the many passages to which he had so confidently referred, and yet I knew, intuitively, that the effect of his sophistry must somehow be overcome, if the conviction of the defendant was to be had. The Justice, however, still sat grim-visaged as from the start - nothing to indicate a leaning one way or the other. So far as I had learned, he was not a church member, neither did I believe he would be tolerant of lawlessness; and yet, I felt that he had not reached a decision, and that a great deal depended upon my closing argument.

Its delivery occupied perhaps an hour, and, of course, I can now recall only very briefly its substance and conclusion.

I first called the attention of the Justice to the disparity between the age of defendant's counsel and myself: "He is venerable in appearance, ripe in experience and should be sound in judgment, and, above all, fair and just to his fellow men. Yet, as he stood before Your Honor and in the presence of these Christian men and women - many of whom have grown old in the service of their Master - and even in the presence of this lawless, young defendant and his sympathizers, who are just entering upon the serious years and duties of manhood, I was astonished and dismayed that he should hurl his anathemas at the conduct of these peaceful, law-abiding, humble followers of Christ, who, having exhausted entreaty and every other peaceful means, to be permitted to worship God as their consciences dictated, sorrowfully and reluctantly appealed to the public authorities for protection.

"Does he mean to say to Your Honor, by his many references to the Bible, that men and women, who try to live rightly and serve God, thus put themselves beyond the province of the law of this country to protect them from the malicious acts of miscreants such as this young defendant? If so, let him follow his argument to its ultimate conclusion, and tell this court, that his client has not only that right, but

may even go further, at his pleasure, and beat, wound and even take their lives - without restraint or punishment under the laws of the state. What a doctrine for a learned and mature lawyer to advance in Kansas and the United States! Thank God, we do not live under the laws of a country presided over by a Caesar or a godless tyrant. This is America, a Christian nation, one of whose fundamental laws declares that all men are free and equal and that each may worship God according to the dictates of his own conscience, and that none may lawfully interfere or prevent him."

As I proceeded, trying to combat and overcome the influence of the insidious arguments of the opposing counsel, I was startled suddenly by an exclamation of "Amen!" coming from a portion of the school house where these worshipers sat. For a moment, I hesitated, expecting, perhaps, that the enigmatic Justice might rebuke its author; but he treated it as he had the outburst accorded the defendant's counsel, and it seemed to be taken by all as a matter of course, and quite appropriate to the occasion; and, thereafter, to the conclusion of my argument, there were many of these righteous exclamations of approval, giving to the occasion much of the noisy atmosphere of an old fashioned revival meeting. This indicated that, so far as the church members were concerned, my answer to the ingenious argument of defendant's counsel was approved; but I had no such assurance from the grim face of the Justice - and he was the deciding factor. I noticed, too, that, as the hopes of the church members seemed to rise, those of the defendant and his sympathizers correspondingly declined, as was betokened by their glowering countenances, and, while encouraged, I felt much depended upon my closing remarks, which greatly spurred me on.

As nearly as I can recall them, after recapitulating briefly the main, undisputed facts, I said: "I wish I might, by some word or thought, here expressed in closing this argument, counteract the vicious impression that may have been left upon the mind of this young defendant and his sympathizers by his counsel's erroneous conception of what a vicious, young malefactor like him may do, under the laws of this state, in trespassing upon the personal rights of others; for to let his conduct go, unchallenged and unrebuked, would say to the world that, in this locality and before this Justice - much above the average

in poise and judgment,- miscreants like him have a legal right to maliciously abuse worshipers of God, who peaceably assemble for that purpose, just because they are His loving disciples and Christian people. What a doctrine and what a commentary would it be upon the fair name of Kansas, and how long would it require to blot out the ignominy of such disgrace!"

"Indeed, sir, I wish to God the learned and venerable counsel, who represents the defendant, would take back his hastily uttered and ill-considered excuses for the wicked conduct of his client, and say to him, as he ought: 'Young man, before it is too late, I wish to say to you and these Christian worshipers, that my argument in your behalf is but a vicious subterfuge, is wrong in principle and wicked if carried out. I take it all back and humbly beg your pardon. There is but one honorable course in life for you and your young friends to follow, and that is, to obey the laws of your country, respect the rights of others by following the Golden Rule,- do unto others as you would have them do to you. Take your punishment like a man and go forth and sin no more.'"

As readers will realize, there was nothing in the words I have attempted to quote that, in themselves, were sufficiently impressive to move the Justice or excite onlookers to boisterous applause. / But, as I uttered these closing sentiments, gazing unflinchingly into the Justice's face, he - unconsciously, perhaps - nodded his approval, while there came from the church members and other law abiding believers in liberty controlled by law spontaneous bursts of approval and clapping of hands.

When the noise had subsided, the Justice arose from the chair behind the little school desk, where he had so stiffly and enigmatically sat during the trial, and solemnly pronounced the defendant guilty as charged,- imposing a substantial fine as punishment and ordering him committed until the fine and costs were paid - thus pronouncing him technically guilty of disturbing the peace and quiet of Almighty God - perhaps the only instance on record of this kind.

That young rowdy, so long defiant of public authority and the rights of others, jumped to his feet, hurling anathemas at the church members and

and defiance at the Justice. I was astonished at his vehemence, but I arose and demanded silence, and then told him that if he persisted I would file a new complaint charging him with a much more serious offense, and I also requested the constable to take him into custody at once. Then his counsel went to him, doubtless advising him of new trouble, for, in a few moments, he arose and stated that the defendant would immediately pay the fine and costs and end the case.

At its conclusion, members of the church organization gathered about me, offering their thanks and congratulations; and, to my astonishment, urgently pressed me to come out and preach to them occasionally! But this, of course, I regret to say I somewhat ungraciously declined.

Some weeks later, however, a committee from this same church organization came to Winfield, for the same purpose; and, in my absence, made the object of their call known to my partner. He told them he would deliver their message and urgently press me to accept. This he did, with much mock gravity; and, thereafter, when a fresh bevy of listeners were at hand, he delighted in recounting his experience with this committee of church members.

CHAPTER XLI.

DEFENDING A COLORED MAN.

One of the most peculiar of the many cases in which I appeared for a defendant charged with a crime, was when employed by a southerner by the name of Bartlett, a former slave owner, to defend what he called "my black boy, Henry," who was charged with the theft of a miscellaneous lot of mechanics tools.

I was just returned from an absence of several days in the western part of the state, on business; and, upon arriving at my office, somewhat late, the next morning, found Mr. Bartlett impatiently walking back and forth, awaiting me.

"I am su'h glad to see you, Mista'h Jennin's, fo' I want you to go right down to Justice Wood's co't and defend my black boy, Henry."

"What is he charged with?" I asked.

"Stealin' a pa'cel of ca'penta's and Bricklay's tools."

"Is he guilty?"

"Oh, Lawd, I don't know! But I want you to go right down and do what yo' can fo' him. All I know is that, day befo' yesta'day, he was arrested and sent fo' me, so I went to yo' office and learned from yo' pa'dner yo' wouldn't return befo' today. Then I went to the Justice and told him my lawya'h was away, and asked him to put the trial off till today; but the county attorney objected. Then the co't told me, unless I called fo' a jury, he would have to proceed with the trial at once. So I took the hint and called fo' a jury. Then the co't made a long list of names, out of which the county attorney and myself agreed upon

twelve men fo' the jury, and the judge continued the case till this mo'nin' at nine, expecting yo' would be heah; but as yo' were not, I begged the co't to let me come up and fetch yo'; so go right down, fo' they all are waitin' fo' yo'."

Without further delay or information, I hastened to Judge Wood's court, where a somewhat unusual sight presented itself:

The room was perhaps twenty-five feet square, fronting south upon the street, and was one of two rooms occupied by the Justice. Near its northeast corner sat the Justice, behind a small desk. Immediately west of him, sitting in two rows, were the twelve jurymen. Beyond them, still to the west, against the wall, was the witness' chair - now occupied by the state's first witness, waiting to testify. Immediately in front of him, upon the floor, were more than a wheelbarrow-load of miscellaneous mechanics tools. South of these, sat the county attorney and his assistant - behind whom were several of the state's witnesses. East of them, and facing the Justice and jury, were three disconsolate, hopeless-looking colored people - ebony black - one, a man about twenty-five; beside him, a young woman near his age, and behind these two, sat a very stout, elderly black woman; none of whom had I ever seen before.

The three seemed so downcast and forlorn, as they sat mutely awaiting their fate, as to strongly move me, as it must have the many onlookers who crowded the room near the door - although, previously, I had been somewhat accustomed to strange scenes in trial courts. The time, being but a few years after the close of the Civil War, the scene somehow freshly recalled many harrowing stories I had read as a boy, of friendless black people, taken from their homes and kin, and sold upon the auction block to new and strange masters, to be carried far away among strangers.

As I stepped in, every one apparently glanced in my direction, and after pausing for a moment - surveying the room - the court asked me if I were ready to proceed. I still hesitated, considering whether to ask for time to consult my client, or to let the trial itself reveal the facts and take such steps in his behalf as they might suggest - finally deciding to adopt the latter course. And so, I announced, "I am ready, Your Honor."

As the trial proceeded, I closely studied the three black people, dumbly listening to the state's witnesses, whose testimony tended unmistakably to point to the black boy as the culprit - in whose house, when searched by the officers, were found, concealed in different places, portions of the stolen goods, which made up the big pile on the floor before the jury.

The searching officers testified that none of the occupants of the house had offered any explanation of their presence there.

In Kansas, at that time, the possession of stolen goods, by one other than the owner, was evidence of guilt, unless satisfactorily explained otherwise.

I had, up to this time, offered no objection to the state's testimony, and had the prosecutor rested his case at this point, I could have had little opportunity of doing anything for the black boy. But, after a short pause and a whispered conversation with his assistant, he called the old black woman to the stand. I instantly conceived this move was made for the purpose of making assurance of the boy's guilt doubly so, by showing by her that her son-in-law had brought the tools to their house.

Now, the laws of Kansas then provided that neither a husband nor wife could be compelled to testify against the other, in a criminal suit; but no such inhibition applied to other members of a family. Hence, I became alert and watchful.

The old black woman was perhaps sixty, as shown by the streaks of gray in her kinky hair. She was also extremely fleshy, her bulky form protruding much beyond the edge of the chair upon which she sat, which creaked loudly in protest whenever she moved. The whites of her rolling, restless eyes, as well as the ivory color of her teeth, when exposed between her trembling lips, greatly accentuated the coal-blackness of her skin, while her shaking body and twisting hands betokened the great strain under which she labored. Though dressed in the plainest and cheapest of clothes, their cleanliness and her general appearance, otherwise, was rather pleasing; and one instinctively classed her as belonging to that dependable, black-mammy type of colored women, so often met with in the South.

Altogether, she was a pathetic figure, calculated to excite commiseration and sympathy as well as compassion in the breasts of those who looked upon her. Not, however, having previously seen either of the three black people, I was of course in no wise more conversant with the facts in the case than were either the judge or jury; but I did, perhaps, more clearly realize the danger to the defendant, as well as to the witness herself, if she were compelled to testify; for, if she were conversant with all the facts and, perchance, had connived at the theft or had actually assisted in bringing any of the property stolen to the house, she would be a party to the crime, if not the actual thief.

Therefore, as soon as she was sworn, I arose and politely requested the Court that, inasmuch as I had never seen either of the black people before, I be permitted to ask a few preliminary questions and advise her of such rights as all witnesses had under the constitution and laws of Kansas, before the state's attorney proceeded with her examination. The county attorney strongly objected to this, but I noticed that the judge, as well as the jury, were moved by the helplessness of the solemn, old black woman, as I was, and he gave me permission to proceed.

After telling me her name, I asked her age.

"I doesn't zackly know, suh, but I specs I is mo'n sixty."

"Where were you born?" I asked.

"In Mississippi, suh."

"Were you ever a slave?"

"Yes, suh, I was bo'n a slave, fo' my mammy was a slave befo' me."

"How long were you a slave?"

"Until Massa Linkun done freed all de black people."

