

SHORT STORY AMERICA

THE BENEFIT OF THE DOUBT

JACK LONDON

Carter Watson, a current magazine under his arm, strolled slowly along, gazing about him curiously. Twenty years had elapsed since he had been on this particular street, and the changes were great and stupefying. This Western city of three hundred thousand souls had contained but thirty thousand, when, as a boy, he had been wont to ramble along its streets. In those days the street he was now on had been a quiet residence street in the respectable workingclass quarter. On this late afternoon he found that it had been submerged by a vast and vicious tenderloin. Chinese and Japanese shops and dens abounded, all confusedly intermingled with low white resorts and boozing dens. This quiet street of his youth had become the toughest quarter of the city.

He looked at his watch. It was half-past five. It was the slack time of the day in such a region, as he well knew, yet he was curious to see. In all his score of years of wandering and studying social conditions over the world, he had carried with him the memory of his old town as a sweet and wholesome place. The metamorphosis he now beheld was startling. He certainly must continue his stroll and glimpse the infamy to which his town had descended.

Another thing: Carter Watson had a keen social and civic consciousness. Independently wealthy, he had been loath to dissipate his energies in the pink teas

and freak dinners of society, while actresses, race-horses, and kindred diversions had left him cold. He had the ethical bee in his bonnet and was a reformer of no mean pretension, though his work had been mainly in the line of contributions to the heavier reviews and quarterlies and to the publication over his name of brightly, cleverly written books on the working classes and the slum-dwellers. Among the twenty-seven to his credit occurred titles such as, "If Christ Came to New Orleans," "The Worked-out Worker," "Tenement Reform in Berlin," "The Rural Slums of England," "The people of the East Side," "Reform Versus Revolution," "The University Settlement as a Hot Bed of Radicalism" and "The Cave Man of Civilization."

But Carter Watson was neither morbid nor fanatic. He did not lose his head over the horrors he encountered, studied, and exposed. No hair brained enthusiasm branded him. His humor saved him, as did his wide experience and his conservative philosophic temperament. Nor did he have any patience with lightning change reform theories. As he saw it, society would grow better only through the painfully slow and arduously painful processes of evolution. There were no short cuts, no sudden regenerations. The betterment of mankind must be worked out in agony and misery just as all past social betterments had been worked out.

But on this late summer afternoon, Carter Watson was curious. As he moved along he paused before a gaudy drinking place. The sign above read, "The Vendome." There were two entrances. One evidently led to the bar. This he did not explore. The other was a narrow hallway. Passing through this he found himself in a huge room, filled with chair-encircled tables and quite deserted. In the dim light he made out a piano in the distance. Making a mental note that he would come back some time and study the class of persons that must sit and drink at those multitudinous tables, he proceeded to circumnavigate the room.

Now, at the rear, a short hallway led off to a small kitchen, and here, at a table, alone, sat Patsy Horan, proprietor of the Vendome, consuming a hasty supper ere the evening rush of business. Also, Patsy Horan was angry with the world. He had got out of the wrong side of bed that morning, and nothing had gone right all

day. Had his barkeepers been asked, they would have described his mental condition as a grouch. But Carter Watson did not know this. As he passed the little hallway, Patsy Horan's sullen eyes lighted on the magazine he carried under his arm. Patsy did not know Carter Watson, nor did he know that what he carried under his arm was a magazine. Patsy, out of the depths of his grouch, decided that this stranger was one of those pests who marred and scarred the walls of his back rooms by tacking up or pasting up advertisements. The color on the front cover of the magazine convinced him that it was such an advertisement. Thus the trouble began. Knife and fork in hand, Patsy leaped for Carter Watson.

“Out wid yeh!” Patsy bellowed. “I know yer game!”

Carter Watson was startled. The man had come upon him like the eruption of a jack-in-the-box.

“A defacin’ me walls,” cried Patsy, at the same time emitting a string of vivid and vile, rather than virile, epithets of opprobrium.

