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Title: Kentucky's Famous Feuds and Tragedies

Author: Charles Gustavus Mutzenberg

Release date: October 26, 2014 [EBook #47201]

Language: English

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*** START OF THE PROJECT GUTENBERG EBOOK KENTUCKY'S FAMOUS FEUDS AND TRAGEDIES ***

Kentucky's Famous Feuds and Tragedies

Authentic History of the World Renowned Vendettas
of the Dark and Bloody Ground

BY
CHAS. G. MUTZENBERG

R. F. Fenno & Company
16 East 17th Street, New York

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KENTUCKY'S FAMOUS FEUDS AND TRAGEDIES

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PREFACE

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The feudal wars of Kentucky have, in the past, found considerable publicity through newspapers. Unfortunately, many newspaper reporters dealing with this subject were either deprived of an opportunity to make a thorough investigation of the facts, or permitted their imagination to supply what they had failed to obtain. At any rate, the result was distortion of the truth and exaggeration.

Exaggeration is not needed to make Kentucky's feudal wars of thrilling, intensely gripping interest to every reader.

More than a score of years were spent in the collection of this material, involving tedious and painstaking investigations. The greatest difficulty was experienced in separating truth from falsehood. Often the most vital facts could be obtained solely from the actors in the bloody dramas. The feudists and their relatives proved, quite naturally, partial or prejudiced, and at all times were reluctant to admit any fact detrimental to their side, or favorable to their enemies.

I believe, however, that I have succeeded, with the aid of court records, legislative investigations and official military reports, in my task of producing a strictly authentic history of Kentucky's Famous Feuds and their attending tragedies.

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I trust that the publication of this volume will serve its designed purposes:—to make crime odious; to illustrate the havoc that may be wrought anywhere through the lax, inefficient or corrupt administration of justice; to arouse the people, not of Kentucky only, but of the country at large to the necessity of dealing sternly with crime and faithless officers.

CHAS. G. MUTZENBERG.

Harlan, Ky., September, 1916.

INTRODUCTION

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A brief review of the history of Kentuckians may assist the reader to understand why they, a kind, hospitable people to the stranger, have so long borne the reputation of ready fighters who often kill upon the slightest provocation, and deserve that reputation in a large measure. It is "bred in the bone" for a Kentuckian to quickly resent an insult or redress an injury.

Long before the advent of the white man Kentucky, then Fincastle County, Virginia, had been the vast hunting grounds of the Cherokees, Creeks, Chickasaws and Catawbas of the South, and of the more hostile tribes of Shawnees, Delawares and Wyandots of the North. These tribes, when chance brought them together on their annual hunts, engaged in conflicts so instant, so fierce and pitiless that the territory became known as the Dark and Bloody Ground.

It was indeed a hunter's paradise. Dense forests covered the mountains. Cane brakes fringed the banks of numerous beautiful streams, while to the west lay immense undulating plains. Forest, cane brake and plain were literally alive with bear, deer and the buffalo; the woods teemed with innumerable squirrels, pheasants, wild turkeys and quail.

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The fame of this hunting ground had attracted bold and adventurous hunters long before Daniel Boone looked upon one of the most beautiful regions in the world from the crest of Cumberland Mountain.

These hunters, upon their return home, gave glowing accounts of the richness and fertility of the new country, and excited powerfully the curiosity and imagination of the frontier backwoodsmen east of the Alleghenies and of North Carolina.

To the hardy adventurers the lonely wilderness, with its many dangers, presented attractions not to be found in the confinement and enfeebling inactivities of the towns and little settlements. Daniel Boone visited the new territory. He found that the descriptions he had received of it were by no means exaggerations, and decided to remove thither with his family. After some delay amid many difficulties the first white settlement, Harrodstown (Harrodsburg) was established. Within a few years other stations sprang into existence and population increased with amazing rapidity. Immigrants crossing the Cumberland mountains settled in the eastern and central parts of Kentucky, while those traveling down the Ohio and Mississippi rivers, generally located in the northern, western and southern portions of the state.

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This invasion by the white man was not accomplished, however, without long-continued, bloody struggles with the savages. To maintain the slender foothold Boone and his companions had gained, required great courage and tenacity of purpose.

The man who shivered at the winter's blast, or trembled at every noise, the origin of which he did not understand, was not known among those hardy settlers with nerves of iron and sinews of steel, who were accustomed from earliest childhood to absolute self-dependence and inured to exposure and dangers of every sort.^[1] Man in this connection must include the pioneer women

who by their heroism illustrated their utter contempt of danger, and an insensibility to terrors which would palsy the nerves of men reared in the peaceful security of densely populated communities. Even children of tender years exhibited a courage and self-composure under trying circumstances that at this day seem unbelievable.

The life of the Kentucky pioneer and backwoodsman was one of long and bitter struggle. Hunting, clearing the forest, plowing and fighting were his daily occupations. Every "station" had its conflicts with the savages who fought with relentless desperation when they found themselves gradually but surely driven from their beloved hunting grounds.

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These armed hunters and farmers were their own soldiers. They built their own forts, they did their fighting under commanders they had themselves chosen. They fought the foe in his own style, adopted his mode of warfare, and proved generally more successful than bodies of troops who battled under time-honored military tactics.

The Indian understood the advantage of cover, and the white man copied his methods. Thus most of the Indian fights became nothing more nor less than ambushes in which the side displaying the most skill in placing them, won the victory. Boone, Kenton, Brady, Wetzel—all that galaxy of pioneers and Indian fighters of the early West fought the enemy from ambush.

There were few courts, and the justices presiding over them knew but little law. If the law proved too slow, or courts were too far away, the settlers tried criminals and inflicted the punishment. The backwoodsman was prompt to avenge a wrong. He was grim, stern, strong, easily swayed by stormy passions, and always a lover of freedom, to the core. He had suffered horrible injuries from the Indians and learned to retaliate in kind. He became cruel and relentless toward an enemy, but was loyal to the death to his friends and country. He was upright and honest. These pioneers were indeed cast in the heroic mold. Many of them fell in the struggle; but there was no time for sentiment and wailing. Over the prostrate bodies of the fallen civilization marched triumphantly westward and gave to America one of the most attractive regions, to the nation heroic soldiers, brilliant lawyers, men of science and of art, and a womanhood whose beauty and accomplishments are a byword everywhere.

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With the close of Indian hostilities came rapid development of the more easily accessible portions of the state. Intercourse with the East and North obliterated old habits and customs and primitive notions. The fertility of the soil created wealth and with it came comfort. With increasing prosperity came that high intellectual development so essential to a sound, moral public sentiment, respect for the law, and love of peace and order, the foundation stones of a happy social structure. Schools and churches demonstrated their all-powerful influence by the refinement and social purity of the inhabitants. The *code duello* which had formerly been resorted to almost universally in settling personal differences, was made a crime by law and completely disappeared.

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In the mountains, however, development was slow. That section remained isolated and practically cut off from intercourse with the more populous and advanced portions of Kentucky and surrounding States. Only in recent years have railroads begun to spread their iron network through the mountains, tapping the almost inexhaustible coal veins, mineral deposits of various kinds, wonderful forests of timber, until now that section is become the richest in the State.

Education and refinement distinguished the Blue Grass Kentuckian at an early date; he had long enjoyed the advantages of modern civilization, while his mountaineer brother yet lived in the primitive fashion of his forebears, and still remained a backwoodsman. He suffered the same privations and possessed the traits of character of the early pioneers of the Blue Grass.