"Can you read or write?"

"No, suh."

"What relation are you to the defendant, here?"

"He is my son-in-law, and dis woman" - pointing to his wife - "is my daughta'."

"Did you ever see me before I came into this court?"

"No, suh."

Then I told her, "I am employed by Mr. Bartlett, for whom your son-in-law works, to act as his attorney, and, incidentally, I want to protect you also, and therefore, whenever the county attorney asks you any question, and I raise my hand, and say, 'I object' - don't answer or say a word until this man" - pointing to the judge - "says you must. Do you think you understand this fully?"

"Yes, suh, I does."

Then the county attorney proceeded with her examination, while the judge, jury and spectators looked on with increased attention.

He first showed by her how long the three had lived together in the house where the stolen goods were found. He then asked her how far distant the house, from which the tools were said to have been stolen, was, from their house, and about other more or less immaterial things. Then he proceeded, in what was intended as a kindly, conciliatory tone, calculated to allay the witness' suspicions, by saying, "Now, Aunty, will you tell the court and jurymen, if you know, who brought these stolen goods to your son-in-law's home?"

Instantly, I raised my hand and objected, telling the witness not to answer until the judge should tell her to do so. Then I turned to the court, and said, "Inasmuch as the evidence thus far adduced shows that these tools, here on the floor, were stolen and were later found, by officers of your court, concealed in the house occupied by this witness, her daughter and her son-in-law, these facts, perhaps, raise a suspicion that one, or all three of them, may be implicated in the theft; but a suspicion cannot be substituted for competent and positive evidence. Now, in Kansas, the law excuses a wife or husband from testifying against each other in a criminal case, but does not inhibit a mother or mother-in-law from so doing, and of this fact, of course, the prosecutor is fully aware, but,

nevertheless, he has put this poor, old, ignorant black woman, who has no knowledge of her rights, under a white man's law, upon the stand - intending to extract from her, evidence to convict her son-in-law; although he well knows that, if any of these tools were brought to the house with her knowledge, or if she brought all or any of them there herself, or assisted in secreting them, knowing they were stolen, her answer would assuredly incriminate her. Therefore, I strongly object to the witness being compelled to answer, and insist that Your Honor instruct her that she need not do so, if the answer might tend to incriminate her."

The prosecutor was instantly upon his feet, denying any sinister intention, and stigmatized my objection as the ruse of a resourceful lawyer, to shield a guilty client, and vehemently insisted that she be compelled to answer the question.

In reply, I first called the court's attention to the fact that judges were expected to take judicial notice of many things which were within the common knowledge of every one. Such, for instance, as that people born and reared to adult life in slavery, where their labor was never requited by any wage - their only compensation being such food and raiment as their masters cared to provide - often, if not quite generally, were found to be less scrupulous about helping themselves to things they craved or greatly needed, and which they could rarely, if at all, acquire except by helping themselves from the abundance possessed by white people.

"Indeed, these slave characteristics were but a natural out-growth of the institution of slavery; and slave owners themselves recognized it and, in most instances, winked at it. Otherwise, culprits were punished by the lash, instead of the jail or the penitentiary, as in the North, and which frightens them immeasurably more."

"I mention these things to freshly recall to Your Honor - what he intuitively knows otherwise - the very few advantages in life they have had; the low estate from which they came; their lack of knowledge of white men's laws; their pitiable helplessness - not for the purpose of moving you to override the law, but to sustain it by granting to this trembling, ignorant, old black woman the same rights and legal safeguards you

would a white woman."

"There is one respect, at least, in which the population of Kansas is more conspicuous, perhaps, than that of any other state in the Union,- the very large percentage of Union soldiers of the Civil War it contains - men who risked their lives to save the Union and free the slaves. It was also upon the soil of Kansas that that intrepid old lover of human freedom, John Brown - famous in song and story - became renowned when he, with other pioneers of this state, thwarted the efforts of the slave holders of the South to make a slave, instead of a free, state of Kansas. Kansas has a glorious history thus far! But, sir, what may be said of her in the future if, in this enlightened country, within less than a score of years after Abraham Lincoln issued his famous proclamation making the black people free, a poor, old, ignorant, former slave woman, living upon the soil of Kansas, shall, in Your Honor's court, before a Kansas jury, be denied her constitutional rights and compelled to answer a question which may incriminate her and cause her to be sent to prison?"

The silence, pervading the room as I concluded, was almost oppressive, but was instantly broken by the words of the court, as he solemnly declared the witness need not answer the question.

Because of the prosecutor's insistence that the old woman be compelled to answer, and my vigorous objection, the jury and spectators doubtless thought, that the conviction of the defendant hung largely upon the witness' answer; for, as soon as the Justice had decided, the prosecutor rested his case, and I immediately arose and stated I would offer no testimony and was willing to submit the case to the jury without argument. To this, the prosecutor, after some hesitation, consented. The Justice thereupon furnished the jury with two forms of verdict,- one "guilty," the other, "not guilty," and they retired into a rear room to deliberate.

They had been gone but a few moments before a knock at the door, informed the bailiff that they wanted something, and upon opening it, he was told they had agreed upon a verdict.

They filed solemnly in, and when seated, were asked by the court whether they had agreed upon a

verdict.

"We have, Your Honor," the foreman replied, and handed it to the Justice - the body of which read: "We, the jury, duly impaneled and sworn in the above entitled action, do upon our oaths find the defendant not guilty."

Quite a demonstration of approval broke forth from the onlookers. But, after telling the three black people they were free to go home, their eyes beaming with astonishment and gratitude as they pressed my hand, I hastened back to my office.

CHAPTER XLII.

RELIGION AND MORALS.

My age - seventy-four, when this is penned - permits me to look upon my earlier life in a most im- personal way. Indeed, it seems so remote as to appear to belong to a former incarnation, and, therefore, in looking backward and recalling its varying phases, I am moved by the same impulses of pity, regret and sympathy - if not of commendation - I imagine I would experience were I considering a life entirely unrelated to my own.

Even though I may shrink from invading the sacred precincts of a child's groping, prehensile mind - laying bare its primitive ideas of right and wrong, future re- wards and punishments, God and Satan, Heaven and Hell, it is not because it pertains to my own, but rather that it is the life of a child, having the most potential pos- sibilities perhaps of that of any other living creature.

Hitherto this shrinking reluctance has so dominated as to deter me from attempting it at all; but as other phases of my younger life have been outlined, the impor- tance of treating the moral and religious side, which, above all others, perhaps, is the most potent and far reaching in effect, has constantly grown upon me until I am persuaded that to further decline would leave this simple story far from complete; and hence, as best I can, the attempt will be made.

It is perhaps an inexcusable platitude to assert that the influences surrounding the early years of a child, have a far reaching, if not altogether the most potent effect of all things that shape its future existence. From these it not only derives its physical subsistence, but also its trend of thought, impulses, language, morals, ambitions and direction in life; therefore, from these it really and naturally inherits, while entirely irresponsible, many things that go toward determining its standing and accomplishments in life. Illustrating this, I can truthfully assert, from my own experience and observation, that I have met and quite intimately known children under

ten, who, because of their early environment, could swear, lie and steal just as blamelessly as could other children be chaste in speech, truthful and honest, without undue credit, - all having acquired their tendencies without effort, blame or credit.

From this it follows that among the greatest of the gifts of the gods to childhood are good parents; and more fortunate still, if their daily language, deportment and habits of industry are worthy, so that children may thus acquire these most valuable attributes more easily and surely than is possible in any other way, and, really, without conscious effort.

While my own parents were not learned, in the sense of being college educated, and were, perhaps, in some respects remiss in that they had many practices and mannerisms not in consonance with the best usage, they were, nevertheless, strong physically, mentally and morally, and their children unquestionably owe to them largely their virtues, industry and mental powers - indeed, all their most commendable qualities, but none of their shortcomings.

My mother, who was a remarkably good woman, was also quite religious. My father was equally good, but not at all religious - that term being here used in its commonly accepted sense, more than a half century ago, as applying to one who was not a member of a church, nor said grace before meals, nor led in family prayers morning and evening - as the head of a religious household was supposed to do.

This remissness of father, in the outward observation of religious practices, was the source of much regret and deep concern to mother and my older sisters who were church members; for these derelictions, as interpreted at that time by the church, regardless of however great his other virtues might be, consigned him to the doom of those who could not enter Heaven. To my childish mind, however, this doctrine was so unbelievably unjust and monstrous that I rebelled at its acceptance, for to me no place could be Heaven where they both might not go, and none a Hell where either must go.

From this early childish reasoning probably arose my lifelong aversion to the strict constructionist doctrinaire.

Fortunately, for the peace and happiness of mother and other members of the family who feared for father's ultimate future, some years before he died, he became a member of the Methodist Episcopal Church, and thereafter observed all the outward customs it imposed.

This action, however, added nothing to my former veneration and love for him, nor, could I see, to his real virtues and goodness; for he still continued to do and be as he was and did before, - charitable and virtuous, and to visit the fatherless and widows in their affliction and to keep himself unspotted from the world. And if this be pure and undefiled religion, he must have been safe all the time.

Mother was not only good but was heroically so. By this is meant that whatever she thought she or her children ought do she unhesitatingly did, and so far as was possible, caused them to do. She believed children should obey God's commands and those of their parents - by gentle persuasion if possible, but by force if necessary. Being English born and raised, she was almost or quite as puritanical in doctrine and practices as were the famed Pilgrims who landed at Plymouth Rock centuries before.

As early as I can remember, when she put me to bed at night, I repeated after her, until I learned it, the simple, childish prayer, -

"Now I lay me down to sleep,
I pray the Lord my soul to keep.
If I should die before I wake,
I ask the Lord my soul to take."

Then she would gently tuck me in, kiss and bid me good night.

Later she taught me the Lord's Prayer, and often read bible stories, as well as those from Sunday-school books. She tried also, in many ways, to implant in my mind a horror of evil and a love of goodness. Of all these, the most lasting and potent was the story of Jesus Christ; for it still remains undimmed in memory, nor has anything I have since learned about His life, suffering and death, which then kindled my sympathy, admiration and affection as a child, changed it; for, regardless of the discussions about His birth and as to whether He was a man or a God, He has remained always my apotheosis of goodness - the only perfect man. This in itself, perhaps, has been sufficient, in my mind, to deify Him.

I got from her, also, my earliest ideas of the two great contending forces, Good and Evil,- God and Satan - and how sin came into the world by reason of Adam and Eve eating the forbidden fruit, thus bringing upon their posterity indescribable sin, sorrow and trouble. She also read and tried to explain to my feeble mind the momentous occurrences set forth in the first three chapters of Genesis; but I could not comprehend them then, nor can I do so now.

To mystify me then, there always arose in my groping mind the thought, when contemplating these things regarding the creation of the material universe,- who created God and why God created Satan?

Indeed, for all of my earlier years, my mother was my monitor and judge, deciding when I did wrong and meting out proper punishment, and I thus came to regard her decisions - based upon what she really believed to be right - as a guide, and accepted her punishments,- which of course I did not relish, yet, deep down in my heart, as proper and just.

I did not then have any well defined idea of God; neither did I think of Him as the Christ, who, while in the flesh, suffered the passions and temptations of men. For that matter, I confess I have acquired none since. My early conception of His abiding place, however, was in the Heavens beyond the clouds; but as I could not see Him, the declaration that He was everywhere had little convincing weight with my childish reasoning.

I was often told I must love God and keep His commandments, and I did try to do this, in a very unenjoyable and fearsome way - for there were so many things said about His great power and unspeakable wrath, when displeased, and how He spoke with the tongue of lightning and the voice of thunder through the storms, that I could not love Him as I did my father and mother. Indeed, my early conceptions of right and wrong were almost wholly based upon what they said and did, for their declarations and acts guided me almost entirely as to daily conduct.