“If I have given any offense I did not mean to – “

But that was as far as the visitor got. Patsy interrupted.

“Get out wid yeh; yeh talk too much wid yer mouth,” quoted Patsy, emphasizing his remarks with flourishes of the knife and fork.

Carter Watson caught a quick vision of that eating-fork inserted uncomfortably between his ribs, knew that it would be rash to talk further with his mouth, and promptly turned to go. The sight of his meekly retreating back must have further enraged Patsy Horan, for that worthy, dropping the table implements, sprang upon him.

Patsy weighed one hundred and eighty pounds. So did Watson. In this they were equal. But Patsy was a rushing, rough-and-tumble saloon-fighter, while Watson was a boxer. In this the latter had the advantage, for Patsy came in wide open, swinging his right in a perilous sweep. All Watson had to do was to straight-left him and escape. But Watson had another advantage. His boxing, and his

experience in the slums and ghettos of the world, had taught him restraint.

He pivoted on his feet, and, instead of striking, ducked the other's swinging blow and went into a clinch. But Patsy, charging like a bull, had the momentum of his rush, while Watson, whirling to meet him, had no momentum. As a result, the pair of them went down, with all their three hundred and sixty pounds of weight, in a long crashing fall, Watson underneath. He lay with his head touching the rear wall of the large room. The street was a hundred and fifty feet away, and he did some quick thinking. His first thought was to avoid trouble. He had no wish to get into the papers of this, his childhood town, where many of his relatives and family friends still lived.

So it was that he locked his arms around the man on top of him, held him close, and waited for the help to come that must come in response to the crash of the fall. The help came – that is, six men ran in from the bar and formed about in a semi-circle.

"Take him off, fellows," Watson said. "I haven't struck him, and I don't want any fight."

But the semi-circle remained silent. Watson held on and waited. Patsy, after various vain efforts to inflict damage, made an overture.

"Leggo o' me an' I'll get off o' yeh," said he.

Watson let go, but when Patsy scrambled to his feet he stood over his recumbent foe, ready to strike.

"Get up," Patsy commanded.

His voice was stern and implacable, like the voice of God calling to judgment, and Watson knew there was no mercy there.

"Stand back and I'll get up," he countered.

"If yer a gentleman, get up," quoth Patsy, his pale blue eyes aflame with wrath,

his fist ready for a crushing blow.

At the same moment he drew his foot back to kick the other in the face. Watson blocked the kick with his crossed arms and sprang to his feet so quickly that he was in a clinch with his antagonist before the latter could strike. Holding him, Watson spoke to the onlookers:

“Take him away from me, fellows. You see I am not striking him. I don’t want to fight. I want to get out of here.”

The circle did not move nor speak. Its silence was ominous and sent a chill to Watson’s heart.

Patsy made an effort to throw him, which culminated in his putting Patsy on his back. Tearing loose from him, Watson sprang to his feet and made for the door. But the circle of men was interposed a wall. He noticed the white, pasty faces, the kind that never see the sun, and knew that the men who barred his way were the nightprowlers and preying beasts of the city jungle. By them he was thrust back upon the pursuing, bull-rushing Patsy.

Again it was a clinch, in which, in momentary safety, Watson appealed to the gang. And again his words fell on deaf ears. Then it was that he knew of many similar knew fear. For he had known of many similar situations, in low dens like this, when solitary men were man-handled, their ribs and features caved in, themselves beaten and kicked to death. And he knew, further, that if he were to escape he must neither strike his assailant nor any of the men who opposed him.

Yet in him was righteous indignation. Under no circumstances could seven to one be fair. Also, he was angry, and there stirred in him the fighting beast that is in all men. But he remembered his wife and children, his unfinished book, the ten thousand rolling acres of the up-country ranch he loved so well. He even saw in flashing visions the blue of the sky, the golden sun pouring down on his flower-spangled meadows, the lazy cattle knee-deep in the brooks, and the flash of trout in the riffles. Life was good-too good for him to risk it for a moment’s sway of

the beast. In short, Carter Watson was cool and scared.

