



# THE PROVING OF THE PAWN

## A CIRCUMSTANTIAL EVIDENCE STORY



THE ONLOOKER  
WILBUR D. NESBIT

### THE SMUDGE-FACED BOY



O, smudge-faced boy, your cheeks are grimed  
With dirt that tells of romping games,  
Of fences scaled, of trees you've climbed,  
Of conflicts after "callin' names!"

Why, here is dust from off the street,  
And there are patches of black loam  
That tell you crept on stealthy feet  
Through gardens ere you wandered home.

And here are little, straggling streaks,  
That show where dripped the tell-tale tears  
And left their imprints on your cheeks  
When some one hailed your wrath with jeers.

And here upon your rounded chin  
Are blots of drying apple juice,  
You've raided some one's apple bin!  
I'd preach to you, but what's the use?

Ah, when you smile, then little rifts  
Break through these tell-tales of your spout,  
As though a laughing earthquake lifts  
And shakes a bare cheek-breadth of soil.

But when I look at you I seem  
To see myself in years gone by;  
Those old days pass me in a dream,  
And, thinking of them all, I sigh.

And I would give, I know not what  
If I once more might loiter in  
With souvenirs of each play spot  
Besplastering my cheek and chin.

If I might know again the feel  
Of honest dirt, of scratch and bruise—  
But Age comes creeping on to steal  
The days that we are doomed to lose.

So, wash your face! It does not count—  
You cannot know yet what I mean.  
A smudge-face is of small amount  
So long as your boy-heart is clean.



One Good Turn Deserves, Etc.

"Alfred," says the beauteous creature, "I have a little Christmas remembrance for you, and I hope you will like it, although I know it is not half as nice as it might be. Here it is. It is a necktie that I have made for you all by myself. I do so hope it will please you.

"Thank you, Ermytrude," says Alfred, with a wan smile. "And knowing that you would give me something that you made with your own fair hands, I, too, have made something for you. Here it is, or they are, just as you choose to look at it, or them. It is a pair of gloves, really, although I confess it does resemble a pair of sofa pillows. Why, Ermytrude, what can be the matter?"

But Ermytrude, with a haughty air, has left the room.

Worked Both Ways.

We come upon two men, each of whom is weeping and wailing miserably.

"What is wrong?" we ask.

"Ah," replies the first man, "I have made a great many enemies in my time."

"And so have I," weeps the second man.

"But what did you do?" we ask.

"I told lies," sobs the first man.

"And I told the truth," grieves the second man.

Not being able to think of any good advice that will cover the ground, we walk on softly.

Just as Good.

"Yes, sir," said the man with the white apron, "I've invented a new drink that I call 'A Trip to the Seashore.'"

"What's it like?" asks the man with the eyeglasses.

"Nothing but stale water. I let you swallow enough of it to choke you then rub sand in your hair and eyes and charge you \$50 a day for the use of the drink."

Fellow Feeling.

"I am worried to death," says the friend, coming into the man's office. "I don't know where my next meal is coming from."

"I am worried also," answers the man, glancing across the street at the quick-lunch restaurant. "But I am worried because I know where my next meal is coming from."

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**AUTHOR'S NOTE.**

The material facts in this story of circumstantial evidence are drawn from an actual recorded case, only such change of names and local color being made as to remove them from the classification of legal reports to that of fiction. All the essential points of evidence, however, are retained.

**T**HE Calf Skin club expected a good story from Judge Adams, and when his turn came upon the list, every member was in his seat around the long table. It was with further satisfaction that they watched him take from his pocket a manuscript. That meant careful preparation and that full justice would be done to the story.

When the pipes were all going well Judge Adams arose in his place and took up the sheets before him; and here is what they contained:

The tale that I shall tell you this evening is one that occurred in my own experience. For reasons that will appear, it never became a cause celebre, yet I think it offers sufficient of the unusual to be entitled to a place among these records of the club.

As did many of our members I made my first acquaintance with the law in a small town. Almost every member of the company of young men with which I was raised was either a lawyer, the son of a lawyer or a student of the law. Our loafing place in the day time and our meeting place in the evening was always some one or the other of the many law offices. We grew up in fact amid an atmosphere of law calf and briefs.