For long years the mountain section remained a wilderness, with here and there a small settlement. The inhabitants lived the lives of frontiersmen and were generally poor. While many of them owned large tracts of land, its productiveness scarcely repaid the labor spent in cultivation. The great majority of these people were honest, upright and hardworking, but the wilderness, the frontier, unfortunately attracts the vicious, the violent, the criminal, the shiftless, the outcast of better communities. Such characters have a pernicious influence upon those with whom they come in contact, especially upon the young and thoughtless fellows with a taste for viciousness.^[2] The mountains of the surrounding states of Virginia, West Virginia and Tennessee offered admirable asylum to fugitives from justice of those States. As like seeks like, individuals and families of that stripe settled near each other, intermarried, and thus formed a dangerous element in an otherwise good population.

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Life in the wilderness, the frontier, is apt to bring out the true nature of the man, and his qualities, good or bad, are accentuated. The history of every frontier of this country is the same. The man who leaves the restraining influence of civilization behind him, becomes either *man* or devil. If there is "dog-hair" in a man, the wilderness, the frontier, will sprout it.

When the wicked element in a community had once gained a foothold, it organized against possible interference. Once organization was complete, all attempts to enforce law and order were promptly stifled through terrorization which intimidated courts and overawed the officers of the law. Under such circumstances the good element has but one alternative—to lie supinely on its back and ask to be killed, or to organize and strike back at the enemy, to destroy the vicious with powder and shot, in open fight, if possible, from ambush if necessary, as their sires fought in the days of the Indian. Herein lies the secret of the long-continued, bloody internecine strifes which have made the dark and bloody ground of the Indian days more dark and more bloody.

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Herein we find the ready and clear explanation of the fact that many men of unquestioned integrity and honor were thrown into the vortex of bloody strife from necessity, to fight for preservation of themselves, their families, their firesides.

Immigration into these remote mountain regions was almost nil and intermarriage between the settlers became the rule. In this wise the population of any county comprised but very few distinct families. Everybody was of kin to everybody else, and therein we find the key to the difficulties encountered by courts in dealing with crime.

The murderer, if a member of a prominent family, was certain to have kinsmen among the officers. (We may as well use the present tense in speaking of this, for the same conditions exist to-day, though less pronounced.) His "family," man, woman and child, stand by him, aid his escape or his defence in the court house. If the criminal, conscious of the supporting influence surrounding him, disdains flight and boldly faces trial, the next move is to secure a jury which will acquit him. It often happens that those interested in the prosecution secretly come to an agreement with the accused and his friends to cease prosecution provided he and his in their turn would do the same to them in cases of their own. It is merely a case of "you scratch my back and I'll scratch yours." Citizens who love peace are loath to antagonize an outlaw clan so long as they or theirs are not directly concerned. They have no desire to assist officers in doing their duty, should these wish to do it. To indict men for crime is often a risky thing.

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The criminal who has succeeded in defeating justice grows more bold, continues to pursue his career with an enhanced contempt of the law, until, at last, the cup runs over, and men, good and true, rise above self, and for country's and humanity's sake take upon themselves the task of restoring peace and order, and summarily cut short the life cycle of the outlaw.

How far such organized bands of murderers have succeeded in overawing the constituted authorities, is illustrated by instances recorded in this volume, where the law, the government itself, actually compromised with the outlaws, promised, yea, granted them immunity from past crimes, only exacting a pledge of better behavior in the future. If a man had committed but one little murder, he was in some danger of a short term in the penitentiary. If he understood his business, instead of stopping at one assassination, he simply continued his murder mill in operation and the authorities would send special ministers and envoys to "treat" with him as a power entitled to respect. Exaggeration? No!^[3]

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Officers of the law have actually aided in assassinations, or stood idly by while murders were committed in their presence. Investigation has proven that in every feud-ridden section the entire legal machinery was rotten to the core, perverted to the end and purpose of protecting particular men and of punishing their enemies. Is it any wonder, then, that in such times and under such conditions preaching respect for law is breath wasted?

Sifting the matter down, we find that the chief contributing causes of these feudal troubles, wherever they have occurred, or may again occur, are due directly:—to inefficient, corrupt and depraved officials; to a want of a healthy moral public sentiment, through lack of *proper* education and religious training; to the fact that the law-abiding element of the feud-ridden counties had so long been domineered over by the criminal class and their parasites and supporters in secret, that they are incapable of rendering any valuable assistance in maintaining the law save in few exceptions, and these few so much in the minority that a reformation is not to be hoped for if left to their own resources; that during all the social chaos attending feudal wars the promiscuous, unrestrained and illegal sale of whiskey added fury, fire and venom to the minds and hearts of murderers. It dragged into the terrible vortex of bloody crime many not directly connected with the feud, but who took advantage of the disturbed social conditions, the state of anarchy, to satisfy their own vicious propensities without fear of interruption and punishment.^[4]

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The clannishness of the mountaineer has been the subject of much comment. The student of sociology must, therefore, be interested in learning that in a great measure the people of the Kentucky mountains descended from the same stock that formed the noted Scottish clans of old. One need only run over the names of the principal mountain families to recognize their Scot origin. The Scots love the highlands, and to the "highlands" of Kentucky many of them drifted. Scotland had her feuds—those of the Kentucky mountains are nothing more nor less than transplanted Scottish feuds, their continuation having been made possible by the reasons heretofore given.

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We believe it germane to the matter under discussion to add that not only feuds, but mobs and the like, are, and ever have been, the direct outgrowth of a lack of confidence of the people in their courts. The shameful nightrider outrages in the western part of Kentucky a few years ago, in a section which had boasted of a civilization superior by far to that of the mountaineers, where schools and churches are to be met with at every corner, were the outcome, so it is claimed, of the failure of the law to deal sternly with the lawless tobacco trust, the "original wrongdoer" in the noted tobacco war. If this were true, if this justified the destruction by incendiaries of millions of dollars' worth of property, brutal whippings, the indiscriminate slaughter of entire families without regard to age or sex, the butchery of little children (for aiding the tobacco trust, no doubt) then, indeed, is the mountaineer feudist also innocent of wrongdoing; more so, for he, at least, never made war upon suckling infants, nor have women suffered harm, except in one or two instances. Nor is the cultured Blue Grass citizen free to censure him, when he calls to mind the outrages of the toll-gate raids, or takes into account the numerous lynching bees,

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proceedings from which the mountains have always been practically free.

In view of all this we cannot go far from wrong when we say that the law's delay, the failure to punish promptly, impartially and severely its infractions, must shoulder the responsibility for all social disturbances, and this is true in New York, in the West, as well as in Kentucky.

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THE GREAT HATFIELD-McCOY FEUD.

Perhaps no section in the whole United States has ever been the scene of more crime and long-continued defiance of the law than that contiguous to the Tug Fork, one of the tributaries of the Big Sandy river, and which forms the boundary line between West Virginia and Kentucky, separating Logan County, W. Va., from Pike County, Ky.

Many feuds have been fought there, but none equalled in ferocity the bloody Hatfield-McCoy war, during which crimes of the most revolting nature were perpetrated. Indeed, it will be difficult for the reader to believe that the devilish deeds related in this chapter are actually true and did occur in the midst of a civilized country, peopled with Christian men and women, and governed (?) by wholesome laws. Yes, citizens of a common country fought a struggle to the bitter death without hindrance, if not with the actual connivance of those entrusted with the enforcement of law and the maintenance of order, who looked idly upon bloodshed. The flag of anarchy, once unfurled, fluttered unmolested for years. Had the feud broken out suddenly and been quickly suppressed, we should abstain from strictures upon high officials entrusted with the administration and execution of the law. But this American vendetta covered a long period, abating somewhat at times, only to break out anew with increased ferocity. Utter disregard for human life, ruthless, savage cruelty, distinguish this feud from all others and easily give it the front rank.

