

Old Joe's Grubstake

By Edith King Latham

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Old Joe Cunill was a picturesque feature of life in Sauger's Pass, although the townspeople were not greatly impressed with the quaint side of the old man's character. To them it was an old story, once both comical and pathetic, but now grown stale from frequent reading.

Ever since the founding of Sauger's, Old Joe had figured in the history of the little mountain settlement, at first as a pioneer owner of the first stamp mill, and afterward, through the sharp vicissitudes of a miner's life, he had slipped down to his present position of the forlorn but ever-hopeful fortune seeker, his sole possessions a lanky mule, a rifle and a meager prospecting outfit. With this stock in trade, he was wont to set out on his expeditions through Skidyon county, often traveling as far south as Redding, and sometimes washing out two or three dollars a week in gold, on the banks of the Sacramento, where it rushes through the narrow mountain canyons.

As it happened this year Old Joe Cunill had varied his usual program by remaining all winter and well into the summer in Sauger's, and it was not until one morning in July that he and his mule were seen in marching order, slowly making their way down the country road toward the south.

Three men sitting on the veranda of the Shasta house, were discussing a new mining boom.

Suddenly one of them slapped his knee, and brought his chair down with a thud on the floor.

"Say, boys, I've got an idea that'll give us some fun and set up the ancient prospector in the highest heaven of joy. Let's grubstake him!"

An hour later, the bewildered old man plodded, in a daze, beside his pack mule, with the pleasant recollection of a hearty meal, and the amazing reality of three brilliant twenty-dollar gold pieces clanking their shining sides against each other in his pocket.



"She Jest Cried, She Was So Glad to See Me."

The grubstake was kept a secret between the three partners of Old Joe, who amused themselves by mysterious allusions to a wonderfully rich new syndicate, but no amount of argument could persuade them to reveal more than this. The rumor grew that the mill owner, the storekeeper and the hotel man had had a quiet tip on a big thing, and the town was prepared for the announcement that the syndicate had bought out the place, or that monster improvements were to be introduced at Sauger's. But they were totally unprepared for the announcement which burst upon the little town toward the last of October.

The postmaster received word from his brother-in-law, Charley Mason, who farmed between Shasta and Redding, that old Joe Cunill had struck "pay dirt!" The portion of the letter concerning Joe's fortunes ran as follows:

Big piece of news for Sauger's! Spread it around. Old Joe has made his strike at last. He's in it this time, sure; got another fellow's claim cheap. Didn't wait for the assay, but experts say it's the sure thing. Better make a little fuss over the old fellow, "welcome home," etc. It was all quite sudden. Let me know how he got home. I'm going down to S. F. to-morrow.

Forgot to say Joe leaves on the 11:30 train Thursday morning.

Yours, CHARTLEY.

The news spread like wildfire through Sauger's, and, in less than an hour after the letter was read, everybody knew the story of the three double eagles and their sequel. The three men who had grubstaked the successful miner were the most surprised of all. A reception committee was appointed to welcome the lucky miner.

On Thursday morning Sauger's rose early and decorated the buildings on Main street with garlands of spruce and fir, and cotton flags left over from the last Fourth of July celebration.

Half an hour before train time, the platform of the little railway station was crowded with expectant Saugerites. All the jokes of the past six months were revived to while away the long moments before the train was due, but no joke was as potent to bring a laugh as the idea of the en-

tire town of Sauger's Pass turning out to honor the arrival of Old Joe Cunill, whom, three months before, the very dogs had not considered worth a bark.

An echoing whistle from far down the canyon at last brought silence, and the crowd made way for the reception committee to step close to the track. With a warning screech from the engine and a clanging of the bell, the train swept around a curve, rumbled over the bridge, and stopped, puffing impatiently. Sauger's held its breath.

At last a familiar figure was seen to descend from the high steps. "All aboard!" shouted the conductor, signaling the engineer.

As the engine began to gather momentum slowly, in puffy jerks, for the up-grade run, there was spilled from the second day coach an accumulation of females of assorted sizes, which piled up in a heap on the cinder path beside the track, then rose, one by one, and meekly tagged the steps of Joseph Cunill, capitalist.