It was a fantastic crowd, full of quack conceits and odd fancies. One of these resulted in the formation of an organization the like of which I have not known before or since. They called it "The Gentleman's Club," but had it been named the "Practical Joker's Club" the title would have been more fitting. Its members—well, to enumerate them by their bizarre titles will give you the best idea of the vagaries of our idle brains. There was the Governor of the Cigar Islands in the person of Davies, a brilliant student who had already made his mark as a stump speaker. There was Garrity, otherwise the Duke of Vermillion, who could cite by section and chapter a parallel to any case you might mention in the Illinois reports up to the one hundred and thirty-fourth volume; he quit at Vol. 134 and went back to Blackstone. There was little Tom Childress, dignified by the title of Lord Mayor of Conlogue, who used to amuse himself by turning Cooley's Constitutional Law into Latin blank verse. And there was Diaz, a ranting Irishman with a Spanish name, who claimed to be the sole surviving member of the Patriotic Order of Sons of Shay's Rebellion, who loved a joke as he did the smoky distillations of his ancestors' native isle and who gloried in the title of Lord High Admiral of the Boyne, which, all history to the contrary, he declared to be the scene of a great Irish victory.

There were lesser lights with lesser titles and lastly there was "The Pawn." "The Pawn" was too handsome to be popular. He was also too quiet. He certainly thought a great deal, but he seldom said anything. He was admitted to the club only on suffrage and only in the capacity of a pawn. His two consuming ambitions were to try a case before a jury and to be a full fledged member of the "Gentleman's Club," with a title. If England's queen had offered him the ribbon of the bath he would have declined it for these. His name, which is unimportant, as he was never known otherwise than as "The Pawn," was Chester Easter.

The club was in session in the office of Diaz. "The Pawn" was not present.

"I think," said Diaz, solemnly, "it is about time 'The Pawn' was initiated.

We haven't done anything to him lately. If we don't stir him up he will forget he's living."

Then the club went into executive session and plotted the undoing of "The Pawn."

"The Pawn" at this time was giving little thought to anything save the whims and caprices of black-eyed Mary Ashton. Mary was the soul of fickleness, and having broken every youthful heart in the town except that of "The Pawn," she thought herself of him and she found in him a willing, yet a determined subject. "The Pawn" loved deeply as he could hate deeply. He was not one who



would give up easily an object he had set out to win, especially if that object had flashing black eyes, shining jet hair and cheeks and lips that would set the blood coursing through colder veins than his.

To accomplish the plan which "The Gentleman's Club" had fixed upon it was necessary that "The Pawn" should be enticed to one of the nightly meetings. This at last was brought about by Diaz, arch diplomat of the crowd. The club was gathered in the paternal Diaz' law office when "The Pawn" slipped in, took his seat and sat in discreet silence.

"I see," said Davies, addressing Tom Childress, "that you and Mary Ashton have made it up."

"The Pawn" shifted uneasily in his chair and his cheeks flamed. His persecutors had no idea of the consuming jealousy of Childress that had long obsessed him.

Before he could decide which course to pursue a diversion occurred. Garrity jumped to his feet, strode over to Childress, and shaking his fist in his face shouted:

"Tom Childress, you're an infernal liar. I'm going to that dance with Mary Ashton. She promised me this afternoon."

"I'm a liar, am I," said Childress slowly rising to the full limit of his five feet five and squaring off for battle. "You've got to prove those words, Garrity."

"I'll prove them on you, you lying pup," shouted Garrity. "You can't come up here and talk lightly of the girl I love. There, take that—!"

The blow fell and instantly was returned. Then somebody put out the light. In the fitful light from the windows the room seethed with the confusion of crashing chairs, the thud-thud of rapidly exchanged blows and the labored breathing of the combatants. Then the door opened letting in a flood of cool air. There was a rush of struggling bodies and, "The Pawn," still clasping an open knife, felt himself borne along with the crowd.

Childress was in the fore and under the rays of the electric light on the

the state's attorney has deputized me to try this case, as he is out of town and it seems to be the wish of all the parties to avoid publicity as much as possible."

"Who is for the defense?" inquired McCurdy.

Walter Linton, a brilliant young attorney, went over to "The Pawn" and held a whispered conversation. Then he announced that he would defend the prisoner.

"Will the defendant have a jury?"

"We elect to try the case before the court," said Linton.

Davies opened for the state and in words of fire he painted the awful treachery of "The Pawn" who, too cowardly to battle in his own behalf, had waited until his rival was engaged in a "friendly scuffle" with another and then had slipped in and delivered the poltroon's blow. He trusted that the real cause of the rivalry might not be made apparent. It was no wish of the state to drag in the mire the name of one of its most lovely daughters if the ends of justice could be subserved without it. But the state would be able to show a motive, a powerful, compelling motive. While he was a friend of the accused he had still his duty to perform, and he felt that he must put friendship out of his heart and do that duty with all the power that lay within him.