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To add to the horror of it all, came the bitter controversy between the governors of West Virginia and Kentucky, nearly precipitating civil war between the two States, and effectively paralyzing all attempts at concerted action looking toward the capture, trial and punishment of the outlaws, at least for a long time. That the feud is ended now is due largely to the fact that the material upon which it had been feeding for so many years, became exhausted through the pistol, rifle or the knife. But few died of disease, only *one* was hanged, perhaps the least guilty of them all, for he was a moral degenerate of such little intelligence that under other circumstances he might have escaped the gallows on the ground of mental irresponsibility. The leading spirits of the war were never punished, but rounded out their lives at home *unmolested*.

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The region along the Tug Fork is mountainous, and has not until recently come in touch with the outside world. Its inhabitants for many years knew nothing of schools, or churches. Ignorance prevailed to a truly astonishing degree. Courts exercised no authority; their decrees were laughed at and ridiculed. If a man thought himself aggrieved he sought redress as best suited him. The natives tried cases in their own minds and acted as executioners, using the rifle or the knife. When trials, in rare instances, were resorted to, they more often fanned the flame of hatred than smothered it.

The contending factions in this internecine strife lived on opposite sides of the Tug Fork, a narrow stream. Randall McCoy, the leader or head of the McCoy faction, resided on the Blackberry Branch of Pond Creek in Pike County, Kentucky. Near him, but on the opposite side of Tug Fork, in West Virginia, lived Anderson Hatfield, who had adopted for himself the nom-de-guerre of "Bad Anse" or "Devil Anse," the controlling spirit of the Hatfield clan.

Both families were large, extensively related throughout the two counties and composing the greater portion of their population. The McCoy's and Hatfield's frequently intermarried and thus it happens that we find McCoy's arrayed on the side of the Hatfield's and Hatfield's friendly to the Randall McCoy faction.

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While the feud proper did not break out until 1882, it is necessary to go back further. For the enmity between the Hatfield's and McCoy's dates back to the Civil War, during which the former maintained an organized company of raiders, ostensibly for the purpose of protecting property against invading marauders of either army. The McCoy's supported a similar force on the Kentucky side. These bands frequently encroached upon and entered each other's territory, resulting in clashes and bad blood, though both factions adhered to the same political party. After the war the older heads tried to maintain a show of friendship in their intercourse, but the younger generations allowed their passions a free hand. Difficulties grew in frequency; still no lives were lost.

A few razor-backed, long-legged, sharp-nosed porkers are the indispensable adjunct of well-regulated mountaineer families. In those days the farmer marked his hogs and turned them loose in the woods. They soon fattened on the abundant mast and were, late in the fall, driven home to

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be killed. If one of those marked hogs happened to turn up in the possession of another, woe unto him. Vengeance was visited upon him swiftly, though not as severe as in the case of rustlers in the West. A circuit judge of Kentucky once remarked, very appropriately, that a hog seemed of more value in his district than a human life. There was truth in this bit of sarcasm. More men have been acquitted of murder in Kentucky than of hogstealing. It seems ridiculous that a few of the unseemly brutes should have become the innocent promoters of a feud, but it is true. Innocent or not, the facts are against them. Sometime during the seventies one Floyd Hatfield, afterwards known as "Hog" Floyd, drove a number of hogs from the forests and confined them in a pen at Stringtown. A few days later Randolph McCoy of Kentucky passed the pen in question and upon examination of the animals claimed them as his property and demanded their delivery to him, which Hog Floyd refused to do. McCoy brought an action for their recovery. The trial was held at Raccoon Hollow, a little village some miles down the valley. Deacon Hatfield, Floyd's relative, presided. The McCoy's and Hatfield's attended the trial in force. Every man was armed. During the short trial many things occurred that convinced those acquainted with the characters of the men composing the factions, that bloody hostilities must result. Randolph McCoy made an impassioned speech to the jury, openly charging several Hatfield witnesses with perjury. Among those so accused was one Stayton who, incensed by the charge, attempted to strike his traducer, but was prevented by Randolph McCoy's son. McCoy lost his case. The Hatfield's exulted, jeered and sneered; the McCoy's returned home grumbling and threatening.

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Fists and rocks now gave place to the rifle and repeated long-range shooting matches occurred between the factions. When meeting in the forests, they treed and fought for hours with their old-fashioned muzzle-loaders and cap and ball pistols, without any appreciable result.

In 1880 occurred the first battle in which blood was drawn. It happened about a mile below the Hatfield tunnel, between Bill Stayton, Paris and Sam McCoy. They had met by accident. Stayton rightly guessed that the boys would show him no mercy after the many injuries and insults they had received at his hands. Instantly he leaped behind a bush, broke off the top of it, rested his gun in the fork of two limbs, took careful aim and fired. Paris McCoy fell heavily to the ground. Although severely wounded in the hip he managed to regain his feet and shot Stayton in the breast. The two then came together in a fierce hand to hand combat. Having thrown down their empty and useless rifles they fought with their hands and teeth, ferocious as wild animals. Paris' cheek was frightfully bitten and lacerated. Weakened from loss of blood and suffering excruciating pain from his wounds, he was about to succumb to the superior strength of his powerful adversary, when Sam McCoy, armed with a pistol, came to his rescue. He had been afraid to fire while the men were locked in their deadly embrace. Now came the opportunity and he sent a ball crashing through the brain of Stayton, who fell back and instantly expired. The body was found some days later.

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Suspicion at once pointed to the two McCoy brothers. Paris promptly surrendered himself to the authorities, and was given an examining trial before Magistrate Valentine (Val) Hatfield, who released him from custody. Sam McCoy fled to the hills, but after eluding the officers for a month or more was captured by Elias Hatfield, indicted by the grand jury of his county, tried and acquitted.

In the summer of 1882 it happened that a relative and friend of both factions ran for office in Pike County. The clans met on election day, August 7th, to work for their man.

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It was the custom then, as well as now, although the law has placed serious restrictions upon the practice, to supply voters with copious quantities of whiskey. A candidate who failed to do his duty in this respect was certain to lose many votes, if not the chance of election.

On the occasion in question "moonshine" liquor was plentiful. Both the Hatfield's and McCoy's and their adherents imbibed freely and during the day grew boisterous and belligerent. The immediate occasion for beginning a fight was furnished when Tolbert McCoy approached Elias Hatfield, commonly known as "Bad Lias," and demanded payment of an old debt. A quarrel ensued and the fight was on. "Bad Lias" got the worst of it.

The fight had attracted the attention of the friends and kindred of both men. Officers attempted to separate them without avail. Then "Big" Ellison Hatfield took a hand. Enraged and on fire with copious drinks of whiskey, he challenged the victorious Tolbert McCoy to fight a man of *his* size. Hatfield was a powerful man. Straight as an arrow, he stood six feet six in his stocking feet, and weighed considerably over two hundred pounds. The fight now went against McCoy from the start. He resorted to his knife and during the struggle stabbed Hatfield repeatedly and with frightful effect. Again and again he plunged the cold steel into the body of his adversary. Though horribly slashed and losing much blood, Hatfield yet retained strength. With a final effort he threw McCoy upon the ground, sat upon him, seized a large jagged stone, raised it on high to strike the fatal blow, when Phamer McCoy, who had been patiently waiting for the opportunity, fatally shot Hatfield with a pistol.

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It was also charged by the Hatfield's that Randolph McCoy, Jr., a youth of fifteen, had stabbed Hatfield once or twice.

As soon as Phamer McCoy saw the effect of his shot he dropped the weapon and sought safety in flight. He was pursued by Constable Floyd Hatfield and captured. Tolbert and young Randolph were also immediately arrested. The wounded Hatfield was removed to the house of one of his kinsmen.