The home of Satan, whom I greatly feared and detested as a child, I readily conceived to be Hell,- a bottomless pit in the depths of the earth. This,

it seemed to me, was abundantly attested by the many volcanos about the earth, whose mountainous chimneys ceaselessly emitted smoke, fire and the fumes of brimstone - showing that it was heated to a degree beyond human understanding, where sinners were said to be consigned to burn forever and forever, and where there was continuous weeping, wailing and gnashing of teeth.

From these conceptions, it may be understood that my great awe of God, as a child, was little less distressing than my fear of Satan. Neither did I receive much hope or consolation from the often quoted verses in Matthew, that "Wide is the gate and broad is the way that leadeth to destruction, and many there be that go in thereat." And that other, - "Straight is the gate and narrow the way, that leadeth unto life and few there be that find it." Nor God's admonition to the wandering children of Israel, when He declared unto them, "For I the Lord thy God am a jealous God, visiting the iniquity of the fathers upon the children unto the third and fourth generation of those that hate me."

This and many other excerpts from the scriptures, often quoted, showing that no one was perfect, and the difficulty of being acceptable to God, and the dreadful end of those who failed, raised in my wondering, childish mind doubt whether I could possibly attain the one or escape the other.

This distressingly unsatisfactory state of mind possessed me until I was perhaps ten, when it took a new form:

Every winter, in almost every church and in many schoolhouses throughout the country, were held what were called, then, protracted revival meetings, conducted under the auspices of different church organizations (those not doing this, that I can now recall, were the Catholics and Episcopalians). So-called evangelists, - ministers especially gifted with a fervor of demeanor and expression, who could strangely move their hearers - usually conducted them. Their appeals were made more particularly to excite their hearers' sense of fear of everlasting punishment and hope of eternal reward, rather than the fact that, to be good, was a sufficient reward in itself. These sermons or exhortations were greatly accentuated by evangelistic singing by a chorus, selected for that purpose, and by the shouting exclamations of approval, made by excited church members, at particularly moving passages in the speaker's discourse or prayer. Night after night the services increased in fervor and effect, until it finally reached a sort of mesmeric power that few could resist.

Penitents were admonished to flee from the Wrath to come by going to the altar for special prayers. Exhorting men and women went among the assembled people beseeching the hesitating unbeliever to go forward. Even children, like myself, were not overlooked, but were carried along by the irresistible influences pervading the room.

In perhaps a week many people, feeling a sense of their lost condition, went forward, kneeled at the altar, bowed their heads upon its rail and bemoaned their lost condition and pitifully sought forgiveness.

With many other childish penitents, I followed - not, I think, that I had any oppressive sense of actual wrong doing, for, up to that time, I cannot recall that I had ever told a deliberate lie, used any profane language or otherwise wantonly disobeyed any of God's commands. My lost condition, as I then considered it, came through Adam's disobedience of God's injunction, by which all his posterity became sinners.

While I was by no means a model boy, yet, a category of my youthful delinquencies seems so surprisingly small now, that, could I justly claim they had never been added to, I would be satisfied and very proud; for the most that could be said in my condemnation, then, was that I may have been childishly selfish, not aggressively industrious and perhaps quite strongly exaggerated my excuses for these minor derelictions.

However, while excited by the powerful efforts of the minister, by which he depicted the horrors of Hell, to which all sinners, who had not been forgiven, must assuredly go; how families were often separated by death - those who were forgiven going to eternal bliss, and those who were not, to the everlasting punishment of the damned; how death comes like a thief in the night - "therefore, be ye also ready, for in such hour as you think not the Son of Man cometh." All this and much other that was said excited many into an uncontrollable agony of fear, so that they pitifully begged to be saved from the Wrath of God. Others, believing they had been miraculously forgiven and saved, shouted in the exuberance of their happy relief.

These remarkable manifestations, coupled with the continuous exhortations, shouting and singing of those in charge of the meetings, created an indescribable pandemonium (if that term may be properly applied to such a babel of noises), which excited everybody to a high pitch of

emotional expectancy. Some even fainted, others went into a sort of groaning, hysterical coma - so much so, indeed, that the very atmosphere seemed charged with a prescience of impending events of such moment and far reaching import entirely impossible to believe, describe or understand except by those who may have witnessed it.

Thus were my childish sensibilities excited by the agony of a dreadful suspense and fear; for, during all these continued appeals and prayers, try as I might, I could not realize that overwhelming sense of guilt and forgiveness to which so many testified.

I distinctly recall that in thinking over this I almost regretted that I had not been more wicked, so that I might feel the ecstatic state of relief which was supposed to follow when one's transgressions were forgiven. I continued in this unhappy state of mind for several days and nights, until I feared I might not be "converted" at all. Thinking about it now, it may be that I was penitent but not sufficiently repentant, if such a state is possible.

In the meanwhile, the furor and interest in the meetings continued and many men, women and children seemed happy in the belief that their past sins were forgiven; but I remained in a state of unhappy doubt and confusion. As best I could, I explained my state of mind to inquiring church members and was told I must not expect too much by way of change, but to ask God for such manifestations of His forgiveness as He might think best. I remember, also, that there was some incongruity in the advice given me by the many who talked with me about my unsatisfactory state, which added no little to my unfortunate state of mind.

But, out of it all, I determined finally to follow that which bade me trust God to do what was best. While no other manifestations of His approval came, I took some hope from having done what I could, and there followed a somewhat unsatisfactory relief, and I hoped God would in due time and manner give me further evidence of His approval.

Under these conditions and with no further assurances, I was accepted as a fit applicant for membership into the Methodist Episcopal Church. I was received on probation and, later, into full fellowship, although I cannot say that I understood the obligation I assumed in repeating after the minister the confession of faith required by the church of its members.

CHAPTER XLIII.

I wish I might truthfully say I enjoyed my fellowship in the church, but I cannot. For I was a timid, retiring child and one of the greatest crosses of my young life was to take part in church services.

As a matter of duty, I was supposed to attend, what was called class meeting, held immediately after the main church service. These meetings took place in different parts of the church, each class containing perhaps a dozen members, duly assigned to it, and presided over by some member chosen by the authorities because of his or her peculiar fitness.

I remember that, as each name was called by the leader, he or she was expected to rise and give his or her personal experience, and as my time approached for this duty, I was possessed with an overpowering trepidation that made the ordeal excruciatingly distasteful; so much so that it was an infinite relief when anything, such as inclement weather or sickness, occurred to excuse me from attendance. Indeed, to be perfectly truthful, I must say that trying to perform the stated duties of a church member made that portion of my young life much more unhappy and unsatisfactory than that which preceded it, when I was guided wholly by my mother; and there still remains with me traces of my earlier resentment that a mere child, not capable of understanding the obligations and duties joining a church imposed, I was taken into full membership upon the theory I did know.

Whether my mother noticed my unhappy state I do not know. If so, she doubtless attributed it to other causes for she was most punctiliously active in getting her children ready for Sunday-school and church; or, she may have thought I would eventually overcome my timidity.

The foregoing remarks are not intended as an indictment of the particular church in which I was then received, for I realize my experience may have been very exceptional, and I fully understand also the great part it has taken in many ways in the general uplift and betterment of mankind. Neither is it directed at the practice of church members in presenting their infant children for baptism and christening, which I regard as a beautiful exemplification of faith, on the part of parents, in which the child itself has no conscious part, and which, when it comes to considerate years, it may think of as an expression of its parents, indicating their desire that their child shall grow up into a life of goodness under Christian influences.

It is with sincere regret, also, I must state that to my early experiences in this church was very largely due the fact that, after moving from my birthplace, I never formally became a member of any church organization; although I often attended services and enjoyed them - not doctrinally, perhaps, but otherwise. Nor do I mean to imply that, had I been continually a church member, I would not have become a better man and citizen - for I have formed no opinion as to that. This early experience and the fact that, when I reached mature years, I found between nearly all church organizations, what I conceived to be an intolerant and unseemly spirit of rivalry, which seemed to me to be really inconsistent with the spirit and teachings of Christ - each differing from all others in some assumed essential, that often lead to acrimonious contentions. So that I have come to believe that one who accepts Christ's example and teaching as his guide, as any humble, sincere-minded person can, however unlearned he may be, and tries to follow and imitate Him, need have little concern about the present or future, whether he be a member of the church or not.

There have always been, and doubtless may continue to be, minor questions in dispute about Christ, - as to His immaculate conception, the exact meaning of His parables and teachings - but there is not, nor can there be, but a unanimity of belief in His goodness; for His life exemplifies more truly than that of any other, of which the world has knowledge, the perfect man - the good man. To me, it has always seemed that goodness and godliness were the same thing and that God was but goodness apotheosized. The same reasoning applied to wickedness, which in its extremity has been anathematized as the Devil. Goodness

and badness are correlative terms representing the extremities of human conduct, as do the positive and negative poles of the magnet - the one attracts and the other repels.

I like to believe, also, that we do not have to wait until death terminates our activities here, for a full realization of the happiness that comes from living rightly; but that every good act, every pure thought, every attempt to help others has a double blessing, the least of which is bestowed upon others and the greatest remains with the doer in the happy consciousness of having done rightly.

I like to believe, also, that human beings prefer doing good to evil, - not to avoid punishment after death, but because of the infinite satisfaction there is in the doing.

In nearing the close of this particular phase of my life, I wish I might truthfully say I never deliberately did wrong. The most I may claim is that my derelictions were largely of the so called minor ones - not that they were, for that reason, less despicable - and that, invariably I deeply regretted them. Curiously, too, every dereliction of my life has had its most distressing after effect, in the thought of how deeply, the knowledge of it, would distress the spirits of my father and mother if, in their existence after death, they unhappily knew of them.

This exemplifies the lasting influence of good parents, to which I referred at the beginning. Indeed, speaking from my own observation and experience, I am convinced that it outweighs and over-rides all others. Hence, the greatest responsibility of all human relationships is that of parenthood; and woe will assuredly be-tide those who shall neglect their duty or who assume the obligations between themselves and their offspring lightly.

One of the most distressing pronouncements perhaps in the bible is God's declaration that the sins of the father shall be visited upon the children unto the third and fourth generation of those that hate Him. I shudder whenever I contemplate it, for it falls upon one's sensibilities as the threat of a vengeful, unforgiving God. However, that a child is like its parents, in most ways, is so invariable as to be axiomatic. Does a father blaspheme, lie, cheat, steal or is brutal, his offspring takes the fact as a license to do likewise. It may chance,

occasionally, that a father - or even a mother - may be so unspeakably bad as to become a hideous and fearful example, causing such a revulsion in the child as to make it abhor and shrink from his practices. But such instances are almost as rare as that water ever flows higher or is purer than the source from which it comes.

Therefore, when we contemplate this harsh utterance of God, it amounts only to the confirmation of one of the most patent laws of nature,- that, as are the parents so will the child be unto the third and fourth generation; for not God, but parents themselves really become the ones who carry out this awful anathema against their own children.

To the old, whose work is largely done and whose accomplishments are in the past, there seems no happiness so comforting as that from the consciousness that they made the well-being of their children their chief aim in life, and no disappointment so unbearable as that resulting from a consciousness that they have failed.

The Golden Rule most nearly expresses my ideal of proper human association - not, I hasten to explain, that I think my own conduct exemplifies it - but, to be constantly struggled for.

From what appears in this portion of the story of my life, I sincerely hope no reader may conclude that I feel it has been sufficiently exemplary to be followed by others; for nothing is further from my intent. Indeed, it is written in a spirit of humiliating consciousness of my many short-comings, to be avoided rather than imitated.

Christ, alone, is the Great Example! Following others, is but the blind leading the blind. He was, however, not a teacher of doctrines; but, rather, a living exponent of proper human conduct. He did not say to the penitent thief, suffering upon a cross beside His own, that he was lost because of his past transgressions and godless ways, but when He heard his pitiful cry,- "Remember me when Thou comest unto Thy Kingdom," - He answered, "Verily I say unto thee, this day shalt thou be with me in Paradise." Nor did He rebuke the unfortunate woman whom He had rescued from the missels of her persecutors, whom He confounded by telling them, "He who is without sin among you let him cast the first stone at her." But when they had gone, one by one, leaving the accused woman before Him, He said, "Woman, where are those thine

accusers? Hath no man condemned thee?" She said, "No man, Lord." "And Jesus said unto her, neither do I condemn thee; go, and sin no more." He might have told her to join His followers and the church, be baptized and make a public confession; but not so - only "Neither do I condemn thee; go and sin no more."