His opponent, locked by his masterly clinch, was striving to throw him. Again Watson put him on the floor, broke away, and was thrust back by the pasty-faced circle to duck Patsy's swinging right and effect another clinch. This happened many times. And Watson grew even cooler, while the baffled Patsy, unable to inflict punishment, raged wildly and more wildly. He took to batting with his head in the clinches. The first time, he landed his forehead flush on Watson's nose. After that, the latter, in the clinches, buried his face in Patsy's breast. But the enraged Patsy batted on, striking his own eye and nose and cheek on the top of the other's head. The more he was thus injured, the more and the harder did Patsy bat.

This one-sided contest continued for twelve or fifteen minutes. Watson never struck a blow, and strove only to escape. Sometimes, in the free moments, circling about among the tables as he tried to win the door, the pasty-faced men gripped his coat-tails and flung him back at the swinging right of the on-rushing Patsy. Time upon time, and times without end, he clinched and put Patsy on his back, each time first whirling him around and putting him down in the direction of the door and gaining toward that goal by the length of the fall.

In the end, hatless, disheveled, with streaming nose and one eye closed, Watson won to the sidewalk and into the arms of a policeman.

"Arrest that man," Watson panted.

"Hello, Patsy," said the policeman. "What's the mix-up?"

"Hello, Charley," was the answer. "This guy comes in – "

"Arrest that man, officer," Watson repeated.

"G'wan! Beat it!" said Patsy.

"Beat it!" added the policeman. "If you don't, I'll pull you in."

“Not unless you arrest that man. He has committed a violent and unprovoked assault on me.”

“Is it so, Patsy?” was the officer’s query.

“Nah. Lemme tell you, Charley, an’ I got the witnesses to prove it, so help me God. I was settin’ in me kitchen eatin’ a bowl of soup, when this guy comes in an’ gets gay wid me. I never seen him in me born days before. He was drunk – “

“Look at me, officer,” protested the indignant sociologist. “Am I drunk?”

The officer looked at him with sullen, menacing eyes and nodded to Patsy to continue.

“This guy gets gay wid me. ‘I’m Tim McGrath,’ says he, ‘an’ I can do the like to you,’ says he. ‘Put up yer hands.’ I smiles, an’ wid that, biff biff, he lands me twice an’ spills me soup. Look at me eye. I’m fair murdered.”

“What are you going to do, officer?” Watson demanded.

“Go on, beat it,” was the answer, “or I’ll pull you sure.”

The civic righteousness of Carter Watson flamed up.

“Mr. Officer, I protest – “

But at that moment the policeman grabbed his arm with a savage jerk that nearly overthrew him.

“Come on, you’re pulled.”

“Arrest him, too,” Watson demanded.

“Nix on that play,” was the reply.

“What did you assault him for, him a peacefully eatin’ his soup?”

II

Carter Watson was genuinely angry. Not only had he been wantonly assaulted, badly battered, and arrested, but the morning papers without exception came out with lurid accounts of his drunken brawl with the proprietor of the notorious Vendome. Not one accurate or truthful line was published. Patsy Horan and his satellites described the battle in detail. The one incontestable thing was that Carter Watson had been drunk. Thrice he had been thrown out of the place and into the gutter, and thrice he had come back, breathing blood and fire and announcing that he was going to clean out the place. “EMINENT SOCIOLOGIST JAGGED AND JUGGED,” was the first head-line he read, on the front page, accompanied by a large portrait of himself. Other headlines were: “CARTER WATSON ASPIRED TO CHAMPIONSHIP HONORS”; “CARTER WATSON GETS HIS”; “NOTED SOCIOLOGIST ATTEMPTS TO CLEAN OUT A TENDERLOIN CAFE”; and “CARTER WATSON KNOCKED OUT BY PATSY HORAN IN THREE ROUNDS.”