The prisoners remained on the election ground under heavy guard, for some two hours. Then they were taken to the house of Johns Hatfield for the night. Tolbert Hatfield and Joseph Hatfield, two justices of the peace of Pike County, Kentucky, Mathew, Floyd and other Hatfields had charge of the prisoners. The father of the three, old Randolph McCoy, remained with them through the night.

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Early on the following morning the officers proceeded with their charges on the road to Pikeville, the county seat. Scarcely had they traveled half a mile, when they were overtaken by Val Hatfield, the West Virginia justice of the peace, and "Bad Lias" Hatfield, brothers of the wounded Ellison. They demanded of the officers that they return with their prisoners into the magisterial district in which the fight had occurred to await the result of Ellison Hatfield's wounds. The officers complied with the demand. Randolph McCoy, Sr., remonstrated, but was laughed at for his pains. He then started alone to Pikeville for the purpose of consulting with the authorities there. That was the last time he saw his three sons alive.

After being turned back by Val and Bad Lias Hatfield the prisoners were taken down the creek. At an old house there was a corn sled. Val directed the three brothers placed in it, and in that manner they were conveyed to Jerry Hatfield's house. Here Charles Carpenter, who, together with Devil Anse and Cap Hatfield, Alex Messer, the three Mayhorn brothers, and a number of other outlaws, had joined Val Hatfield and the other officers at the old house, procured ropes and securely trussed and bound the prisoners. In this condition they remained until they were murdered.

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At noon the crowd stopped at the Reverend Anderson Hatfield's for dinner. After the meal was over, Devil Anse stepped into the yard and there cried out: "All who are friends of Hatfield fall into line." Most of those present did so from inclination or through fear.

From there the prisoners were taken to the river and across into West Virginia to an old, dilapidated schoolhouse. Here they lay, tied, upon the filthy floor.

Heavily armed guards at all times stood sentinel over the doomed brothers. Cap and Johns Hatfield, Devil Anse and his two brothers, Elias and Val Hatfield, Charles Carpenter, Joseph Murphy, Dock Mayhorn, Plyant Mayhorn, Selkirk McCoy and his two sons, Albert and L. D., Lark and Anderson Varney, Dan Whitt, Sam Mayhorn, Alex Messer, John Whitt, Elijah Mounts and many others remained at or about the schoolhouse, awaiting news from the bedside of Ellison Hatfield.

Along toward night arrived the mother of the unfortunate prisoners, and the wife of Tolbert McCoy, to plead with the jailers for the lives of the sons and husband. The pleadings of the grief-stricken women fell upon deaf ears; they had no other effect upon these hearts of stone than rough admonitions from Val Hatfield and others to "shut up, stop that damned noise, we won't have no more of it."

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Night had fallen. The women were told to leave and thrust from the house into the inky darkness. It had been raining hard and the creeks were swollen. Wading streams, drenched to the skin, the miserable women felt their way through the dark, stumbling and falling along the road, or trail. Along about midnight they arrived at Dock Rutherford's house. Bruised, shivering, ill and shaking from exposure, fatigue, grief and terror, they could travel no further, and were taken in for the night.

Morning came and again they hastened to the improvised prison of their loved ones. There they were viciously taunted with the uselessness of their endeavor to obtain mercy. They were told that if Ellison Hatfield died of his wounds, "the prisoners will be filled as full of holes as a sifter bottom."

Along about two o'clock Val Hatfield curtly commanded Mrs. McCoy to leave the house and to return no more. She pressed for the reason of this order and was told that her husband, Randolph, was known to be at that moment attempting to assemble a crowd to rescue his sons. "Of course, you know," sneered the heartless wretch, "if we are interfered with in the least, them boys of yours will be the first to die."

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Mrs. McCoy denied the truth of the report, but her protestations were in vain. The two women saw themselves compelled to abandon the utterly useless struggle to save their loved ones and departed. It was the last time they saw them alive.

All along throughout their confinement the brothers had shown a brave spirit. Now they lost all hope of rescue as from hour to hour the band of enemies increased until a small army had assembled.

Through the open door they saw them sitting or standing in groups. Some were idly playing cards; others singing ribald songs or church hymns, whichever struck their fancy; all of them were drinking heavily. They heard an animated discussion as to the manner of death they should be made to suffer in the event of Ellison Hatfield's death. Some had suggested hanging; then one proposed that they make it a shooting match, with live human beings for a target. The idea was adopted by acclamation.

Along in the afternoon of the 9th of August, the third day since the wounding of Ellison Hatfield, the assembled band was suddenly startled and every man brought to his feet by the sounds of a galloping horse. Instinctively they realized they were about to have news of Ellison Hatfield. The

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stir among their guards had aroused the attention of the prisoners. They easily guessed its portent. It was not necessary to tell them that Ellison Hatfield was dead. His corpse had been brought to the home of Elias Hatfield, who, together with a number of others that had been waiting at the bedside of the dying man, now augmented the Hatfield forces at the old schoolhouse.

A mock trial was had and sentence of death passed upon the three McCoy brothers. These helpless, hopeless creatures, tied to one another like cattle about to be delivered to the slaughterhouse, were now jeered, joked and mocked. They were not told yet when they must die, nor where. To keep them in uncertainty would only increase their suffering and that uncertainty lasted to the end.

It is nine o'clock at night. They are taken to the river, placed on a flat boat and conveyed to the Kentucky side. Within 125 yards of the road, in a kind of sink or depression, the three doomed brothers are tied to pawpaw bushes.

Around them stands the throng of bloodthirsty white savages, reared in the midst of a Christian country, and from which every year go missionaries and fortunes in money to foreign lands to make man better and rescue him from savagery. But somehow this region had been overlooked. Not one voice is raised in pity or favor of the victims, an unfortunate man, a youth and a child. [Pg 43]

The monsters dance about them in imitation of the Indian. They throw guns suddenly into their faces and howl in derision when the thus threatened prisoner dodges as much as the bonds which hold him will permit.

Alex Messer now approaches closely to Phamer McCoy and deliberately fires six shots into different parts of his body. This is not an act of mercy, to end the man's suffering. No, he has taken care to avoid the infliction of any instantly fatal wound. Messer steps back, views the flowing blood and pain-distorted face and—laughs.

Ellison Mount, supposedly the most savage of them all, now proves more merciful. He carries a long-barreled, old-fashioned hunting rifle; he throws it to his shoulder, takes careful aim, and blows out the brains of Tolbert McCoy who, immediately before the shot fired, had thrown his arm to protect the face. The bullet penetrated through the arm into the head.

Only the little boy, Randolph McCoy, Jr., is left unharmed, as yet. Will they spare him? Some favor his release, one or two demand it. But this idea is hooted down upon the ground that he is as guilty as the others, and even if he were not, now that he knew the assassins of his brothers, it would be utter folly to leave such a dangerous witness alive to tell the story. "Dead men tell no tales," cries one of the heartless wretches, and impatient of the useless delay, approaches the boy and with a double charge of buckshot blows off his head. [Pg 44]

The entire band then fires a farewell volley into the bodies of the dead.

We said "the entire band." This is not correct. For one of the Hatfields had remained on the other side of the river. "The Bible condemns murder," he had said. But this good man volunteered to stand guard and prevent any interference or interruption of the butchery.

The foul deed accomplished, the murderers recrossed the river and entered West Virginia. Then Val Hatfield, the justice of the peace, this officer of the law, with solemn formality administered to the murderers the oath never to betray the name of a member of the band even should death stare him in the face. What is an oath to such depraved creatures? There, standing on the banks of the river, surrounded by that throng of midnight assassins, in sight of the spot that bore the frightful evidences of the dastardly work, Val Hatfield commanded them to raise their bloody hands to heaven. Each and all solemnly swore to stand by each other, never to reveal the secret of that night's work, asking God to witness their oath. What supreme blasphemy! [Pg 45]

After their return to West Virginia, parties who saw them and noted they were without the prisoners, asked what had become of them. Val Hatfield replied with a smile that they had "sent them back to Kentucky to stand the civil law."