Concluding this phase of my life, I am inserting an address, delivered by me several years ago at the Annual Memorial Service of the Elks Lodge, in San Diego, California. It was one of several others I made on similar occasions, and perhaps more clearly than the foregoing outlines of my life, explains my belief upon the subject of Life, Death and the Future.

ST 10 1

Address delivered
Flag Day, June 14, 1919.

OUR FLAG IN THE WORLD'S WAR.

Brother Elks and Friends of our Order: In these days since the final triumph of our flag in the World War, America has much to be thankful for. We are thankful that the black shadow, under which we have lived for almost two years, is broken and the light of peace now glows about the horizon of the world. We are thankful that the unspeakable dread and fear, which possessed us as our loved ones went out of our lives into the bloody vortex of war, has passed from us, we hope, forever. We are thankful that the torch of liberty, lighted by our forefathers upon the altar of our country at its birth, has never been extinguished, but has come down to us with ever increasing refulgence until it now illumines the world. We are thankful that the first flag of our country, fashioned by the skillful hand of Betsy Ross, and into the construction of which she interwove the hopes and aspirations of her patriotic soul, christened in the nation's struggle for independence, sanctified by the blood of the heroes who gave their lives for the great principle of human freedom, and which was borne to final triumph at Yorktown by George Washington, assuring the existence of our nation, has never since been lowered nor disgraced, but through almost a century and a half has been handed down with ever increasing stars, and power, and glory, and stands today, one of the most beloved, revered and trusted of all the national emblems of the world. We are also glad and thankful that we know, that the cause for which our flag entered the great war was just. For us this was a holy war, as we were engaged in a mighty crusade of righteousness, and our young men in uniform, who bore our flag across the seas and unfurled it to the breezes of another continent, were really knight errants of God, to save to posterity the sacred birthright of human freedom, and to forever crush brutal oppression out of the world.

We fought, not for territorial aggression, nor to force our dominion over unwilling peoples, nor for booty, nor spoils, nor any material thing; but we did fight in behalf of right as against cruel might. We fought to stay the hand of ruthless oppression, and to preserve, for future generations, the immortal principles of our

Declaration of Independence, that all men, regardless of the incident of birth, are created and held free and equal before the law of God and man, and that each, within the limitations imposed by just and proper laws, for the benefit and protection of all, has the inalienable right to life, liberty and the pursuit of happiness; and that no insanely ambitious Kaiser, blasphemously claiming a partnership with God as a cloak for inflicting his inhuman and hellish atrocities upon defenseless peoples, aided and abetted by a coterie of sycophantic, lustful, power-loving autocrats, shall rule over the sons of men without their consent. We have fought to forever write into the law of nations the principles of God's great Ten Commandments and Christ's Sermon on the Mount, and to bring peace and good will among the nations of the earth. And, brother Americans, we should thank God today that under His guiding hand our flag was the great determining factor in the mighty struggle.

This, throughout Elkdom, is Flag Day; and, as this order is exclusively an American institution, and, as our flag has a peculiar and exalted significance to us, (for it is one of the most cherished of our insignia) and as fidelity, loyalty and patriotism are among the most sacred of our tenets, and because the character and significance of our flag depend wholly upon the ideals, aspirations and accomplishments of the people whose national emblem it is, the world has the right to ask of us, what the order of Elks has done for the honor and glory of our flag in the World War.

Although one of the least worthy and capable of our membership to perform this task, yet with your permission I will in part and as best I may, essay to make answer.

It can be truthfully and emphatically asserted that every Elk in good standing, wherever situated, was, during the war, a most active, loyal and enthusiastic supporter of our government. Many hundreds of thousands of Elks who, because of age or other disability or condition, were deprived of the privilege of serving their country in arms, gave abundantly, continuously and enthusiastically of their time, their energy and substance in assisting the government, every way possible, in the successful prosecution of the war. Many other thousands, not so handicapped, quickly joined the colors, and wherever men were needed, on the sea, in the air or upon the

land, to seize or defend positions of danger and importance, there were always found loyal Elks faithfully doing their part; and to our great sorrow and regret, many hundreds of these have fallen in the heroic discharge of duty, and having for their proud winding sheet the flag they loved and served, are now sleeping upon the hillsides and in the valleys beneath the battle-scarred soil of France, made doubly sacred to us by the presence of their cherished ashes.

Then, too, under the auspices of the Grand Lodge, there have been raised, by contributions from the members of our order, millions of dollars for war activities, more than two millions of which have been used to build and equip two great hospitals, to be turned over to the government for the purpose of caring for the seriously wounded and permanently maimed men of the service, so that to the comfort they may enjoy from the recompense, so justly due them, from the government, because of their service and their wounds, and, in addition to the eternal esteem of their grateful countrymen, they may have the infinitely greater satisfaction of adjusting their changed conditions to such business, profession or activity as will enable them to become most useful, active and respected citizens of the republic because of their future accomplishments.

And, my brothers, as if in recognition of the services of our order, and in answer to the prayers of our members, the great God of battle stilled the anathemas of struggling men upon their lips, hushed to silence the awful storm of battle, and set forth the white dove of peace, on its first flight, over the battle-wearied armies of Europe, on the eleventh month of the year, the eleventh day of the month and the eleventh hour of the day, - an hour, most sacred and revered by us, as one for meditation, for prayer and for grateful remembrance of our absent brothers.

It is impossible, without trespassing upon your time and patience, to discuss, even briefly, the part the many different classes of our countrymen performed in supporting our flag in the great war, except to say that probably never in the history of the world was a great people so overwhelmingly, unanimously and unselfishly concerned in sustaining a government entered upon a struggle so momentous in possibilities as this, its only object being to sustain Christian ideals of national

conduct and to preserve human liberty from perishing from the earth.

Therefore, without the slightest intention of invidious distinction, I beg your indulgence while I call to your attention the part performed by two classes of the many so heartily supporting the government,— the one, the women of America and, the other, the men in uniform who bore our flag to victory. Being conscious of the inadequacy of any effort I may make, I approach the task of speaking for these with such trepidation and reluctance as would deter me altogether were it not that I am certain that from the rostrum and in the pages of history those infinitely more capable will do them ample justice.

What have the women of America done for the honor and glory of our flag in the World War?

How vividly do we recall the pitiable part America performed from 1914 to 1917 in the great tragedy being enacted on the battlefields of Europe. This great nation, the boasted friend of human liberty and national freedom, the greatest democracy on the face of the earth, maintained a humiliating neutrality in the titanic struggle which democracy and Christian rights of men and nations were making for existence, while we profited off the necessities we furnished their only supporters.

Thank God, that as the horrible atrocities of Germany, in Belgium, Austria, in Serbia and Turkey, and in Armenia, multiplied in number and grew in brutal savagery, there still coursed in our veins traces of the Puritan blood of our ancestors of Plymouth Rock and Bunker Hill; that there was still latent within us some of the indomitable courage, love of fair play and horror of licentious savagery and brutality toward helpless and defenseless women and children, so that a mighty indignation stirred within us and mounted higher and higher, until platitudes of peace at any price no longer found lodgment in willing ears, and standing between the mighty tide of their fellow-countrymen's purposeful wrath and the ever increasing insolence of Germany, our national leaders were compelled at last to issue an ultimatum.

No incident in the affairs of nations for centuries has been so fraught with consequences as Germany's conduct in throwing caution aside and openly disregarding

the final warnings of America, and when the tocsin of war finally automatically sounded, this great nation, like a huge giant, awakened from a hideous dream, arose, shook itself, stepped into the arena of war, purposeful and unafraid, and for the first time since the crucifixion of Belgium began, looked the world squarely in the face, while all the nations looked on, wondered and then approved.

As the wager of battle was accepted, there arose to the lips of the people of the world the momentous question,- can America support herself and her allies, raise, equip, drill and transport to France an army of three million men before the German army can reach Paris and close the ports of France? And upon the answer to this hung the future destiny of the race.

One of the first and most important appointments made, after the declaration of war, was that of Herbert Hoover as food administrator, for it had become evident to all that food, or its lack, would win or lose the war. Hoover, always prompt, sagacious and active, at once began a survey of the actual conditions, that he might know what to do. As he looked into the lean larders of Great Britain, France and Italy, he was astounded and alarmed, for he knew this appalling shortage must be supplied from America, which had already more than shipped her surplus in the past. Then he was inspired with the idea of appealing to the loyalty and self-sacrificing spirit of his countrymen, and, using the Associated Press as a megaphone, he shouted across the sea, "People of America, you must feed yourselves with one-third the wheat, one-third the pork, one-third the beef and one-third the sugar you have formerly used, and send the balance to your starving allies, or the war is lost."

In the enthusiasm of early preparation, when hope and courage ran high, this announcement was received with surprise and astonishment by many and with dismay and forboding by others; but to one class, and that, too, upon which this almost insuperable task must largely fall, it was received with calm assurance and heroic determination. I refer to the women of America.

They made no hysterical outcry nor protest. Their lives had been chastened and their course irrevocably fixed when they parted with husbands, sons and sweet-hearts, who by tens of thousands were leaving their homes and firesides to gather at training camps in preparation

for the contest at the front. To waiver or fail was unthinkable, whatever the cost. Many of them let their domestic servants go, to be employed in other channels more useful to the government, and took personal charge of their household affairs and began the performance of tasks almost forgotten. They did not tire nor waiver, for this was a labor of necessity and love. Under the spur of the tremendous results at stake, they arose to the sublimity of genius and performed the greatest miracle the world has known since Christ fed the multitude upon the loaves and fishes on the shore of Gallilee, for they not only fed the world out of the productions of our country, which had been previously little more than sufficient to supply our own people, but they gave our countrymen the most abundant, appetizing and nutritious menu they had ever enjoyed. And this was but half the miracle, for during the period of the war they found time, outside of their domestic duties, to knit fifteen million sweaters, twenty million pairs of socks and made many millions of garments for convalescent soldiers in hospitals, and, also, to cut and sew enough bandages to more than encircle the earth. As a sacred pastime, they mothered, cheered and entertained millions of homesick, khaki-clad lads as they passed through the different localities of the country on their way to training camps or to the front. No day was long enough to end their self-imposed tasks; no rest so necessary and brief but that it was thought a waste of valuable time. Waking, they worked and prayed for, and, sleeping, dreamed of their loved ones with no thought of self or any remuneration; never striking for higher wages -- they gave all for God, for country and humanity. Ah! my countrymen, others did their part, but none so great, so unselfish and important as this. The world owes an incalculable debt to the women for the part they bore in the great war, and their entire service left the nation's treasury undiminished by a single penny. Has any other class a record such as this?

In speaking of women, I have not in mind those militant females who, forgetting their duty, their country and its defenders, during the momentous struggle, gathered at Washington, disgraced their sex, indefinitely postponed the political rights of women, brought down upon themselves the anathemas of their patriotic countrymen and the obloquy of the world by their unseemly and exasperating conduct in picketing the White House grounds and nagging the President, whose life was full burdened

with the tremendous responsibilities of directing America's part in this great war, one of whose very objects was to make the world a safe place for decent, respectable women to live in. God knows, if the claim of women to the right of suffrage depended upon the conduct of such as they, it would never be granted.

I am thinking, rather, of the class of women whose services I have so inadequately described, one of whom, a widow, known in the locality in which I live, is typical. She had but two sons. The elder, she parted with in the first call for volunteers. With a prayer and a final kiss, she bade him God speed, and like the Spartan mothers of old, adjured him to do his duty. With a heavy heart she took up the burdens of life, and read with ever increasing terror and foreboding the unspeakable tragedies on the battle front. And as the enormity of the task before America became evident, she realized the possibility that her other son, her boy, her baby, might be needed too. She noticed his abstracted and purposeful young face as he read the daily reports of the struggle. And, one day, with hesitating voice, he looked into her drawn face, and said, "Mother, I feel I must go. It is awful to leave you alone like this, but it is worse to think of the world's condition if America fails; it is for you, mother,— for you and all good women, to preserve them from the atrocities suffered by the women and children of Belgium and France. You understand, mother. I saw you bid brother goodbye; I knew how brave you were. Now, it is my turn. I will be careful and clean, and try to be worthy of you and the father you have told me so much about."