At the police court, next morning, under bail, appeared Carter Watson to answer the complaint of the People Versus Carter Watson, for the latter’s assault and battery on one Patsy Horan. But first, the Prosecuting Attorney, who was paid to prosecute all offenders against the People, drew him aside and talked with him privately.

“Why not let it drop!” said the Prosecuting Attorney. “I tell you what you do, Mr. Watson: Shake hands with Mr. Horan and make it up, and we’ll drop the case right here. A word to the Judge, and the case against you will be dismissed.”

“But I don’t want it dismissed,” was the answer. “Your office being what it is, you should be prosecuting me instead of asking me to make up with this – this fellow.”

“Oh, I’ll prosecute you all right,” retorted the Prosecuting Attorney.

“Also you will have to prosecute this Patsy Horan,” Watson advised; “for I shall

now have him arrested for assault and battery.”

“You’d better shake and make up,” the Prosecuting Attorney repeated, and this time there was almost a threat in his voice.

The trials of both men were set for a week later, on the same morning, in Police Judge Witberg’s court.

“You have no chance,” Watson was told by an old friend of his boyhood, the retired manager of the biggest paper in the city. “Everybody knows you were beaten up by this man. His reputation is most unsavory. But it won’t help you in the least. Both cases will be dismissed. This will be because you are you. Any ordinary man would be convicted.”

“But I do not understand,” objected the perplexed sociologist. “Without warning I was attacked by this man; and badly beaten. I did not strike a blow. I – “

“That has nothing to do with it,” the other cut him off.

“Then what is there that has anything to do with it?”

“I’ll tell you. You are now up against the local police and political machine. Who are you? You are not even a legal resident in this town. You live up in the country. You haven’t a vote of your own here. Much less do you swing any votes. This dive proprietor swings a string of votes in his precincts – a mighty long string.”

“Do you mean to tell me that this Judge Witberg will violate the sacredness of his office and oath by letting this brute off?” Watson demanded.

“Watch him,” was the grim reply. “Oh, he’ll do it nicely enough. He will give an extra-legal, extra-judicial decision, abounding in every word in the dictionary that stands for fairness and right.”

“But there are the newspapers,” Watson cried.

“They are not fighting the administration at present. They’ll give it to you hard. You see what they have already done to you.”

“Then these snips of boys on the police detail won’t write the truth?”

“They will write something so near like the truth that the public will believe it. They write their stories under instruction, you know. They have their orders to twist and color, and there won’t be much left of you when they get done. Better drop the whole thing right now. You are in bad.”

“But the trials are set.”

“Give the word and they’ll drop them now. A man can’t fight a machine unless he has a machine behind him.”

III

But Carter Watson was stubborn. He was convinced that the machine would beat him, but all his days he had sought social experience, and this was certainly something new.

The morning of the trial the Prosecuting Attorney made another attempt to patch up the affair.

“If you feel that way, I should like to get a lawyer to prosecute the case,” said Watson.

“No, you don’t,” said the Prosecuting Attorney. “I am paid by the People to prosecute, and prosecute I will. But let me tell you. You have no chance. We shall lump both cases into one, and you watch out.”

Judge Witberg looked good to Watson. A fairly young man, short, comfortably stout, smooth-shaven and with an intelligent face, he seemed a very nice man indeed. This good impression was added to by the smiling lips and the wrinkles of laughter in the corners of his black eyes. Looking at him and studying him,

Watson felt almost sure that his old friend's prognostication was wrong.