And where was Tom Childress? Why was he not there to ask the vengeance of the law upon his assailant? The state would seek to show why. If the accused had any special knowledge of the whereabouts of his victim the state would be very likely to discover it. But he had no charges to make; the present charge was serious enough, and he was willing to let what might come out in the evidence.

Linton then outlined the defense and said he would seek to show that not Chester Easter but Tom Garrity had struck the blow.

But this hope for "The Pawn" was dashed when Garrity went on the stand and swore that he had no knife, and was fully corroborated by all the rest. They swore with equal positiveness that "The Pawn" did have a knife. All had seen it as he stood brandishing it at the top of the stairway. Diaz had seen it when he returned to the office. Diaz also heard the threat against the life of Childress. He did not know what had become of Childress. He lived near him, and his family knew nothing of his whereabouts. He believed that Easter could tell where he was if he wanted to. This objected to by defendant's counsel, and objection sustained.

Through it all "The Pawn" sat with bloodless face and with eyes far, far away. He seemed to take no interest in the proceedings until Linton said:

"I will now put the defendant on the stand in his own behalf. Be sworn, Mr. Easter."

McCurdy mumbled the oath: "Do you swear to tell the truth, the whole truth, and nothing but the truth concerning the matters and facts pertaining to this case which shall be asked of you by counsel, so help you, and so forth?"

"The Pawn" took the stand like an automaton. If the object of the conspiracy was to daze him nothing could have succeeded better. The mystery is how they kept their faces straight. Several of the less experienced at the noble art of practical joking had to leave the room to indulge in smothered shouts of laughter.

"Now, Chester, tell your version of this affair," said Linton.

"I will tell it all," began "The Pawn" in a voice choking with emotion. "I will tell everything. I can't keep it back any longer. Tom Childress' face is with me day and night. I wake up and see it in the dead of night. If I sleep it is with me in my dreams. O, great God, if only I could shut that terrible vision from my mind!" He rose and, throwing up his

hands, wildly clutched his hair and shouted:

"You want to know where Tom Childress is. You'll never know where he is if I don't tell. But I'm going to tell. I'm not going to keep that vision with me any longer. Tom Childress is at the bottom of the water works well. I killed him."

The conspirators started back in amazement. It almost sounded like the truth, so well was it done.

"Magnificent," returned Linton. "He's done us. I didn't think he had it in him. But let's carry it out. Go on, Chester; tell the whole story."

"The Pawn" had sunk down in his chair and buried his face in his hands.

"Yes, I'll feel better to tell it all," he continued. "I made up my mind to kill him when I left the office. I waited for him in the alley and when he passed on his way home I followed him. When we got to the dark place by the water works well I caught up with him. We had some words. I dared him to throw away the gun I had seen him flash and fight me fair. All the time I had the knife in my sleeve. Then he struck me and I let him have it. He dropped. I bent over him and he was dead. Then I found a heavy rock and a rope and I tied the rock to him and dropped him over into the well. There's wasn't much blood and what there was I washed away with the hose they sprinkle the flower beds with. I saw nothing of the watchman and I thought I was safe. I didn't know what a terribly relentless accuser conscience is. I wish the court to bind me over without bail."

Justice McCurdy looked up gravely from the docket.

"The decision of this court," he said, "is that the prisoner at the bar has played his part nobly, and that he be elected to full membership in the 'Gentlemen's Club,' and his face broke into a broad smile.

There came a loud knocking at the door and excited voices demanding admission. It was opened and the chief of police rushed in.

"Tom Childress has been murdered!" he shouted. "His body has just been found in the water works well. Do any of you know how he came there?"

The smile died from McCurdy's lips. "There is your man," he said, pointing to "The Pawn." "He has just confessed it all to us."

With eyes that looked neither to the right or the left "The Pawn" placed his arm in that of the chief and walked out and to the jail. Already the news was on the streets, how it had been found necessary to drain the well, how the body of Childress, dead from a knife wound and weighted down with a stone, had been found at the bottom. It was all too horribly true.

A scared and horror-stricken band of conspirators fled out of McCurdy's office and gathered the news from excited groups. While the first shock was still tingling in the nerves of the public a second one ran like electricity through the town. A terrible sequel to the tragedy had been recorded. Chester Easter had committed suicide immediately on being placed in a cell. The provincial search had failed to discover in his shoe the very knife that slew Tom Childress.

The last meeting of the "Gentleman's Club" took place that afternoon in the back end of the "Gold Eagle Exchange," when the members with sad and troubled faces took a solemn oath never to disclose the true facts of the proving of "The Pawn."

(Copyright, by W. G. Chapman.)

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