What did she do? Although this boy was dearer to her than her own soul, she did what millions of other loving and patriotic mothers did,— she looked upon him with greedy, loving pride. He seemed no longer her little one, but an heroic, purposeful man; and clasping him in her arms, she said, "Oh, how proud I am! Go, do your duty. I thank God for such sons!" Then, when the day of parting came, having provided everything a mother's loving intuition could devise, she prayed for strength to say goodbye, without tears in her eyes or fear in her face, that he might go forth happy and strong to his duty.

God answered her petition, and as she watched him go down the path to the street, she wondered if he might

not turn at the corner, where he would pass out of her sight, and waft her a kiss, as when a little tad each morning on his way to school. He remembered, and receiving her salute in reply, he went out of her life.

For a moment she stood transfixed by her desolation, and then fell in an uncontrollable heap of sorrow and despair, for well she knew his young footsteps would take him swiftly into that mad carnival of destruction, where greedy death would follow him by day and hover over his lonesome slumbers by night. But God, in His infinite mercy, touched her hot eyelids with the finger of pity, loosened the floodgate of her tears, placed the germ of hope in her soul and the solace of service in her heart, and she arose and joined the noble women whose sacrifices glorified America and womankind. What can you not expect from the sons of women such as these?

It is of the sons, husbands and sweethearts of these women, who entered the service, of which I shall next speak. How did they live? How did they fight? How did they die for the honor and glory of the flag? John R. Mott, the great leader of the great organization whose business it was to look after the welfare and morals of our soldiers abroad and at home, testified that the world has never before seen an army as clean, morally and physically, as was the American army in the great war. Most respectful to women, tender and playful with children, and courteous and obliging to old age, so remarkably so, indeed, that their very virtues seemed to raise a distrust in the minds of Europeans as to their fighting qualities, and the world hoped for the best as it waited for a demonstration.

How vividly we recall those ominous days in the spring of 1918, when the Germans, spurred to a supreme effort by the ever increasing numbers of American soldiers reaching France, at great hazard to and cost in men, hurled their legions forward against the exhausted armies of the British and French, driving them backward, ever backward toward Paris, until the covetous eyes of the German hordes could see the spires and domes of that city. Near enough they came that one of their great guns, planted at a point previously selected, could throw its powerful projectiles into the city, where its

periodical explosions sounded like the death knell of human liberty, for the world knew the decisive hour was near.

A day of prayer and supplication was appointed and observed throughout America; when our patriotic, liberty-loving people gathered hour after hour, by millions, in churches and other places, for consolation and guidance. Never before in the history of our country was seen such an outpouring of diversified humanity. The rich, the poor, of every faith, and those without faith or creed, all trying to get in consonance with, and under the protecting shadow of that great spirit of righteousness which all the peoples of the world have recognized and worshipped in some way and form since man became a reasoning being. Strong men and women, who had not prayed since children at their mother's knees, were present and murmured their prayers with their fellows.

At this time, American soldiers, in an ever increasing number, had reached France and gone into training behind the British and French lines, but none had fired a gun in battle. It seemed as if the French and British commanders questioned whether a dependable army could be made up entirely from men drawn from the ordinary walks of life, with but a few months' training, and therefore no opportunity had been given our men to convince them otherwise. However, as the German pressure became more persistent and it was feared might break through the stubbornly held lines of the allies, and thus convert the slow, backward movement into a disastrous rout, the commander-in-chief deemed it wise to select a sufficient number of battle-hardened troops, as reserves in the rear, to be able to meet and overcome such an emergency, and to do this it seemed necessary, at least, to place a portion of the battle line under the command and in the keeping of American officers and men; and this was done.

Just before the expected assault of the Germans took place, an order came to the commander of the American forces to hold the line as long as possible and then fall slowly back. The reply was typically American, - "Tell the commander we will hold the line till Hell freezes over, but our soldiers do not retreat!" Then he sent the order down the American lines, "Hold your fire until the German barage lifts and then over the top and meet them in the open - and remember, the eyes of the world are upon America today!"

How did our soldiers fight? Ah, ask the Germans, who, upon that day and at that point, received their greatest surprise of the war; for, in front of the American lines, they were compelled to begin a retreat which did not cease until they sued for peace a few months later. Look at the ever increasing line of German prisoners, daily winding their way back through the allies' lines, and the thousands of large and small guns quickly ran into millions, while, in their flight, they left behind great stacks of projectiles, shells, ammunition and supplies, which they had abandoned. In almost a day, the world knew that the Germans had lost and the war was near its end.

Thousands of instances of individual, squad or battallion bravery have been immortalized by insignia and by special or general orders, and again America, true to her traditions, had sustained her honor and her flag.

One of the saddest evidences of America's part in this great struggle is the 70,000 graves in France, filled by her heroic sons who gave their all for a mighty principle. And, ah! the pity of it all; for each grave is a sepulcher for blasted hopes and thwarted ambition. For each grave, there is left a home with a vacant chair, a household stricken with unspeakable bereavement and despair; as it is upon the living and not the dead the blow falls most heavily. Thank God, there is relief for these saddened hearts, for their loved ones made the supreme sacrifice for God, their country and humanity; they left them an inheritance of imperishable glory, for, while, as fighting, they ever pressed bravely forward, so when the supreme moment came, they fell without hesitation, fear or regret, as heroes do; they died with their face to the foe, and with a prayer in their heart and the name of loved ones upon their lips, they passed out of the storm of battle into the peace of the Great Beyond!

My brothers, having faith in the eternal justice and forbearance of that great Being who controls the destinies of men and who doeth all things well, we have a right to believe that their immortal spirits, accompanied by the prayers of millions of Christian mothers, took their flight straight to the throne of God, to the reward of the righteous, for as Jesus Christ died to make men holy, so these, His younger brothers, died to make men free.

You ask what they did for the honor and glory of our flag in the great War? And we answer, that living, fighting and dying, they wrote the name of America, in living letters of immortal glory, upon the firmament of the world, there to be read and revered by the grateful sons of men, as long as an enemy of brutal oppression exists, or a single friend of human liberty survives. And beside it, in all the majesty of its great traditions and glory of its past achievements, they planted the Stars and Stripes. And let us pray God that there it may remain, a beacon of hope and of liberty to the peoples of the earth, until our children shall have forgotten the art of war, and the might of the sword shall have given way to the right of the cross, and every nation of the world shall have adopted for its motto, in dealing with its fellow nations, the immortal principles enunciated by Abraham Lincoln for the conduct of nations, - "With malice toward none, with charity for all," we will do the right as God gives us to see the right.

CHAPTER XLIV.

MARRIAGE.

Perhaps equalling or excelling that of a good father and mother is the beneficent influence of a loving, faithful, helpful wife; and in each of these respects, have I been signally fortunate.

Children must accept such parentage as Fate has decreed - a blessing or misfortune as the case may be - but they are in nowise responsible for them. Upon the other hand, in selecting a wife or husband till death shall part them - to be the mother or father of their children, which is the most important and far reaching of all human relationships - each must act largely upon his or her own volition.

Nevertheless, this choice is often made without careful consideration and upon sensual and sentimental reasons, largely without considerate thought as to its effect upon posterity. Then, too, environment and the most casual incidents are frequently the determining factor.

For instance, in my own case, had I not located in Winfield, instead of elsewhere, and had not the young woman, whom I later married, come there a year afterwards, we doubtless never would have met. Even now, as I look backward, I shrink from the contemplation of what might have been the difference in our respective lives had we not thus met. Perhaps she could have done much better, but I am quite sure I could not have been more fortunate.

Some things, we know, which have since transpired, could not otherwise have taken place. For instance, our two beloved sons, who are largely the reliance and pride of our declining years, would not have existed. So, also, with our two sweet, sainted little daughters, whose untimely passing left us crushed and desolate beyond description - far more, indeed, than we thought possible to bear; and yet, the remembrance of their

brief, happy existences, which filled our souls with the ecstasy of parentage, still lingers like sweet incense, assuaging the poignancy of our grief at their being called away.

Then, also, none of our four grandsons and granddaughter would have existed, and I instinctively turn from the contemplation of a picture, which must leave them out, as too unbearable even to contemplate, and reverently thank God they are real - ours to love and enjoy, to hope and pray for!

I wish I might leave to posterity some observations that may assist them in selecting their life's mates; although I am convinced the attempt will largely prove a labor of supererogation.

My mother, who, from much experience and observation, was really wise beyond her generation, also inherited, from her English forbears, a strong and observing mind and healthy body, believed and taught that when the mating time for the young comes, no sentimental or other vicarious reasons should take the place of careful consideration and sound judgment. She believed, also, that heredity was the channel through which is visited upon the young the evils of body, mind and soul of past generations, and to ignore this dominant law of pro-geniture, was purposely to bring upon helpless children diseases of body and mind which they may not escape and must, in turn, pass on to curse their posterity indefinitely.

This inexorable law is recognized and considered beyond dispute in the breeding of domestic animals, but in the reproduction of the human race - the dominant species of all life - it is little regarded, and, perhaps, in many cases, ignored altogether.

My mother persistently warned her own children against the inescapable misfortunes of hasty and inconsiderate marriages; and, therefore, I, as doubtless did other of her children, had a distinct, if not a very dominant idea, that in choosing a wife, good morals, a sound body and a strong mentality were primary characteristics to make marriage a success, and to convey to posterity those high blessings that ought flow from parentage. If any of these dominant virtues are lacking in a father or mother, then the prerequisite

equilibrium, to constitute a well balanced human being, is broken and the progeny resulting is invariably cursed through its ancestry.

One instinctively shrinks from the contemplation of a brilliant mind - even if it is accompanied by the highest ideals morally - condemned to live in an hereditarily diseased body - one which, to pass on to posterity, would prove an unspeakable misfortune; or, a fine, healthy physique, coupled with unobjectionable morals, yet lacking in mentality - a weakling or, possibly, an imbecile; or, one with an unobjectionable body and natural brilliancy of mind, yet entirely lacking in the common virtues, - honesty, truthfulness and purity.

To permit innocent posterity to be cursed through heredity, in either of these respects, appears, when we calmly think of it, really so inexcusably bad as to amount almost to an unforgivable sin; and yet the state lays but little directing restraint upon the young to help them avoid these far reaching misfortunes upon posterity.

In closing these observations upon the misfortunes of inconsiderate marriages, I wish earnestly to warn my posterity never to marry, except when thoroughly convinced that any resulting posterity will not be cursed bodily, mentally or morally through the thoughtlessness of their parents.

CHAPTER XLV.

As before mentioned, I was very happy in the choice of a wife; and in looking backward over a period of almost exactly forty-seven years, since we were married, I can truly say that I have never for a moment regretted it.

Because of my impecunious condition, when going to college and in the early struggles of my professional career, while I casually met and, in a general way, enjoyed the associations with young women, I considered my future entirely too precarious to warrant marriage. Hence, while I naturally enjoyed their society, it was not because I was seeking a mate; and, so impersonally and generally were my attentions bestowed, that one of the estimable married women of the town, who had two very attractive, marriageable daughters, described me as a 'flirt', because I had, as she said, "gone with every unmarried woman in the town from sixteen to twenty-five."

Without seriously disputing this implication, I must confess there may have been some foundation for her criticism; and so it continued until a year after our location in Winfield, when, in 1887, Inez Elva Daniels, orphaned by the death of her mother came to Winfield, with her only sister and brother-in-law, Mrs. and Mr. George H. Crippen.