But Watson was soon to learn. Patsy Horan and two of his satellites testified to a most colossal aggregation of perjuries. Watson could not have believed it possible without having experienced it. They denied the existence of the other four men. And of the two that testified, one claimed to have been in the kitchen, a witness to Watson's unprovoked assault on Patsy, while the other, remaining in the bar, had witnessed Watson's second and third rushes into the place as he attempted to annihilate the unoffending Patsy. The vile language ascribed to Watson was so voluminously and unspeakably vile, that he felt they were injuring their own case. It was so impossible that he should utter such things. But when they described the brutal blows he had rained on poor Patsy's face, and the chair he demolished when he vainly attempted to kick Patsy, Watson waxed secretly hilarious and at the same time sad. The trial was a farce, but such lowness of life was depressing to contemplate when he considered the long upward climb humanity must make.

Watson could not recognize himself, nor could his worst enemy have recognized him, in the swashbuckling, rough-housing picture that was painted of him. But, as in all cases of complicated perjury, rifts and contradictions in the various stories appeared. The Judge somehow failed to notice them, while the Prosecuting Attorney and Patsy's attorney shied off from them gracefully. Watson had not bothered to get a lawyer for himself, and he was now glad that he had not.

Still, he retained a semblance of faith in Judge Witberg when he went himself on the stand and started to tell his story.

"I was strolling casually along the street, your Honor," Watson began, but was interrupted by the Judge.

"We are not here to consider your previous actions," bellowed Judge Witberg. "Who struck the first blow?"

"Your Honor," Watson pleaded, "I have no witnesses of the actual fray, and the

truth of my story can only be brought out by telling the story fully – “

Again he was interrupted.

“We do not care to publish any magazines here,” Judge Witberg roared, looking at him so fiercely and malevolently that Watson could scarcely bring himself to believe that this was same man he had studied a few minutes previously.

“Who struck the first blow?” Patsy’s attorney asked.

The Prosecuting Attorney interposed, demanding to know which of the two cases lumped together was, and by what right Patsy’s lawyer, at that stage of the proceedings, should take the witness. Patsy’s attorney fought back. Judge Witberg interfered, professing no knowledge of any two cases being lumped together. All this had to be explained. Battle royal raged, terminating in both attorneys apologizing to the Court and to each other. And so it went, and to Watson it had the seeming of a group of pickpockets ruffling and bustling an honest man as they took his purse. The machine was working, that was all.

“Why did you enter this place of unsavory reputations?” was asked him.

“It has been my custom for many years, as a student of economics and sociology, to acquaint myself – “

But this was as far as Watson got.

“We want none of your ologies here,” snarled Judge Witberg. “It is a plain question. Answer it plainly. Is it true or not true that you were drunk? That is the gist of the question.”

When Watson attempted to tell how Patsy had injured his face in his attempts to bat with his head, Watson was openly scouted and flouted, and Judge Witberg again took him in hand.

“Are you aware of the solemnity of the oath you took to testify to nothing but the truth on this witness stand?” the Judge demanded. “This is a fairy story you are

telling. It is not reasonable that a man would so injure himself, and continue to injure himself, by striking the soft and sensitive parts of his face against your head. You are a sensible man. It is unreasonable, is it not?"

"Men are unreasonable when they are angry," Watson answered meekly.

Then it was that Judge Witberg was deeply outraged and righteously wrathful.

"What right have you to say that?" he cried. "It is gratuitous. It has no bearing on the case. You are here as a witness, sir, of events that have transpired. The Court does not wish to hear any expressions of opinion from you at all."

"I but answered your question, your Honor," Watson protested humbly.

"You did nothing of the sort," was the next blast. "And let me warn you, sir, let me warn you, that you are laying yourself liable to contempt by such insolence. And I will have you know that we know how to observe the law and the rules of courtesy down here in this little courtroom. I am ashamed of you."

And, while the next punctilious legal wrangle between the attorneys interrupted his tale of what happened in the Vendome, Carter Watson, without bitterness, amused and at the same time sad, saw rise before him the machine, large and small, that dominated his country, the unpunished and shameless grafts of a thousand cities perpetrated by the spidery and vermin-like creatures of the machines. Here it was before him, a courtroom and a judge, bowed down in subservience by the machine to a dive-keeper who swung a string of votes. Petty and sordid as it was, it was one face of the many-faced machine that loomed colossally, in every city and state, in a thousand guises overshadowing the land.