The train crept out of sight around the curve, but Sauger's did not know it. The brass band was silent, and the reception committee stood stock still, and stared stupidly. The committee, at last, regained its presence of mind, and stepped up to Old Joe, but Sauger's guest of honor was timidly making for the trail behind the station, which was the short cut to the town. Isaac Pendleton stopped him. "Here, Joe, old fellow, you ain't goin' to give us the cold shoulder, are you? What you in such a hurry for?"

"Ask—ask her, she'll tell ye," he stammered, pointing behind him. The gaze of the crowd was transferred to the aggregation of females, which presented a shrinking front to the public eye. The oldest, of about 45 summers, unkempt and forlorn-eyed, gathered the youngest, aged two, to her breast, grouped around her the remaining seven, ranging from 18 down, and cast her eyes on the ground in frightened confusion. The old miner braced himself, and turned bravely toward the crowd. "Well, ye see, Mr. Pendleton," he said, keeping his eye on the mild-faced storekeeper, "it was somethin' like this. I was prospectin'—an' that night the mule died, an' I was peggin' along afoot, kinder loose, an' I come across, down the creek, a woman and eight kids what their husband and father had died a week before, and she'd been doin' odd jobs 'round the diggin's and was clean beat out an' lonely-like. Well, when I come along, she jest cried, she was so glad to see me, 'cause I looked like her old dad, an' the children called me grandpap. An' she was goin' to pull up stakes an' make tracks for the poor farm. So I sez: 'Come along with me to the parson's, the one what peddles his gospel talk through the minin' country,' sez I, 'because there didn't seem to be nothin' else to do, so'dn't how she didn't have no perfecter. An' I used the rest of the money to come back to Sauger's an' set up Mely an' the children.'"

The crowd was very quiet.

"But what about your pile, Joe?" asked Spandling after a moment.

"How much, and where did you make the strike?"

"Strike?" repeated Joe in bewilderment. "I didn't make none this time, 'less Mely's the strike."

A groan ran through the multitude, disappointment was pictured on a hundred faces, some looked fairly menacing. It was not often that Sauger's bestirred itself as it had for this occasion which had ended so absurdly. They would be a butt for the ridicule of the whole county.

Suddenly, the hotel man stepped up to the woman and spoke to her in a low tone. Then he faced the crowd.

"Boys, you're scarin' the poor critters to death, with the tender feelin' for Charley Mason glarin' out of your eyes. The reception committee will be responsible for the drawin' up of a testimonial to that gentleman; you leave that to us. But we're a pack of fools, just the same, not to see that this is the biggest joke in California, bigger than the Barneses' strike. If Old Joe didn't bring back nine times more than we expected, then I'm crazy. Whoever heard of a claim that panned out such nuggets as these here?" pointing to the eight young women. "I find," he continued, "that this estimable lady, Mrs. Joseph Cunill, is a past master at the wash tub. What do you say to setting her up in 'The Grubstake Laundry,' and requesting that heathen clothes-destroyer, Chin Lee, to seek another sheep-ranger?"

Sauger's gave a lusty roar. Clark had touched a vulnerable spot. Every man who wore a collar clutched at its ragged edges with one hand, and threw his hat in the air with the other.

The bus was filled with Sauger's guests on its way to town, and the imported band was not wanted. It was not equal to the "Wedding March," but Old Joe and his wife and her property rode in state to supper at the Shasta house quite a blissfully to the tune of "A Hot Time in the Old Town To-Night."

DOCTOR RIDICULES INSANITY PLEA AS EXCUSE FOR MURDER



DR. ALLAN M'LANE HAMILTON. Noted Alienist Who Lays Epidemic of Crime to Modern Modes of Living.

NEW YORK.—Dr. Allan M'Lane Hamilton is the dean of American alienists. He has perhaps of all men in this country had the largest experience in the courts, and has been concerned in more important cases in courts than any other American physician. His experience extends over a period of nearly 40 years. He was one of the chief government experts who was chosen to testify in the case of Guiteau, who killed President Garfield, and he was sent for from Buffalo to examine Czolgoz, the insane assassin of President McKinley, and again his name is found connected with the Schneider proceeding, which was undertaken in the District of Columbia to determine the responsibility of this interesting murder. His independent attitude in the Thaw case is generally known and commended, and although he had testified vigorously against the doctors of Christian Science in the Brush will case, he was sent for by the counsel of Mrs. Eddy and consulted as an expert who was eminently fair and likely to give good advice.