As soon as the assassination became known, the brothers and relatives of the dead untied the torn and mangled bodies, placed them in a sled and conveyed them to their home.

Have we exaggerated in the telling of this story? Let us see. Years afterwards some of the assassins were brought to trial. During the hearing of the case against Val Hatfield, the West Virginia justice of the peace, Mrs. Sarah McCoy, the mother of the slain brothers, testified:—

"I am the mother of Phamer, Tolbert and young Randolph McCoy. They are dead. They were killed on the night of August 9th, 1882. I saw them on the Monday before that, at Floyd Hatfield's, while they were under arrest. The next time I saw them was over on Mate Creek, in Logan County, West Virginia, at a schoolhouse. When I got there, Val Hatfield was sitting by them with a shotgun across his lap. I was talking, praying and crying for my boys. While over at the mouth of Mate Creek I heard Val Hatfield say that if Ellison Hatfield died, he would shoot the boys full of holes. Tolbert was shot twice in the head and three or four times in the body. Phamer was shot in the head and ten or eleven times in the body, maybe more. The top of one side of the little boy's head was shot off. He was down on his knees, hanging to the bushes when they found him. Tolbert had one arm over his face. Tolbert was 31, Phamer 19 and Randall 15 years old. They were hauled home on a sled and buried in one coffin. [Pg 46]

“When Val Hatfield was sitting by them with a double barreled shotgun in his lap, the boys were lying on something on the floor, tied together with a rope. I fell on my knees and began praying and begging and crying for my children. Some one said there was no use of that, to shut up. Then some one came in and said that my husband was on the way with a large party to rescue his sons. I told them that there was nothing of it. They said for us to leave. Tolbert’s wife was with me. They said that if they were interfered with my boys would be the first to die.”^[5]

The day following the murder the coroner of the district, also a Hatfield, held an inquest in which the jury reported a verdict to the effect that the three McCoy brothers had been shot and killed at the hands of persons *unknown*.

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In affairs of this kind, where many men are engaged, men whose acts prove them without honor, without respect for law, man or God, truth comes to light in spite of oaths to reveal nothing. The parties had been seen with their prisoners by many people and had been seen returning to West Virginia without them. Neighbors heard the shots fired; saw the band of cutthroats, armed to the teeth, led by the brothers of Ellison Hatfield, the dead man. Aside from that, Mrs. McCoy and Tolbert McCoy’s wife had recognized and knew personally all of the men that guarded the boys at the schoolhouse. They had heard the threats repeated time and again that if Ellison Hatfield died, the boys would be murdered. The officers who had at first arrested them and taken charge of them, testified that at the house of the Reverend Hatfield’s the boys were tied, and that then they, the officers, were informed by Devil Anse, Val and Cap Hatfield, to “vamoose.” Twenty-three of the Hatfield clan were indicted in the Pike Circuit Court (Kentucky), each one charged with three murders. The indictments were returned into Court on the 14th day of September, 1882, but none of them was tried until seven years later.

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Although heavy rewards were offered for the apprehension of the murderers, not until years after the crime was it that an actor stepped upon the scene whose intrepidity and shrewdness finally led to the undoing of many of the murder clan. However, through the law’s delay, many other horrible outrages followed this one, and many lives were lost before an end was put to bloodshed.

Much speculation was indulged in, after the assassination of August 9th, why old man Randolph McCoy had made no attempt to rescue his sons. The explanation is simple. When he left them on the morning following the fight they were in charge of Kentucky officers and guarded. When turned back by Val and Elias Hatfield, he was told by these men that the boys should have an examining trial in the magisterial district in which the fight had taken place, that the witnesses for both the State and the defence would be more easily accessible there than if the trial were had at Pikeville many miles away. At the county seat McCoy conferred with lawyers and engaged them in the defence of his sons for the killing of Ellison Hatfield, should he die. He *could* not believe that Val Hatfield, a sworn officer of the law, would so far forget and violate his solemn oath of office so to condone or aid or to participate in such a wholesale butchery. Aside from this, the arresting officers, also Hatfields, would see to the safety of the prisoners, as it was their duty to do. He feared, too, that interference might endanger the safety of the sons and thought it best to remain passive. He placed his trust in the law. We have seen the result.

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After the indictment of the Hatfields they maintained their armed organization under the leadership of Devil Anse and “Cap,” his son. Devil Anse was a man of fine physique, tall and muscular, as were his sons, Johns and Cap. Randolph McCoy described Cap as “six feet of devil and 180 pounds of hell!” Neither of these men suggested the outlaw and the desperado. All of them possessed regular features, but the strong jaws, the rectilinear foreheads with angular, knotty protuberances denoted according to the physiognomist firm, harsh, oppressive activity. In their intercourse with friends they exhibited a jovial disposition and their eyes beamed kindly. But once aroused to anger there took place an instant metamorphosis. At such times Anse Hatfield justified the sobriquet “Devil” Anse. Then the glittering eyes told of the fires of rage and hate within, the veins in his forehead bulged and knotted and corrugated; the quivering lips, thin and straight, bespoke the cruelty of which he was capable of inflicting upon all who dared oppose him or his. His whole countenance at such times impressed one with awe and fear. It had that effect upon strangers ignorant of his record of blood. And—like father—like sons.

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Old man Randolph McCoy, at the time of the murder of his three sons, was sixty-three years old. He was by no means a strong man. His features wore a kindly expression. He was quiet in his talk, and one of the most hospitable citizens of Pike County. That he was brave, when necessity demanded it he had demonstrated on many occasions. But he was not, and never had been a bully, nor was he bloodthirsty. He made all possible efforts to effect the capture of his sons’ assassins and sought to punish them through the law. His efforts in this direction exasperated the Hatfields still more. Not satisfied now with eluding the officers, they assumed the offensive, invaded Pike County in force at any time they saw fit, harassed the McCoy family in every possible manner with the evident intention of eventually driving them out of the country, and to thus remove the main spring of the prosecution against them in the Pike County courts.

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Finding themselves baffled in this purpose, the death of the old man was decreed. In the month of June, 1884, the murder was scheduled to take place.

McCoy had been summoned to appear in court at Pikeville in some case. Of this fact the Hatfields had prompt information, for even in the county seat they had their spies and supporters. Knowing well the route the old man must take to reach Pikeville, an ambush was prepared at a suitable

spot.

A mistake saved the old man's life. Two of McCoy's neighbors, also witnesses at court, started for town on the same day. They were clad almost precisely as were Randolph McCoy and his accompanying son Calvin. Accident belated the McCoys and so they rode far to the rear of their neighbors who, on approaching the ambush at nightfall, were fired upon. In the fusilade both men were wounded, one of them crippled for life. Their horses were shot dead on the spot.

The assassins, confident that the hated old man McCoy was no more, returned to West Virginia, jubilant and rejoicing, celebrating the supposed death with a grand spree. We may imagine their chagrin and disappointment on discovery of the mistake and the consequent escape of the hated enemy. Discouragement, however, was a word not included in their vocabulary. Failure only spurred them to renewed and greater efforts.

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In 1886 the feud branched off. One Jeff McCoy, brother of the wife of Johns Hatfield, was accused of murdering Fred Walford, a mail carrier. Finding the officers hot on his trail in Kentucky he fled, and sought safety in West Virginia, at the home of his brother-in-law. Hatfield, formerly an active member of the murder clan, had, however, of late ceased to participate in their lawless raids. Although he had not forgotten his hatred of the McCoys, for his wife's sake he sheltered her fugitive brother.