The advent of a young man or woman into a small town of but a few hundred inhabitants on the frontier, at that time, soon came to the knowledge of everybody and caused considerable comment. Soon after Miss Daniels' arrival, there was held at the residence of Mr. D. A. Millington, the editor of the leading newspaper of the county, a so-called "gathering" of the adult young people of the town, and where it was supposed Miss Daniels would appear. It was at this place I first met her. She was then about seventeen, of

medium height, attractive form and in the very bloom and vigor of young womanhood; and, while one might not instinctively pronounce her beautiful, she was so wholesomely attractive that she soon became quite a favorite with everyone.

I recall that, at functions of this kind, it was the invariable custom, upon the first appearance of a new-comer, if a young woman, to insistently invite her to play the piano or sing. The persistence of those attending so sensibly increased the embarrassment of Miss Daniels, and heightened the color in her cheeks, as to excite both my commiseration and sympathy; but, there being apparently no alternative, she went to the piano and played, with simple grace, pleasing touch and delightful tempo, a waltz I had never before heard. While I do not now recall its name, it was not one, I think that could be classed among the masterpieces, although its symphony was charming and she played it with such expression and grace, that it has ever since remained a favorite with me.

At this time, because there was but one church edifice in the town, there was conducted in the court room in the county court house, each Sunday afternoon, an undenominational Sunday-school, which was quite generally attended. Mr. Buckman, my partner, led the singing, and, through some misconception of my fitness to do so, I was selected to conduct the bible class. Miss Daniels became one of its regular attendants, and somehow it became a pleasing sequel for me to accompany her home. The more intimately I knew her, the more interested I became, and she seemed to reciprocate my preference. Resulting from this, I usually engaged her as my partner for all of the social events of the town, until it became quite generally recognized that our intimacy might eventually result in marriage.

However, my extreme poverty, which was really the disturbing ghost that haunted my early life, rose up before me most threateningly, as if to cry out against so imprudent a course. I had nothing to rely upon except very questionable professional prospects, too ethereal and doubtful of substantial results, I thought, to warrant my asking a young woman to share the hazard with me.

After giving it much consideration, I decided to tell Miss Daniels how I felt, and although I think she had perhaps more faith in my future than I, and, I have thought since, I had every reason to believe might have joined me in the venture, - yet, with mutual regrets, our intimate association ceased.

Following this, I passed many unhappy weeks. I went little into society, and not the least of my concern was to observe how much of a favorite Miss Daniels was with the young people, - especially with some of the marriageable young men - the latter class at that time on the frontier far outnumbering the young women.

About this time, my partner, whose prospects were no better than my own, had become quite interested in a Miss Newman, the daughter of our first landlady. They were both musically inclined. He led the choir in the church, where she presided at the organ. While I had never thought of their becoming seriously interested in each other - for Miss Newman's mother had taken much apparent pride in indicating that her daughter was engaged to marry a prominent young druggist, who, in a financial way, was perhaps the best "catch" in town, - yet Buckman's association with her had become so agreeable to both, that an occurrence in connection with the death of a young brother of the druggist brought them both into a full realization of their fondness for each other:

At the funeral of this brother, which was held in a church, the druggist, who was deeply distressed by the loss of his brother, and had no relatives in the town, requested Miss Newman and her mother to sit with him during the services. The mother consented for both, and this act was accepted generally by the public as tantamount to an admission of their engagement.

Its effect upon Buckman was really pitiful: He seemed to realize, for the first time, how much the young woman had become to him; and she also appeared distressed and unhappy, doubtless for the same reason. The druggist took advantage of his unfortunate bereavement to press for an early marriage, which Miss Newman's mother ably seconded, and the whole town was agog while awaiting the outcome.

I never, before or afterwards, saw Buckman so deeply stirred. He turned restlessly in bed at night, became most irritable and almost intolerably disagreeable when awake, but offered no explanation and asked for no advice. Therefore, I was but one, of his many friends, who looked helplessly upon his unfortunate condition.

Thus, for a fortnight, perhaps, did he pay little attention to business, and I wondered what the outcome might be. Coming to the office one morning, he tersely said, "I am going into the country for a few days," and left without further explanation. Several days later the announcement of his marriage to Miss Newman appeared in the local papers, which also stated that the ceremony had taken place at the residence of the bride's sister in the country.

After a brief honeymoon, they returned to receive the hearty congratulations of their many friends, and seemed exceedingly happy.

They began their married life in a very humble way. Upon one-half of a large lot he and I had bought together and divided, they built a small, three-roomed house, which they made quite invitingly comfortable with an incredibly small amount of furniture and utensils, and thus did they face the future, bravely, happily and hopefully.

From this inauspicious beginning, while they never became more than comfortably fixed financially, they steadily grew in the esteem and regard of the townspeople, until Buckman had acquired a creditable standing in his profession and was honored in his later years by being elected to the lower house of the state legislature. Some two years later, he received the republican nomination for associate justice of the supreme court; but was beaten narrowly by his woman competitor. Had he been elected, he doubtless would not have served out his term; for, previous to his nomination, at our earnest invitation, he and his wife spent several months at our home in California, to rest and recuperate his health, which had become seriously precarious. He died soon after his defeat, which perhaps precipitated the end.

In concluding this brief statement regarding the married life and business career of my college mate and law partner, it is with a distinct feeling of its inadequacy, and I can unhesitatingly say that, of the many

men I have met and associated with intimately during life, there are few, if any, whom I regard more highly and appreciate more sincerely than George H. Buckman. (I append to this his acceptance of our invitation to visit us):

"Winfield, Kansas, Oct. 2, 1909.

"Mr. F. S. Jennings,
Room 307 & 8,
Union Bldg.,
San Diego, Cal.

"My Dear Frank:

"Upon my return from Topeka two days ago, I found awaiting me your kind letter of the 21st ult., and as I read it over my mind was carried back to the days near thirty five years ago, when you and I were together at Ann Arbor, Michigan, trying to lay the foundation for our future lives, and also it followed up along the days and years until the time when you shook the dust of Kansas from your feet, and also abandoned our chosen profession, and went to California and began the making of money.

"I felt almost overwhelmed by the kindness of your invitation for Mrs. Buckman and me to come to San Diego at any time which would be convenient to us, and spend such time with you as we should see fit, and lest I overlook it in the remaining part of this letter, I want to say right now, that we surely appreciate your invitation, and if we live any great length of time, we will surely avail ourselves of the invitation, and visit you in your home. I have always looked upon you more as a brother than in any other way.

"After you left Kansas our lives drifted apart. I remained in the legal profession, and have no cause of complaint as to my success, either professionally or financially, but it does seem to me that there are so many more avenues of life which pay a much larger remuneration for the time and talent employed, than the practice of the law. I have worked hard all of these years, and think I can thankfully say that I am fairly comfortably situated at the present time.

"I am still working hard. I have been employed by the State of Kansas as one of two attorneys to assist the Attorney General in the defense of the Bank Guaranty Law of this state, which was passed by the

Legislature last winter, and for the last thirty days have put in the greater part of my time in that case. I am going to Topeka Monday for the purpose of spending two or three days in the State Library, assisting in the writing of the brief which we are to file in the Federal Court within twenty days from the hearing, which was last Wednesday.

"I, more as a matter of diversion than anything else, became a candidate for the Legislature last year, and was elected, and either out of compliment to myself, or for some other reason, I was appointed as chairman of Judiciary Committee of the House, and if statements made by the Governor and others in authority amount to anything, they probably sufficiently appreciate what I did in that position. At least, they have all been very kind to me since the session.

"About two years ago my health broke, and one morning, while sitting in my office preparing to go to Court, I became practically unconscious, and the Doctor found me in that situation, took me home, and I was not again in my office for three months. I have not fully recovered my physical strength, although I believe I am doing better and getting stronger every day, and although I am working hard, I do not feel much inconvenience from such work, and believe it is only a question of a short time till I will be physically as good as I ever was. I cannot afford to break down and quit the law business yet, and I don't know how to do anything else; therefore, I must stick to my profession for a matter of ten or fifteen years yet, if possible. I am in hopes to be in a position not to have to work in small cases, but only accept those which bring a fair remuneration for the work done.

"As to a time when we can come, it is hard for me to say at this time. All the Courts surrounding us, including our own, are in session practically all the time from now on until about next June, and it looks almost impossible for me to get away during the time when the Courts are running, as they will be. Then, next year is our regular biennial election, when all the state officers and county officers are again elected. The Primary is fixed by law on the first Tuesday,

I believe, of August, and it looks to me as if perhaps I would not be able to get away until after that Primary election. While I may not be a candidate for any position myself, still I will have friends in the field for both county and state positions, who are entitled to such assistance as I can give them in their candidacy. Therefore, it looks to me that it may be about one year before we can avail ourselves of your kind invitation.

"I want you to give our kindest regards to Mrs. Jennings, and to your son, and to all the inquiring friends. We fully intend to come and see you.

"With sincere love for yourself, I remain

Your friend,

G. H. BUCKMAN"

CHAPTER XLVI.

The reference to the marriage of my partner is made, primarily, because of its effect upon me at the time, for in some, if not many, respects his future then seemed less promising than mine. Therefore, I looked upon it as a questionable if not a hazardous venture.

Coming as it did when I had definitely decided I was in no position to marry myself, I took much interest in watching the effect upon him. First, I observed, by occasional visits to their diminutive home, that they were very happy and looked upon the future with courage. Then, I noticed that Buckman took a keener interest, and was more punctilious, in all business matters, and began to practice an economy, in personal expenditures, not before observed. Also, that he left the office each evening with a smile of happy anticipation upon his face, and I began to speculate as to how long these changes would continue.

As the weeks passed, however, I saw no diminution in their happiness nor in his earnestness in helping me take care of our steadily increasing business; and then I began to wonder if I had not made a mistake in concluding I ought not marry until I was more securely established in business and better fixed financially. Then, too, I began to realize that possibly one's wife might be as much interested in bringing about her husband's success as himself, - that it was a venture, in which both had a right as well as an obligation to participate and help bring about.

In connection with these ruminations, I made a review of my financial condition: I owned half of the lot, purchased by Buckman and myself, and which had cost me

\$75. I had a little - indeed, a very little - money saved out of my share of our joint income; for I always made it a point to lay something aside. This reliable habit came, doubtless, from the many lessons in economy I had learned as a boy on the farm. Our professional income was pitifully small, but was slightly increasing. I figured, also, that the cost of my board would almost, if not quite, meet our grocery and meat bills; but I could not make out but that the joint amount for a wife and husband's clothes must greatly exceed that of my own. Then, too, the bugaboo of doctor bills was before me; but I recalled the fact that Miss Daniels was the very picture of health, which, according to the opinion of my wise mother, was to be regarded the chiefest of all attributes in choosing a wife or husband; for, without it, no marriage can escape the misfortunes of expensive sickness, and, worst of all, must almost invariably afflict posterity in the same way.

Altogether, however, the resulting conclusions from this careful consideration were not very encouraging; and had I not been impressed by the result of Buckman's marriage, especially in the courageous, hopeful way they looked upon the future, and how supremely happy they were in making their struggle together, I question whether I could have brought myself to the point of asking Miss Daniels to share the hazard with me.

To my surprise and delight, when, at my request, I met her and we considered the matter together, I found her not only willing, but much more hopeful of the outcome than I had dared be, and joyfully consented to cast her lot with mine.

In reply to my letter advising them of my engagement to Miss Daniels and describing her quite glowingly, and our intention to be married at an early date, father and mother warmly approved, and congratulated me; and, as was their invariable custom, upon occasions of this kind, with any of their children, to extend substantial help, they enclosed a draft for \$200 as a wedding present.

How very greatly were they responsible for all that has been worth while in my life cannot of course be stated definitely; but recalling the years of my earliest

memory until they passed away, during which they directed the course of my footsteps, formulated my ambitions and ideals, and always gave a willing, helping hand, it is not too much to say that to them I owe the foundation for all that is best in my life. Knowing, however, that this is far less than it should be, I hasten to add that everything mean and despicable it contains, I am wholly responsible for - doubly so, in fact, because, when committed, it was with a full knowledge that they had warned me against them, which made my transgressions twice my own.