Ridicules Emotional Insanity. Dr. Hamilton referred to the many important cases that have occurred during the last 50 years in New York, where so-called "emotional insanity" had been advanced as an excuse for crime generally, and was disposed to ridicule this form of subterfuge. "As most of us know, the Sickles-Key case was one of the earliest American cases where a man of the name of a day made the judicious gripe. Gen. Daniel Sickles, a popular veteran of the civil war, and an eminently sane man, after having watched Key, followed and shot him down in the street, and afterward pleaded emotional insanity so successfully that he was acquitted, although it does not appear that he afterward suffered any incapacity or showed any sign of mental weakness, living to a good old age and pursuing the even and sane tone of his way.

"In this state," said Dr. Hamilton, "the Cole-Hiscock murder was another of the same kind, and was tried in Albany, N. Y., in 1868, Maj. Gen. George W. Cole having murdered Harris Hiscock in front of Stanwix hall on the evening of June 4, 1867, while he was talking with two friends. Cole sought out Hiscock, who had been intimate with his wife, and, placing a pistol within a few inches of his head, fired, killing him instantly. In this case, like many others, the defense was emotional insanity, and the defendant owed his escape from the gallows to the eloquence of a Mr. Hadley and to the late James T. Brady, for there was nothing to prove insanity except an array of ridiculous testimony. As an evidence of his mental condition it was alleged that while in the army he had constantly whittled lockets, rings and other perishable ornaments, that he had nose-bleed, and that he was melancholy, while a number of reliable witnesses testified as to his excellent mental health at all times.

"About this time and until 1875 there were a number of murders of the same kind. Judge Parker, in the Cole case, instanced no less than eight examples of men who had taken the law into their own hands, and who had been acquitted under like circumstances.

Subterfuge for Lawyers. "In this city I was connected in a minor capacity with two early important cases of this kind, one of which was the trial of McFarland for the murder of Richardson, which created much attention at the time, and which resulted quite improperly in McFarland's acquittal. The term 'emotional insanity,' as understood by the public, is not recognized by self-respecting alienists, because it is difficult to imagine how a man can be sane one moment, insane the next and sane after the commission of the crime, as is usually alleged; and I think it is the disposition nowadays to consider this defense as the vilest excuse for impulsive bad temper, cruelty and the disposition to take the law into one's hands. As has been said, 'it is a term invented by unscrupulous lawyers to afford the jury a safe bridge upon which to pass from the disagreeable technical duty to the accomplishment of their desire, when the accused has killed some one who, according to the consensus of opinion, ought to have been killed.'

"It is really a legal compromise with the truth. So-called 'emotional insanity' has been one of the most frequent devices selected to arouse false sympathy with criminal violence. People have been led to believe that there is such a thing as a sudden frenzy of passion, a feeling which has led a man to shoot another suddenly, and which absolves him from all responsibility. That is one of the absurdities adopted by certain desperate lawyers, who, in the name of science, attempt to mystify hysterical juries. It is hard to conceive of any form of insanity which has not been of regular development, although the manifestations which precede the explosion are sometimes with difficulty recognized. In this connection I may refer to the dangerous precedent that has been recently adopted of letting the outraged wife of the defendant tell the story of her wrongs with the idea of showing how readily it might have inflamed an injured man and produced an insanity which rendered him irresponsible.

"One genuine case has been made to do duty as a basis for all the others, and this decision was utilized in the Thaw case. The case to which reference is made is that of a man who was really insane, and whose wife within a week of the time of the sexual assault of which she was the victim, communicated the fact to him, when he took the law into his own hands and killed the paramour. It was properly alleged that his act was an insane one. That is a very different thing from the instances where individuals, after receiving such information, wait weeks and months, going about their business and holding ordinary relations with the woman, or even indulging in litigation.

Cowardice of Murderers. "There is something rather interesting about the mental attitude of an individual under such circumstances as to his conception of his social rights. I have often noticed that there is a singular lack of sincere injury and consistency in the husband's motive for revenge, and there is usually a great deal more behind the facts as they first burst upon the com-

munity than are known. The husband who kills a paramour too often does it in a cowardly fashion, either shooting him in the back from behind a wall or in the dark. There is too apt to be an element of cowardice in the way it is done that robs it of the fine frenzy of feeling with which it is colored by the lawyers for the defense. Frequently the causes that lead up to these tragedies are known by the husband long before, and even sometimes condoned. My impression is that there exists a sort of inexplicable vanity, an exaggerated egotism, that inspires the semi-heroic attitude of injured virtue assumed by the husband who shoots another man on his wife's account.