Near Johns Hatfield lived Cap Hatfield, who had in his employ one Wallace. Jeff McCoy had been at the home of his brother-in-law but a short time when he became aware of the presence of Wallace at the farm of Cap Hatfield's. Trouble started at once.

As we have seen, attempts upon the life of old man McCoy had thus far proved abortive. Somehow, all the best-laid plans of the Hatfields had miscarried. Suspicion grew that there must be a traitor in their camp, and this became more strong as time rolled on, with the result that the wife and mother of one Daniels were accused of furnishing information to the McCoys. One night, while Daniels was absent from home, the house was surrounded, the door broken open and the two women were cruelly beaten. Mrs. Daniels subsequently died from her injuries; the old lady was rendered a cripple for life.

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Daniels' wife was a sister of Jeff McCoy, who had somehow secured information sufficient to regard Wallace as the instigator and leader of the outrage. He hunted for him high and low, but had lost all trace of him until, to his great joy, he discovered his whereabouts—at the home of Cap Hatfield.

On November 17th, 1886, accompanied by a friend, he went in search of Wallace. Cap Hatfield was absent; his wife lay ill in bed. When McCoy approached the house Wallace was busily at work in the yard. He was called upon to surrender. On looking up he saw himself covered by two guns. McCoy pretended to arrest him for the purpose of taking him to Pikeville for trial of the indictments returned against the assailant of the Daniels women. Wallace, however, readily surmised the true intention of his captors. He expected no mercy at the hands of the man who believed and knew him to be guilty of beating the sister to death, and attempted escape. On the first opportunity, while the vigilance of his captors had momentarily relaxed, he started to run, but was shot down, although not seriously wounded. He gained the house, barricaded the door, and through the window opened fire upon McCoy and his associate. These returned the fire, shot after shot they drove through the windows and door, for, at this time, the heavy repeating Winchester rifle had come into general use. While other modern inventions found no market there, the most improved guns and pistols might have been found in homes that had not learned the use of a cook stove.

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The fusilade continued for some time, but Wallace, in his fort of log walls, drove the enemies from the field.

Immediately upon Cap Hatfield's return Wallace was told to swear out a warrant against Jeff McCoy and his companion Hurley. The papers were taken in hand by Cap Hatfield, who had secured the appointment of special constable. He was not long finding the men. With his accustomed coolness he covered them with his guns, ordered Hurley to throw his weapon on the ground and to disarm McCoy. This capture of two armed and dangerous men single-handed proved the daring of Hatfield. He started for Logan Court House, W. Va., with his prisoners. On the way he was joined by Wallace, doubtless by previous appointment. Together they proceeded to Thacker, a small village on the way. There a short halt was made, and the prisoners were left to themselves. This opportunity McCoy used to cut the thongs that tied his hands by means of a knife held between his teeth. As soon as his hands were free he started on a run for the Kentucky side. He reached the Tug Fork, plunged into the stream and swam for life. But his captors were marksmen. He had reached the bank of the river on the opposite side and was climbing the steep slope, when a well-directed shot from Cap's gun tore through his heart and he fell dead upon his face.

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It was common knowledge that the opportunity to escape had been given him deliberately. Hatfield and Wallace enjoyed to the full the fruitless effort to escape death. It was sport, nothing more.

Hurley, strange to say, was liberated. Wallace escaped, but in the following spring was captured by two of Jeff McCoy's brothers, Dud and Jake, and delivered to the jailer of Pike. Before trial he broke jail and returned to Cap Hatfield, who supplied him liberally with money and a mount to aid his escape.

For some time thereafter all trace of him was lost. At last he was heard of in Virginia. Unwilling to turn his hands to honest labor, he had engaged in the illicit sale of whiskey. For this he was arrested and fined. In this wise his name became public and in the course of time his whereabouts became known back in Kentucky. Jeff McCoy's brothers offered a reward for his capture and two men started upon the trail of the much desired fugitive. Within a short time they returned to Kentucky and claimed the reward. Where was the prisoner? The answer was given by the exhibition of a bloody lock of hair—the reward was paid.

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Came the year 1887. Still not one of the twenty-three murderers of the three McCoy brothers had been apprehended, although they were frequently seen on the Kentucky side. Attempts to take them had been made from time to time, but the officers always found them in such numbers and so perfectly armed that an attempt to force their arrest would have resulted in much bloodshed without accomplishing the arrest.

Then Governor Proctor Knott of Kentucky took a hand and offered tempting rewards. His successor, General Simon Bolivar Buckner, renewed them, and issued requisitions for the twenty-three murderers upon the governor of West Virginia, appointing as agent one Frank Phillips to receive the prisoners.

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Weeks passed and no attempt was made on the part of the West Virginia officers to execute the warrants for these men so badly wanted in Kentucky, and, to the utter surprise and indignation of Governor Buckner, the West Virginia Executive, Governor Wilson, refused to honor the requisitions, assigning various reasons and excuses for his non-action.

Governor Buckner, the old "warhorse," as his friends and comrades-in-arms in the Civil War affectionately dubbed him, took the West Virginia governor to task for his lack of coöperation in the apprehension of the murderers. An exceedingly salty correspondence followed. The controversy grew so bitter that, for a time, a declaration of war between the two States would have surprised no one. And while the governors fought each other on paper, the murder mill ground on uninterrupted, the bloody warfare continued without molestation.

Now enters upon the scene Frank Phillips, Governor Buckner's Kentucky agent, to receive the persons named in the requisition upon the Governor of West Virginia. He was a deputy sheriff. Though of slight stature, he was as brave a little man as ever trod the soil of Kentucky, so noted for her brave sons. He was rapid as lightning, and would have made an ideal quarterback for any college football team. With all his bravery he was cautious, circumspect and shrewd. A terror to evil-doers, he was the general favorite throughout Pike County among the law-abiding citizens.

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An incident which occurred during the summer of 1887, illustrates the utter fearlessness of the little, keen-eyed deputy sheriff. Warrants for the murderers of the three McCoy brothers had been issued upon the indictments repeatedly and as often returned by the sheriff "not found," notwithstanding the presence of the fugitives on the Kentucky side on various occasions was common knowledge. Having so long remained unmolested, the Hatfields grew bold, and in 1887, took great interest in the Pike County election. Such was their contempt of the officers that as election day approached, the sheriff of Pike County was notified to instruct his deputies, that had warrants against them, to be certain and stay away from the voting precinct at which they, the Hatfields, would appear on election days, or, if the officers should attend, to leave the bench warrants for their arrest behind.

The election following the appointment of Frank Phillips as a deputy was one of deep interest to the Hatfields. Desiring to attend it, they sent word to Phillips to remain away, or to come unarmed and without warrants. He was threatened with sure death if he violated these injunctions. Frank, however, was cast in a different mold from that of his predecessors. He replied, in writing, that business demanded his presence at that election precinct on election day; that he would be there; that he would bring along the bench warrants, would come fully armed and that he intended to either take or kill them.

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The Hatfields were amazed at the nerve of the man, but finally came to regard it as an idle boast. True to his word, Phillips went to the election ground. The Hatfields approached within gunshot distance and fired a volley through the brush and bushes, stampeding all but some eight or ten persons. The plucky little deputy sheriff remained till late in the afternoon, but the Hatfields withdrew. Inspiring example of what a brave, determined officer may do and it proves that with all their contempt for law and order deep down in the hearts of outlaws there is the fear of retribution and punishment. The little man had called their bluff because he had *right* on his side, and the nerve to contend for that right, and wherever there is a genuine determination to put an end to outlawry, it can be done, it matters not how desperate and vicious the outlaws may be.