While not entirely relieved of my former apprehensions as to the future, I was happy to have made a decision and gotten Miss Daniels' consent to become my wife.

We were married some two months later at the residence of Mr. and Mrs. George H. Crippen, my wife's sister and brother-in-law, Rev. James E. Platter, pastor of the only Presbyterian Church in the city, officiating. In addition to the high esteem he enjoyed from his parishioners, he was generally regarded as one of the most exemplary citizens of the county. Besides Mr. and Mrs. Crippen and their small son, John Henry Crippen - then a babe in arms - there were present only my partner, Mr. Buckman, and his wife; for at that time, none of my own relations lived near. The ceremony was performed at eight o'clock in the morning. Immediately afterward, we left by team and buggy for Wichita, Kansas - from whence, the next morning, we went on to spend our honeymoon with my brother-in-law and sister, Mr. and Mrs. Ira L. Lamphear, who had recently taken a claim and built an inexpensive house upon it, some twenty-five miles west of Wichita.

CHAPTER XLVII.

As soon as Miss Daniels and I had decided to marry, I began the construction of a small, story-and-a-half house on the half-lot I had previously acquired. It contained five rooms, - two bed-rooms above and a kitchen, sitting-room and one bed-room below. Not having a very accurate memory or any memorandum of the actual cost, I can only guess at it; but, judging from the very little money I then possessed, and recalling in a general way the very low cost of labor and materials, I feel sure that, including a well - dug, walled and curbed, - also limestone sidewalk about the lot and in the yard, which were made by one of our early clients, in payment for professional services, it could not have exceeded \$350,- although it was plastered within and weather-boarded and painted without.

Every item of labor and material required (it contained no plumbing whatever) in its construction, was so unbelievably low as compared with the prices obtaining now - 1926 - as to seem almost incredible. Carpenters' wages were then from \$1.50 to \$1.75 per day - a day being also from early daylight until twilight in the evening. The same wages and usages obtained as to plasterers, stone masons and other skilled artisans.

Fortunately for us, but not so perhaps for the farmers, at the beginning of our married life, every item making up our daily menus, as well as wearing apparel, and even the wood to heat our house in winter and cook by, was abundant and very cheap. Much of it was gotten directly from farmers. I recall, also, that for many years afterwards, we bought plentifully of young chickens - fryers - at from fifty to seventy-five cents per dozen, keeping them in a small pen to be used as needed. Also that turkeys averaged in price from thirty-five to fifty cents each, regardless

of size - their weight having but little to do with it; for, like the old saying, "a pound is a pound the world around," so was it with turkeys in Kansas at that time.

In winter, many farmers butchered more hogs than necessary for their family use, selling the surplus to townspeople.

I recall one instance of this kind, resulting to our especial benefit: One evening, just before dark, when the earth was covered with snow, a farmer - a client of mine - came to my office and asked where I lived. After telling him, I inquired why he wished to know. "Well," said he, "I brought with me a fat shoat which I butchered with other hogs, intended for our own use, thinking I could sell it, this cold weather, in town to some family; but I have been all around and the best offer I have gotten is \$2.50."

"How much does it weigh?" I inquired.

"Two hundred forty pounds; and I have decided I would rather give it to you than let it go for that amount."

I protested against his generosity and insisted upon paying for it, but he would not listen. And thus were we supplied during the winter and beyond with the resulting concomitants of a tender, young porker.

December 24, 1878, a short time before midnight, our first child was born - almost a Christmas gift.

While thereafter two daughters and a son came during the succeeding ten years, the advent of none of them so impressed me as the birth of the first.

I was present when he came, tremblingly and tenderly holding my wife's hand, as her sister did the other, while she endured the unbelievable agony which nature imposes upon woman as a toll to the bliss of motherhood. In the room, also, was Dr. Robert P. Jennings, my brother, who had come from Illinois to be present and attend as physician. Had not my wife so

strongly and trustingly held my hand, I think I must have flown the house altogether, for while I can somewhat bravely endure pain myself, I cannot see others in distress, especially women or children, without being unbearably oppressed. After what seemed a long time to me, but was perhaps not unusually so, nature's miracle was finally accomplished, as was evidenced by a baby's first breath and feeble cry.

I had been too deeply moved by the harassing ordeal to take immediate stock of the wonderful and delightful change in our lives it was to bring. When the baby had been returned to its mother, after being washed and dressed, I discovered there were perhaps few distinguishing things in its appearance to especially attract even a proud father's attention, except its bigness and that it was a boy. Its head was as bald as a marble, its skin as red as that of an Indian, and as I gazed wonderingly upon it, I little guessed that in a few weeks it would hasten my steps from the office each evening, and upon my arrival home, I would go directly to its little crib to re-appraise the changes that had been wrought in its appearance - noting each perceptible one, as well as those not yet developed, - the growing whiteness of its skin, its more compelling voice, the increasing strength of its small, prehensile fingers, and the wonderful smile it sometimes deigned to bestow.

Those whom nature has endowed with a deep and strong affection for children are correspondingly impressed with a depth of sorrow and despair when their offspring are called by death; for the strength of one's affection is but the measure of his grief at the final parting. The crushing evidence of this counterbalancing of nature's laws - in its extreme - came to us at the birth and death of our two little daughters.

I shall not go in to the harrowing details of their sickness and death. Those who have experienced it intuitively comprehend, and those who have not, cannot be made to understand. However great was our happiness when they were with us, and the hopeless depth of our despair when they were called away, we realize that countless thousands of other parents have been blessed and crushed as were we; and that our experience and unspeakable misfortune was not peculiar or invidious.

Indeed, as I have proceeded with this narrative, its commonplaceness has become more and more evident to me, until I am convinced that, when finished, it will contain nothing, either strange, good or bad, but that, with variations so slight as to be unnoticeable, has occurred in the lives of countless millions of other ordinary human beings.

CHAPTER XLVIII.

Our first child - strong at birth - grew rapidly. At the age of less than six months, he could sit up and soon thereafter began moving about without assistance - not by any sliding motion, but upon his hands and feet, seemingly preferring this means of locomotion to any other and even to being carried.

His favorite parade was upon the stone flag walks in the yard and bordering it. His movements - so animal-like - excited the attention and affection of a very wild and shy cat, which seemed entirely unrelated but made the neighborhood its headquarters. No sooner would the baby start on all fours for a run on these walks than this cat would dart from some place of concealment, run swiftly to him and unmistakably manifest its delight and affection by loudly purring and running about and against him.

At first, the cat's sudden appearance and attentions alarmed us, and we tried to frighten it away; but it left so reluctantly and seemed so downcast, we were soon convinced its intentions were wholly peaceful and affectionate - although we, nor any others in the neighborhood, were able to get near it. I have often, since, wondered what was the real basis for the mutual and unmistakable affection between our boy and this half-wild cat.

The peculiar manner of his early movements so strengthened the baby's legs that, before he was nine months old, he was quite steady on his feet and could walk about without assistance.

These early days of married life and parenthood were full of joyful surprises to my wife and me; and, when our boy was about two and-a-half years old, our cup of joy was made to overflow by the coming of a daughter.

I am sure it is no exaggeration when I say that there can be but few who have more real pleasurable interest in their children and grandchildren and, in fact, children generally, than I.

These early years of our married life stand out so prominently for the fullness of their joy - in the strength they gave me to struggle on and upward in my profession, so I might assuredly supply them with the necessities and comforts I wished them to have. There was joy at the close of each day's exciting trial of cases, as I started home, knowing I would, when I turned a certain corner, come in view of the fence fronting our yard and see two little forms perched upon it, waiting for me - their pattering feet and joyful shouts of welcome, as they ran to meet me - our triumphant march to the gate, with one on each shoulder, as we kept time to the old tune of "Johnny Comes Marching Home," - although this had been paraphrased to "When Daddy Comes Marching Home;" - the joy in the face of my wife as she stopped in her household duties to welcome us. Oh, these were wonderful, wonderful days!

I have often speculated, while looking backward over these early struggling days, when, with no capital or powerful friends to assist, what buoyed me up and spurred me on from day to day; and now I am fully convinced it was the joy I had and the responsibility I felt, as a young husband and father. Indeed, these early struggling days were never so disheartening but that the thought of my wife and babies gave me fresh strength and new courage.

Under their inspiration my business grew beyond my fondest dreams - so fast and propelling that I began to be jealous of the time it required from my family. When I left home in the morning, I could not be sure when I might return; for often, upon reaching the office, I found a letter, telegram or client awaiting, demanding my presence in some other part of the county or locality to try a law suit. There was, too, a tacit understanding between client and lawyer that nothing but an impossibility would excuse a lawyer from responding to these demands. A clearer understanding of the growing exactions of my legal engagements may be gained when I say, that, by reason of them,

I was away from home when each of our little daughters was born, and also upon the three occasions when we moved from one residence to another.

My steadily increasing business, however, had another pleasing side, for now I could, with some limitations, begin to furnish our home more comfortably, provide domestic help and go so far in extravagance as to acquire a horse and carriage for them. We took much pleasure in this, as it gave my wife, who soon became quite a horse-woman, opportunity to drive about and into the country and, especially, to come to the office for me of evenings with the children.

Our horse was, with the exception of a so-called glass or white eye and being slightly pigeon-toed in his front feet, a spirited and handsome fellow. He was a free traveler, and being well groomed and fed, sometimes playfully kicked up his hind feet, and to prevent the possibility of his getting his legs out of the shafts, I had a kicking strap put over his rump, which was fastened to the shafts. Because of his antics and these evidences of them, people generally considered him unsafe; but my wife had no fear of him and his use was a source of much gratification to us.

How happy and hopeful we were then! For no threatening cloud was upon our sky; no reverses had come. Steadily my reputation as a lawyer increased and widened, and I was just completing my second term as county attorney and there was no opposition to my renomination for another term; although, many of my friends urged me to accept the nomination for state senator,- there being no other known candidate for that position until I should decide.

Then, like a thunderbolt from a beautiful, clear sky, there fell upon us one of those unspeakable tragedies that make all worldly matters,- riches, fame, power and material things - as naught:

At the invitation of my brother Robert, who resided at Delavan, Illinois, and with whom my mother lived, my wife with our two children was to visit him and other relatives near by, and I was to come later, and, after a short visit, return with them. In the morning of the day before they were to start, both

children had a slight and somewhat unusual cough. However, they were up as usual, ate their breakfast and were playing about much as ordinarily; but, after talking it over with my wife, we thought it might be wise to call in a doctor so he could see them and advise such care as his experience should decide upon.

Therefore, on my way to the depot, where I went to arrange for their tickets, I dropped in to the doctor's office and asked him to go out and look them over. There was nothing in the appearance of either to raise our apprehension, and so I thought no more about it.

Upon my way to the office from the depot, I met my partner about half way, and noted, from his more than ordinarily grave face, that something of unusual moment had happened; but I was not prepared for the terrible shock his words gave. He knew how fond I was of my children and sought to lessen the blow the truth might give. He said, "Frank, Doctor _____ has just returned from your house, and says your little girl is quite sick - too dangerously so to go away, as planned." "His manner and restraint were even more suggestive and alarming than his words).

"What do you mean?" I almost shouted. "Don't he believe she will recover?"

He tried to calm and assure me, but I saw, by the real answer in his face, that he thought she probably would not live, and turned and ran to the doctor's office, where I found him looking very grave. I demanded to know what the trouble was, and found it to be membranous croup - a most deadly malady with children on the frontier at that time.

What could I do! I was crushed and humbled as I have never been before or since. My accumulations, my growing reputation, my business seemed as nothing, as I tremblingly told the doctor that everything I had I would freely give if my baby, my blessed little girl, might live. A consultation of physicians was held at my request, and we were told that there was but one chance to save her life, and that was an operation on her throat (tracheotomy).