A familiar phrase rang in his ears: "It is to laugh." At the height of the wrangle, he giggled, once, aloud, and earned a sullen frown from Judge Witberg. Worse, a myriad times, he decided, were these bullying lawyers and this bullying judge than the bucko mates in first quality hell-ships, who not only did their own bullying but protected themselves as well. These petty rascallions, on the other hand, sought protection behind the majesty of the law. They struck, but no one

was permitted to strike back, for behind them were the prison cells and the clubs of the stupid policemen – paid and professional fighters and beaters-up of men. Yet he was not bitter. The grossness and the sliminess of it was forgotten in the simple grotesqueness of it, and he had the saving sense of humor.

Nevertheless, hectoring and heckled though he was, he managed in the end to give a simple, straightforward version of the affair, and, despite a belligerent cross-examination, his story was not shaken in any particular. Quite different it was from the perjuries that had shouted aloud from the perjuries of Patsy and his two witnesses.

Both Patsy's attorney and the Prosecuting Attorney rested their cases, letting everything go before the Court without argument. Watson protested against this, but was silenced when the Prosecuting Attorney told him that Public Prosecutor and knew his business.

“Patrick Horan has testified that he was in danger of his life and that he was compelled to defend himself,” Judge Witberg's verdict began. “Mr. Watson has testified to the same thing. Each has sworn that the other struck the first blow; each has sworn that the other made an unprovoked assault on him. It is an axiom of the law that the defendant should be given the benefit of the doubt. A very reasonable doubt exists. Therefore, in the case of the People Versus Carter Watson the benefit of the doubt is given to said Carter Watson and he is herewith ordered discharged from custody. The same reasoning applies to the case of the People Versus Patrick Horan. He is given the benefit of the doubt and discharged from custody. My recommendation is that both defendants shake hands and make up.”

In the afternoon papers the first headline that caught Watson's eye was: “CARTER WATSON ACQUITTED.” In the second paper it was: “CARTER WATSON ESCAPES A FINE.” But what capped everything was the one beginning: “CARTER WATSON A GOOD FELLOW.” In the text he read how Judge Witberg had advised both fighters to shake hands, which they promptly did. Further, he read:

“ ‘Let’s have a nip on it,’ said Patsy Horan.

“ ‘Sure,’ said Carter Watson.

“And, arm in arm, they ambled for the nearest saloon.”

IV

Now, from the whole adventure, Watson carried away no bitterness. It was a social experience of a new order, and it led to the writing of another book, which he entitled, “POLICE COURT PROCEDURE: A Tentative Analysis.”

One summer morning a year later, on his ranch, he left his horse and himself clambered on through a miniature canyon to inspect some rock ferns he had planted the previous winter. Emerging from the upper end of the canyon, he came out on one of his flower-spangled meadows, a delightful isolated spot, screened from the world by low hills and clumps of trees. And here he found a man, evidently on a stroll from the summer hotel down at the little town a mile away. They met face to face and the recognition was mutual. It was Judge Witberg. Also, it was a clear case of trespass, for Watson had trespass signs upon his boundaries, though he never enforced them.

Judge Witberg held out his hand, which Watson refused to see.

“Politics is a dirty trade, isn’t it, Judge?” he remarked. “Oh, yes, I see your hand, but I don’t care to take it. The papers said I shook hands with Patsy Horan after the trial. You know I did not, but let me tell you that I’d a thousand times rather shake hands with him and his vile following of curs, than with you.”

Judge Witberg was painfully flustered, and as he hemmed and hawed and essayed to speak, Watson, looking at him, was struck by a sudden whim, and he determined on a grim and facetious antic.

“I should scarcely expect any animus from a man of your acquirements and knowledge of the world,” the Judge was saying.