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Late in the fall of the same year Phillips, with three other men, crossed over into Logan County, W. Va., to receive the prisoners who had been arrested, as he supposed, on warrants issued by Governor Wilson after the issuance of the Kentucky governor's requisitions.

After crossing the line between the two States he, for the first time, learned that no warrants had ever been issued, at least that no arrests had been made or even attempted. Then something happened. He and his men suddenly came upon Selkirk McCoy, Tom Chambers and Mose Christian, three of the murder clan that slew the McCoy brothers, and who were included in the requisitions. The opportunity to nab them was too good to resist the temptation to capture them, even without warrants, and it was done. He hurried them back and across the line into Kentucky, served them with Kentucky bench warrants and delivered them to the jailer at Pikeville.

The rage of the Hatfields over this "unlawful" arrest knew no bounds. It was an outrage, and a shameful violation of the law, they cried. They sought an outlet for their pent-up indignation and decided to make another attempt upon the life of old man McCoy.

For this purpose the leaders selected the most dangerous and desperate members of the clan.

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At midnight, January 1st, 1888, this band of desperadoes, led by Cap Hatfield, heartless cutthroats all, surrounded the house of Randolph McCoy. On New Year, when every man and woman in the land should reflect regretfully upon the many follies and errors committed during the year gone by and good resolutions should fill every heart, on New Year's night this outlaw band prepared to and did inaugurate another year of bloodshed and of horror.

Silently, with the stealth of Indians, the phantom shadows moved about the doomed homestead. They were in no hurry. It was far from their intention to break into the house and with a few well-directed shots put an end to the old man whom they had sworn to destroy. No! Such a death would have been too quick and painless. He must burn; they must maim and torture. What mattered it that women were in the house. "They will serve him for company," chuckled the heartless Jim Vance. They must first be made to feel the impossibility of escape; to entertain their tormentors with their distress and horror. They must furnish sport, the sport the savages so much delighted in.

Within all was quiet. The inmates were all wrapped in slumber, utterly unconscious of the fate that was in store for them. Without, through the gloom of the cold January night, shadows flitted to and fro, busily attending to their hellish work.

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The McCoy homestead was a double log house, separating the two houses was a wide passage, and all under one roof. On one side of the building a match is struck. The next moment a pine torch casts a lurid glare into the darkness. The hand that holds it reaches upward and touches the low board roof. It sets it on fire in a dozen places. The family is suddenly awakened by the yells of exultation from the savages without. Shots pour into the houses through doors and windows. Calvin McCoy, the son, who slept upstairs, dresses hurriedly, grasps his rifle and cartridges and descends to the lower floor. He approaches the bed of his terror-stricken, aged mother, pats her gently on her cheek, cautions her to lie still, telling her to fear not, though in his heart he has no hope. He returns to his room and opens fire upon the outlaws.

His father, cool and undaunted, fights the flames devouring the roof from the loft. The water becomes exhausted. He resorts to buttermilk, of which there happened to be large quantities in churns. The fire is about conquered. An outlaw hand reaches up to rekindle it with another torch. Randolph McCoy takes up his gun, aims and shatters the hand that holds it. A curse and loud imprecations come to his ears, and tell him that the shot went true.

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In the room across the passage between the two houses slept the rest of the family, two daughters and two grandchildren. The unmarried daughter, Allifair, frightened and dazed, hears a knock at the door and opens it. She is requested to make a light. She replies that she has neither fire nor matches. The command is repeated; again she refuses to comply. Jim Vance, Sr., the grey-haired outlaw, commands Ellison Mount to shoot her. She prays for them to spare her, but their hearts were strangers to pity. Mount fires point-blank at her breast and she falls to the floor with a cry.

The mother from her own room across the passage hears the expiring scream of her child, the dull thud upon the floor. Oh, the horror of it! Surrounded on every hand by devils in human shape; the house on fire over their heads; the husband and son fighting heroically, but only prolonging the useless, inevitably useless struggle; in the other room lies the body of Allifair. She hears the others screaming for help. Will she dare to go to them? Yes. A true mother's love fears no dangers. Where men shrink back in fear and terror a mother will rush into the jaws of death to defend and save her offspring. She opens the door wide and is greeted with bullets. She cares nothing for their vicious hiss. She goes on. Already she has crossed half the space that separates her from her children, when she is confronted by the wretch Vance. He orders her to return to her room. Upon her refusal he strikes blow upon blow with the butt of his gun upon the head and body of the grey-haired woman and frenzied mother. She falls badly injured upon the floor. He kicks her into merciful insensibility.

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In the meantime, Calvin and his father had maintained a spirited fire upon the assassins that encircled the house. But the flames roar and feed unchecked. The smoke prevents good aim. Calvin is driven down-stairs by the heat and flames and acrid smoke. He suggests to his father to attempt a sortie. He remembers the corn-crib, a heavy log structure. He would attempt to reach it. Once there he might cover his father's retreat thither. Once there, they might yet drive their assailants off.

He opens the door and starts on his perilous journey, running with the swiftness of the deer to get beyond the betraying circle of light from the now fiercely burning homestead. He is seen and instantly shot at. Unharmful by this volley, he runs as he has never run before. The balls whistle above him, around him, and plow the dirt at his feet. Already he has covered more than half the distance, now three-quarters of it. Yet he is untouched. He is within three or four feet of the little house he strives so manfully to reach. At the threshold of the refuge he throws up his hands, staggers, sinks to his knees, rises to his feet again, then plunges heavily down upon the frozen ground, dead.

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After his son's fatal attempt to escape, old man McCoy grasped a double-barreled shotgun,

sprang from the door, discharged both barrels with telling effect into the gathered clan, and before they could realize what was happening their intended victim had disappeared in the darkness beyond the firelight, a darkness intensified by the glare of the flames, making aim impossible. Not a shot of the many vicious volleys that were fired after him touched him. Providence had once more decreed to spare the old man. But at what cost!

Finding that the main object of their hatred and vengeance had again been baffled, the assassins withdrew, leaving behind them their work of destruction, the burning home of Randolph McCoy; the old mother groaning, unconscious and dangerously wounded on the ground; the daughter Allifair lying in a pool of blood; the son Calvin dead at the corn-crib; the remaining children crazed with terror and sorrow.

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The house was rapidly burning to the ground. Before the murderers withdrew, they had carefully closed the doors and window-shutters with the avowed purpose of cremating the entire family yet in the house. The insensible mother they had dragged back into one of the rooms, that she, too, might perish by fire.

The sister of Allifair, immediately upon the withdrawal of the cowardly wretches, regained her courage and self-possession. She placed the body of her dead sister upon a feather bed and dragged it from the house. She then returned for her mother, whom she also rescued. The little grandchild, a boy seven years old, also exhibited heroism, for one so young, for when he ran from the burning home, which then, in fact, was momentarily threatening to fall in, he thought of his little sister. The little hero braved the fire, was swallowed up for a few minutes in the smoke, but emerged triumphantly leading the little cripple by the hand. Nor did the boy cry once, it is said, during that night of horror. The daughter ministered to the suffering mother as best she could. Barefooted, in the cruel cold of a January night, she gave no thought to herself. Her feet were badly frost-bitten. Not until daylight came assistance.

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The Hatfields had scored another victory. True, the man whose death they craved beyond all else, had escaped them, but they had broken his spirit. They had murdered, sent to eternity two more of his children and terribly injured, almost killed, his aged wife.

The blood of the victims cried out to God. This time not in vain, for retribution followed swiftly on the heels of the murderers. From this night on their star of success was on the wane. One by one they were struck down; one expiated his crime upon the gallows; others found opportunity and time for reflection on their past deeds within the narrow, gloomy cells of the State prison.