How impotent and insignificant are human endeavors in the face of a calamity like this! The pitiful part of it was, that, when I hastened home with the doctor,

my wife, whom the doctor had thought best not to alarm by telling her the real situation, was surprised to see us so soon. It seemed impossible, too, that the doctor's opinion of her dangerous condition could be true; for she, with her brother, was playing in the yard as was their wont, and when I went to them they both ran toward me with outstretched hands and smiling faces, with scarcely a trace to indicate either was ill. I cannot, even now, - although nearly forty years have since passed - review the harrowing details of her brief sickness and death. They were then, and have always since been, the most appalling tragedy of my life. Never before nor since have I reached such a depth of utter despair.

Before this, I had experienced sorrow at the parting with loved ones, - a brother and sister, after reaching adult life, and father and mother at more than three score years and ten. But now my sorrow was immeasurably different.

Father and mother, for whom I had a filial affection and regard beyond adequate expression, had grown old, and with their lengthening years had come infirmities of mind and body that caused them to yearn for rest and surcease of pain and sorrow. They had become like ripened grain ready for the harvest and often thus expressed themselves; and when they went away, we missed and mourned them, yet had I the power, I could not have called them back, for their going was the natural passing of all the earth.

Yet, now, stricken and distressed, and remembering her happy days, her smile, her laughter, and that her life was all to come, I could not reconcile it with the eternal fitness of things nor to the goodness and mercy of a just and all-wise God.

Three years later, we lost our second daughter, Inez; but my sensibilities had been so crushed and benumbed by the first tragedy, that nothing could again cast me into such bottomless depths of sorrow and despair as did the first. Curiously, too, whenever my mind since reverts to it, there arises in my sensibilities the same yawning chasm of black despair as confronted me and overwhelmed me at the time. Sometimes I have speculated where exists the secret spring, in one's sensibilities, mind, soul or body, which, when

touched by memory, gives that sense of sinking, hopeless despair, just as, in a lesser degree, a hidden source of bodily pain may remind one of an infirmity of body, by an unexpected jolt or touch.

When the sad end came, all ambition seemed gone. I felt like a useless lump of discarded clay. I went to my office mechanically, worked in a listless, perfunctory way and, in spite of all my attempts to restrain my mind, I constantly recurred to the overwhelming emptiness of my life. My wife was vastly braver and stronger, and tried to divert and encourage me. So did my partner; for, whenever he sensed an ominous silence in my room, he reasoned I was hopelessly brooding again, and would make some excuse for coming in.

The trial of cases kept my mind so engaged that it gave little opportunity for these hopeless reflections, and it was most fortunate perhaps that I had an abundance of this to keep me busy; otherwise, I am not sure but that my mind would have become unbalanced. Much of this trial work took me to points in the eastern parts of the county or beyond, and I usually traveled on the Kansas Southern Railroad. Returning in the late afternoon, I was compelled to ride upon a freight train, which skirted the westerly side of the cemetery where reposed the little form of our beloved baby. At this point, it stopped to do some switching before pulling up to the depot.

When aboard, I was irresistably drawn to her lonesome little grave. This was usually between sundown and dark, when the after-glow of the sun still lightened the western sky, and when birds in the trees and bushes near by were twittering their good nights to each other; when heavily laden, belated bees were hurrying homeward, filling the air with their labored humming; when the crickets everywhere began their nightly chorus, and the lowing of distant cattle and the sighing of wind in the nearby trees was borne faintly upon the evening breeze, - the whole falling upon my saddened sensibilities as nature's evening requiem for the dead. Upon reaching the spot, I would lie prone beside her grave, with my aching heart against, and one arm tenderly over, the little mound beneath which she lay, while I sobbingly voiced the endearing names she loved and responded to in life. But no glad voice broke the silence;

no little arms were about my neck as of yore; no soft cheek lay against my own, to soothe and to be soothed; nothing - nothing but nature's dirge was to be heard.

May God forgive the rebellious thoughts that irresistably welled up in my mystified soul at such times of retrospection!

Years have since passed, but still the going of our two little ones, so young, so innocent, so loving and so loved, is as much an unsoluble mystery to me as when the blow fell; nor can I yet reconcile it with my understanding of a merciful, loving, all-wise God.

I especially rebelled when the second blow came, for to my tear-blinded sight and distorted sense of realities, it seemed that an angry Fate was relentlessly pursuing us; although our first bereavement had so crushed and benumbed us that we seemed to have no additional capacity for grief again. These two unspeakable tragedies coming into our married life, I have never been able to understand, although I have since known many instances, seemingly more cruel and invidious, befalling other fathers and mothers. But these only deepen and widen the mystery.

CHAPTER XLIX.

IN MEMORIUM.

From the time of the passing of my father and mother, I had much in mind a filial ambition to erect a more substantial and imposing monument to mark their last resting places; and, as I prospered in business, this grew upon me and I occasionally made visits to my birthplace, and always to the spot where their revered ashes rest.

It is a most peaceful and attractive one, in Oak Grove Cemetery, near Delaware, Ohio, the whole embracing perhaps forty acres of gently rolling land, covered by a luxurious growth of blue-grass, which is indigenous to the locality.

Winding drives and paths make all parts of it easily accessible. Throughout it, also, but not so near together or so large as to make their shade somber and oppressive, are a wide variety of young trees, also indigenous. I call them "young" because they are second growth, having naturally sprung up after the original forest had been cut away. There are elm, ash, oak, hickory, maple, sugar and other kinds most fittingly adapted for a terrene charged with the sacred duty of affording a peaceful resting place for the dead. In spring, under the impelling warmth of the sun, they break forth into new life of tender bud and bloom. In their branches birds sing and mate, and later, in their thickening foliage, find concealment for their nests and young. In their annual changes, their leaves betoken the changes in human life, - youth, middle age and falling into decay upon the bosom of mother earth, from which they sprung. Then comes the cold winter of death and, following these in infinite repetitions, life springs again.

After repeatedly visiting their graves and noting afresh the stones that mark them, with chiseled lettering, betokening the sentiments of their beloved ones, - all so in keeping with the sincerity and simplicity of their arduous lives, I felt it a desecration to disturb the plan they had made for their final resting place and that of their children who rest beside them. Later, I conceived the idea of repurchasing the old farm, which was the birthplace of ten of their children and where they had resided for nearly forty years, - and which was only sold after their death, - and, after rehabilitating it, to present it, in their names, to the Ohio Wesleyan University at Delaware, Ohio.

But after carefully going over it several times, I saw that its operation would afford little income to the college, and that unless it were carefully kept up, would soon become a sorry monument to them. So I gave up this means of honoring them, but I could not get out of mind the thought of doing something that would greatly please them, if they but knew.

An opportunity very unexpectedly came some fifteen years ago: The Children's Home Association of San Diego, an orphanage supported wholly by voluntary subscriptions, and to which my wife and I had taken much pleasure in contributing, had no proper - really, no place at all - to take care of baby orphans.

One of its directors, an intimate friend of Mrs. Jennings, and a very charitable woman, called our attention to the pressing need for such a structure, and exhibited plans that had been prepared for a building to be devoted wholly to such purposes. The necessity for it was so self-evident and impelling and because of the well known sympathy of my father and mother for children, we realized that they would unreservedly approve of it, rather than having the simplicity of the arrangement of the lot where they rested disturbed, as I had at first contemplated.

Therefore, after considering it, we decided to furnish the means for its construction, and this was done. When it was completed, the board of directors of the Association, recalling our bereavement in the loss of our two little daughters, and thinking it would be a pleasant and fitting compliment to us if it were called

"The Nellie-Inez Cottage," gave it their joint name.

There it has stood for many years as a sheltering home for many hundreds of orphaned and helpless babies and small children. It has been visited by great numbers, many to note its arrangements so they might be incorporated - such as they most strongly approved - in orphanages elsewhere. Thus, has come out of our unspeakable bereavement, a monument to our cherished dead which goes on and on multiplying its blessings to humanity, and will so continue until long after we shall have passed away.

CHAPTER XLX.

About a year after the passing of our little daughter, Inez, another son was born. This was after we had taken up our residence in San Diego, California.

Like our first son, he was strong and rugged. The climate of California seems especially favorable for children, and as we resided on Point Loma - at that time somewhat remote because of lack of good roads or water transportation - few strangers visited it and there was little chance for exposing him to communicable diseases.

Under the perennial sunshine and balmy breezes of California, he grew and remained vigorous and strong; and so far as a living child may take the place of those we mourned, he gladdened our hearts and made us happy.

He was our only child whose coming into the world was not assisted and presided over by a doctor. Because of our remoteness and lack of telephone communication, we asked my sister Sarah (Mrs. Lamphier), who from much experience was a midwife of considerable repute, to be with us at his birth. She came in ample time, but a few days after her arrival, she received from her husband, at Los Angeles, a written instrument to be signed and executed. The next day, there being no portentous indications observable, she took the morning boat for San Diego, to execute it.

The boat was scarcely gone beyond hailing distance when my wife was unmistakably forewarned that she was soon to become a mother. No reliable assistance was near; but memories of my distressing experience at the birth of our first child, lent swiftness to my feet as I ran to a neighbor's about a quarter of a mile distant, whose mother-in-law was perhaps sixty and had borne several children herself and I believed ought to know

something - at least more than I did - about what to do in such an emergency.

I burst in upon her with the startling exclamation, "For God's sake, come to my home instantly; my wife is alone and is about to be confined." Seizing a bonnet from a hook, we started back together; I, greatly assisting and increasing her speed by taking hold of her arm. When we got to our gate, I told her to go in and right upstairs - then I started for other assistance.

Returning, some fifteen minutes later, with additional help, we found the baby had arrived, was all right and the old lady, still somewhat nervous, was then preparing him to receive visitors and to become acquainted with his mother and father.

My sister did not return until three in the afternoon, and I was sitting on the porch when she came in, and inquired about my wife. Very nonchalantly, I replied, "All right, I guess." Her surprise, and chagrin, too, doubtless, was very great when she went upstairs, to find the baby born and serenely lying beside his mother.

From his birth, the care and attention he required was most fortunate to us both, for he kept our minds from brooding over the loss of our two daughters. He was a most lovable and tractable child, and, as he grew up, took much interest as a boy in all kinds of aquatic sports, which the proximity of our residence to the Bay made easily available.

With the exception of being twice afflicted with measles, he passed through the common ailments of childhood, - measles, whooping cough, mumps, etc., - without greatly exciting our apprehension. When he had passed through the first attack of measles, we were very greatly relieved, as we thought all these annoying and somewhat dangerous episodes were behind us; but about a year later, he was seriously attacked, and his face and parts of his body blotched with innumerable red spots, so we at once concluded it might be small pox, and the thought frightened us almost beyond expression. We called in one of the best known and esteemed physicians of the city, who pronounced the disease German measles, and assured us that, unless complications, not expected, arose, he would soon be about again. And within ten days, he was up and around as usual.

This is not intended as even a brief outline of the lives of either of our sons, for each of them deserves a better biographer; but I wish to testify how very fortunate we were, as father and mother, to have sons who have given us so little concern and have contributed so greatly to our happiness and pride as have our sons Robert and Paul.

In closing this portion of my story - under the heading "Marriage," - let it be understood that it would be utterly impossible for me to fully set out the many blessings my wife has brought into my life; for whatever of worth my poor accomplishments may have, they are attributable as much or more to her than to me. She sustained and encouraged me in adversity; she was not easily depressed or discouraged nor ever out of temper - while I was often so - and she was therefore a happy balance to my more irritable and less patient nature.

She was, indeed, a most wonderful wife and mother, besides being one of the most fastidious and exemplary managers of a household. During long periods of difficulty with my eyes, when, for days at a time, they were so painfully sensitive to light as to almost cause me to shriek in agony when a ray entered them, she was as patient, tender and long suffering as if I were but an irresponsible child, and bore with all my shortcomings; and, to assist in passing the tedious time away, would read to me for hours.

I have not, nor can I ever, repay her for her patient goodness. The best in my life since our marriage has all been due more to her than to any other human being. And while, throughout the numerous pages of this uninteresting tale, she may appear but incidentally, it should always be borne in mind that she was the biggest factor - the balance wheel, as it were - that made the most commendable of them possible.