Decent Public Opinion. "Such a man may often neglect his wife, subject her to extraordinary cruelty, within the law, however, or completely ignore her tastes and inclinations, and suddenly he is surprised that she runs away with some one else. After brooding over his lost property, and fearing the criticism of the community, he makes one final effort to be sincere, and kills the other man, usually in some melodramatic fashion, taking care to save his own skin. While my arraignment is not sweeping, there is certainly to-day a large number of individuals whose development takes place in a community where public opinion is decadent and there may be a false standard of duty and heroism. These people are quite apt to do foolish things, or to disregard the advantages and available help afforded by the law.

"While it may seem an extreme thing to say, I do not think anyone can help but deplore a certain visible decadence which finds its expression in love of sensationalism, in the unhealthy tone of certain parts of the public press, by the appetite for a degenerate literary pabulum in the way of cheap sentiment and mock heroism; and by a very irregular and unstable social institution which exists to-day. Those of us who have watched the drift must regret the growing

ting to be more and more a thing of the past. The life in boarding houses, flats and restaurants breeds unrest and discontent, and affords opportunity for moral laches which can only have one tendency.

"It is to be hoped that the attitude of the courts in regard to the defense of 'emotional insanity' will be much more stringent and unrelenting than it has hitherto been, and it is to be hoped that the public will be spared long and expensive trials, with the exposure of the disgusting details and pseudo-scientific forms of defense. Lawyers should not be permitted, with the aid of disreputable members of my own profession, to invent spurious forms of insanity and to inject improbable dramatic elements in cases which have done yeoman service in the sensational fiction of all ages, and certainly, if possible, the alleged insanity of a defendant should be settled by a commission of alienists and not be passed upon by an ordinary jury, who are only human, after all, and who are utterly unable to draw fine distinctions or to tell who is lying.

Advocates Commission of Alienists. "A wise procedure, first inaugurated by the United States, District of Columbia, in the Schneider case some years ago, and lately more perfectly brought about by the Hon. Justice Warren W. Foster, of the general sessions, provides for the appointment of a commission of alienists, who should receive testimony and give an opinion as to the alleged insanity of a defendant at the time of the commission of the act, as well as at the present time, and report. The decision of this commission may send the individual to a penal institution of the insane, or he may be put on trial should the claim of alleged insanity be unfounded. By this method the community would not only be saved from disgusting details, such as were poured out in the Thaw and other cases, but an immense amount of money could be saved the taxpayers. As it is, jury trials are notoriously unfair, no matter how conscientious and intelligent may be the tribunal. Within the last year I have had experience with two cases which illustrate what I mean.

"In one a habens corpus was brought for a chronic lunatic, whose actions were so glaring that her own counsel admitted her insanity and could find no expert to testify in her behalf. The proceedings were held in a courtroom which at other times served as the meeting place of the Grand Army of the Republic. Incidentally, it appeared in the testimony that during the war she had given coffee and sandwiches to the soldiers, and a point was made of this by her ingenious and resourceful lawyer. To the surprise of everyone the jury, which was recruited largely from the old soldiers who made the room a



tendency to disregard the traditions of 50, and even 25 years ago, but we are powerless to antagonize the intellectual erethism which sometimes even under the guise of scientific progress leads people to do foolish and inconsiderate things.

"You may ask what all this has to do with 'emotional insanity' and the commission of murder, and my reply must be that where there is an existence which feeds upon sensation and separates itself from sanity and a cool exercise of judgment, we may expect more or less moral decline.

Dangers in Mode of Living. "Time and space do not permit me to draw lessons which must be apparent to those who live in this era of extravagance and luxury, especially in big cities, where home feeling is get-

ting place, gave her her freedom and declared her sane 'because she had always been good to the soldiers.'

"In another case the members of a supposedly intelligent jury, who had been sworn to express the opinion whether an alleged incompetent was sane or insane, found that he was competent chiefly 'because they did not like the looks of his brother,' who was the next friend, and who had brought the action to have a committee appointed for his clearly insane relative. These two cases are examples of acts of injustice which can only be remedied by putting the whole matter in the hands of capable and decent alienists, whose position is so good that they are sure to be scrupulously fair and to serve not only the interests of the person, but the community as well."