“Animus?” Watson replied. “Certainly not. I haven’t such a thing in my nature. And to prove it, let me show you something curious, something you have never seen before.” Casting about him, Watson picked up a rough stone the size of his fist. “See this. Watch me.”

So saying, Carter Watson tapped himself a sharp blow on the cheek. The stone laid the flesh open to the bone and the blood spurted forth.

“The stone was too sharp,” he announced to the astounded police judge, who thought he had gone mad.

“I must bruise it a trifle. There is nothing like being realistic in such matters.”

Whereupon Carter Watson found a smooth stone and with it pounded his cheek nicely several times.

“Ah,” he cooed. “That will turn beautifully green and black in a few hours. It will be most convincing.”

“You are insane,” Judge Witberg quavered.

“Don’t use such vile language to me,” said Watson. “You see my bruised and bleeding face? You did that, with that right hand of yours. You hit me twice – biff, biff. It is a brutal and unprovoked assault. I am in danger of my life. I must protect myself.”

Judge Witberg backed away in alarm before the menacing fists of the other.

“If you strike me I’ll have you arrested,” Judge Witberg threatened.

“That is what I told Patsy,” was the answer. “And do you know what he did when I told him that?”

“No.”

“That!”

And at the same moment Watson's right fist landed flush on Judge Witberg's nose, putting that legal gentleman over on his back on the grass.

"Get up!" commanded Watson. "If you are a gentleman, get up – that's what Patsy told me, you know."

Judge Witberg declined to rise, and was dragged to his feet by the coat-collar, only to have one eye blacked and be put on his back again. After that it was a red Indian massacre. Judge Witberg was humanely and scientifically beaten up. His checks were boxed, his cars cuffed, and his face was rubbed in the turf. And all the time Watson exposted the way Patsy Horan had done it. Occasionally, and very carefully, the facetious sociologist administered a real bruising blow. Once, dragging the poor Judge to his feet, he deliberately bumped his own nose on the gentleman's head. The nose promptly bled.

"See that!" cried Watson, stepping back and deftly shedding his blood all down his own shirt front. "You did it. With your fist you did it. It is awful. I am fair murdered. I must again defend myself."

And once more Judge Witberg impacted his features on a fist and was sent to grass.

"I will have you arrested," he sobbed as he lay.

"That's what Patsy said."

"A brutal – -sniff, sniff, – and unprovoked – sniff, sniff– assault."

"That's what Patsy said."

"I will surely have you arrested."

"Speaking slangily, not if I can beat you to it."

And with that, Carter Watson departed down the canyon, mounted his horse, and rode to town.

An hour later, as Judge Witberg limped up the grounds to his hotel, he was arrested by a village constable on a charge of assault and battery preferred by Carter Watson.

V

“Your Honor,” Watson said next day to the village Justice, a well to do farmer and graduate, thirty years before, from a cow college, “since this Sol Witberg has seen fit to charge me with battery, following upon my charge of battery against him, I would suggest that both cases be lumped together. The testimony and the facts are the same in both cases.”

To this the Justice agreed, and the double case proceeded. Watson, as prosecuting witness, first took the stand and told his story.

“I was picking flowers,” he testified. “Picking flowers on my own land, never dreaming of danger. Suddenly this man rushed upon me from behind the trees. ‘I am the Dodo,’ he says, ‘and I can do you to a frazzle. Put up your hands.’ I smiled, but with that, biff, biff, he struck me, knocking me down and spilling my flowers. The language he used was frightful. It was an unprovoked and brutal assault. Look at my cheek. Look at my nose – I could not understand it. He must have been drunk. Before I recovered from my surprise he had administered this beating. I was in danger of my life and was compelled to defend myself. That is all, Your Honor, though I must say, in conclusion, that I cannot get over my perplexity. Why did he say he was the Dodo? Why did he so wantonly attack me?”

And thus was Sol Witberg given a liberal education in the art of perjury. Often, from his high seat, he had listened indulgently to police court perjuries in cooked-up cases; but for the first time perjury was directed against him, and he no longer sat above the court, with the bailiffs, the Policemen’s clubs, and the prison cells behind him.

“Your Honor,” he cried, “never have I heard such a pack of lies told by so bare-

faced a liar – !’

Watson here sprang to his feet.

“Your Honor, I protest. It is for your Honor to decide truth or falsehood. The witness is on the stand to testify to actual events that have transpired. His personal opinion upon things in general, and upon me, has no bearing on the case whatever.”

The Justice scratched his head and waxed phlegmatically indignant.

“The point is well taken,” he decided. “I am surprised at you, Mr. Witberg, claiming to be a judge and skilled in the practice of the law, and yet being guilty of such unlawyerlike conduct. Your manner, sir, and your methods, remind me of a shyster. This is a simple case of assault and battery. We are here to determine who struck the first blow, and we are not interested in your estimates of Mr. Watson’s personal character. Proceed with your story.”

Sol Witberg would have bitten his bruised and swollen lip in chagrin, had it not hurt so much. But he contained himself and told a simple, straightforward, truthful story.

“Your Honor,” Watson said, “I would suggest that you ask him what he was doing on my premises.”

“A very good question. What were you doing, sir, on Mr. Watson’s premises?”

“I did not know they were his premises.”

“It was a trespass, your Honor,” Watson cried. “The warnings are posted conspicuously.”

“I saw no warnings,” said Sol Witberg.

“I have seen them myself,” snapped the Justice. “They are very conspicuous. And I would warn you, sir, that if you palter with the truth in such little matters you

may darken your more important statements with suspicion. Why did you strike Mr. Watson?"

"Your Honor, as I have testified, I did not strike a blow."

The Justice looked at Carter Watson's bruised and swollen visage, and turned to glare at Sol Witberg.

"Look at that man's cheek!" he thundered. "If you did not strike a blow how comes it that he is so disfigured and injured?"

"As I testified – "

"Be careful," the Justice warned.

"I will be careful, sir. I will say nothing but the truth. He struck himself with a rock. He struck himself with two different rocks."

"Does it stand to reason that a man, any man not a lunatic, would so injure himself, and continue to injure himself, by striking the soft and sensitive parts of his face with a stone?" Carter Watson demanded

"It sounds like a fairy story," was the Justice's comment.

"Mr. Witberg, had you been drinking?"

"No, sir."

"Do you never drink?"

"On occasion."

The Justice meditated on this answer with an air of astute profundity.

Watson took advantage of the opportunity to wink at Sol Witberg, but that much-abused gentleman saw nothing humorous in the situation.

“A very peculiar case, a very peculiar case,” the Justice announced, as he began his verdict. “The evidence of the two parties is flatly contradictory. There are no witnesses outside the two principals. Each claims the other committed the assault, and I have no legal way of determining the truth. But I have my private opinion, Mr. Witberg, and I would recommend that henceforth you keep off of Mr. Watson’s premises and keep away from this section of the country – “

“This is an outrage!” Sol Witberg blurted out.

“Sit down, sir!” was the Justice’s thundered command. “If you interrupt the Court in this manner again, I shall fine you for contempt. And I warn you I shall fine you heavily – you, a judge yourself, who should be conversant with the courtesy and dignity of courts. I shall now give my verdict:

“It is a rule of law that the defendant shall be given the benefit of the doubt. As I have said, and I repeat, there is no legal way for me to determine who struck the first blow. Therefore, and much to my regret,” – here he paused and glared at Sol Witberg – “in each of these cases I am compelled to give the defendant the benefit of the doubt. Gentlemen, you are both dismissed.”

“Let us have a nip on it,” Watson said to Witberg, as they left the courtroom; but that outraged person refused to lock arms and amble to the nearest saloon.