The news of the dastardly, cowardly, savage night attack spread like wildfire. Newspaper accounts of the tragedy were everywhere received at first with doubt and considered as the figments of imagination of sensation writers. East, West, North and South newspapers began to make inquiries. It seemed beyond the possibility of belief that such horrors could occur in our day of enlightenment, in a land which boasts of a superior civilization and culture, and arrogates to itself the proud distinction of the "first Christian nation in the world." As days passed, the story was verified. Its truth might no longer be doubted. Then followed a deluge of editorial comments. The authorities of Kentucky and West Virginia were mercilessly assailed for their failure to cope with crimes of such magnitude. Yet, even after this last horror, West Virginia refused to join hands with Kentucky in delivering the criminals to justice. The murderous clan continued unmolested and was free to commit new crimes, invading Kentucky at will, defying the entire legal and governmental machinery of that State. They felt secure with the governor of their own state apparently taking their part.

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Then Frank Phillips started out to do, on his own responsibility, what West Virginia should have done. Kentucky had done all that could possibly be done to settle and arrange matters through the regular channels of law and constitution. Nothing remained now but to act without the consent and authority of West Virginia and the redoubtable Frank Phillips, chafing at all this delay like a restless mustang, decided to act.

When the news of the night attack and assassinations of January 1st were brought to him, he threw all caution to the winds. He formed a band of trusty followers, men that, like himself, would do and dare.

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"If the governor of West Virginia is determined to continue the protection of his murderous pets, I will protect the citizens of Kentucky, or die in the attempt!" he declared. From that day there was no longer rest, peace or safety for the Hatfield clan of West Virginia.

Phillips had a system entirely his own. He quickly demonstrated his superiority of cunning and courage.

A few days were spent in equipping and organizing his band of raiders. Then swiftly they crossed the border into West Virginia and commenced their dangerous operations. Always on the move, they struck a rapid blow here and another there, always dashing upon the enemy at unexpected times and places. To describe those raids in detail would fill a book and furnish thrilling reading. But we shall select only a few incidents to illustrate the daring and determination of Frank Phillips and his devoted band.

On January 8th, 1888, Phillips ascended the steep slopes of Thacker mountain. Suddenly they came in sight of Cap Hatfield and the brutal, but desperately courageous Jim Vance, Sr. Hatfield at once saw the uselessness of engaging in combat and precipitately fled across the mountain on foot, escaping the bullets that were sent after him. Cap continued on his retreat without one

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thought for his pal. At "Hog Floyd" Hatfield's, Cap stopped long enough to secure a mount. From there he rode, at breakneck speed, without bridle or saddle, to the camp of his followers.

Vance, thus abandoned and alone, stood his ground. He opened fire upon the Kentuckians without a moment's hesitation. The near presence of his enemies infuriated this grey-haired man, grown old in bloody crimes, beyond measure. But one desire, paramount, possessed him, the desire to kill, kill, kill, as long as life remained in his aged body. To attempt escape never for a moment entered his mind.

He dropped behind an old tree stump and with vengeful eye drove shot after shot into the ranks of the astonished raiders, who were forced to take cover. Several of them had already been wounded. Vance, behind his natural rampart, remained unharmed. He laughed aloud, taunted his assailants with cowardice, and continued firing. His mortal hatred of the men before him inspired him to a heroism worthy of a better cause. At last a flank movement deprived him of the protection afforded him by the stump. His body now became exposed to fire from three sides, and a Winchester rifle bullet brought him to the ground. As he struggled to rise shot after shot penetrated him. Full of lead, wounded unto death, the blood streaming from his many wounds, he yet attempted to use his pistols. Then Phillips stepped forward and approached the dying desperado, the man who had given the heartless order to Ellison Mount to shoot the innocent Allifair, the heartless wretch that had pounded savagely the aged Mrs. McCoy and had laughed and tittered in the doing, the man who had incited Cap to the burning of the McCoy home and of all its inmates. Phillips raised the Winchester to end the outlaw's life. But the man was down. He could not do it. Vance saw his hesitation. He slowly raised upon his left arm and in his dying moments pressed hard upon the trigger of his Colt's pistol. Warned by companions, Phillips saw the motion and sent a ball crashing through the outlaw's brain.

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Immediately after Cap Hatfield's arrival at the camp of "Devil Anse" the entire available force was summoned and divided into detachments. Plans were discussed and perfected by which Phillips was to be enticed into an ambush and annihilated. This force remained under arms for many days.

About ten days after the raid of January 8th, which had resulted in the killing of Vance, Phillips suddenly appeared on Grapeville Creek, where he encountered the Hatfields in force. A severe battle immediately developed.

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The Kentuckians outnumbered the West Virginia outlaws. The latter, however, were on foot and had the advantage of position from the start. From it they fired upon Phillips with telling effect, killing and wounding many horses with the first volley. These, maddened with pain and frightened by the sudden fire, reared and plunged and threw the column into confusion. The keen eyes of Frank Phillips cast about for a spot of vantage and discovered a stone fence a few hundred yards away, affording a strong position. With his accustomed quickness of determining an action, he prepared to seize it. The command was given to dismount all those yet mounted. Bending their heads to the bullets, they rushed on and over and behind the stone wall. Only one of their number had dropped in the essay. Another assisted him to his feet, and all reached the wall in safety.

Now the tables were turned. Volley upon volley was fired into the ambushed Hatfields with the result that after two hours and fifteen minutes of long range fighting the outlaws retreated, taking along their many wounded, but leaving William Dempsey dead on the field.

In this battle the Hatfields fought with the best rifles that money could procure, heavy calibre Colts and Winchester rifles. The Kentuckians were armed less perfectly, about half of them using rifles and shotguns of the old pattern. Phillips and two others, only, fought with repeating rifles. It was due to this superiority in armament that the Kentuckians suffered such heavy losses in horses and wounded men.

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Among the most severely injured was Bud McCoy. Among the Hatfield wounded was Tom Mitchell, shot in the side; "Indian" Hatfield, wounded in the thigh; Lee White, shot three times. Many minor casualties occurred.

The battle of Grape Vine Creek was the last serious fight between the Hatfield outlaws and the Kentucky officers, although sporadic killings occurred at frequent intervals.

In the several forays made by Frank Phillips and his party nine of the outlaws were captured and landed in jail at Pikeville.

In the meantime the quarrel between the two governors continued. The correspondence between them was exceedingly pithy and acrimonious. We shall quote one or two letters from Governor Buckner of Kentucky to Governor Wilson of West Virginia, which will fully explain the attitudes taken by these two gentlemen in this matter.

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COMMONWEALTH OF KENTUCKY
EXECUTIVE DEPARTMENT

Frankfort, Ky., January 30th, 1888.

His Excellency, E. W. Wilson,
Governor of West Virginia.

On the tenth day of September last, in the discharge of what I conceived to be my duty as Governor of this Commonwealth, I issued a requisition upon your Excellency for the rendition of Anderson Hatfield and others, charged by indictment with wilful murder committed in Pike County, Kentucky, on the 9th day of August, 1882. On the 30th of September, 1887, said requisition was returned to me with a letter from your Excellency, calling my attention to a law of West Virginia, a copy of which you were kind enough to enclose, and which you seemed to think prevented a compliance on your part with my demand, until it should be accompanied by the affidavit indicated in the law above referred to. Without then stopping to discuss the correctness of your construction of the law in question, or its validity, even conceding your construction to be correct, the desired affidavit having been obtained was attached to said requisition, which was again enclosed to your Excellency on the 13th of October, 1887.

Having thus complied with every condition which your Excellency has indicated that should be necessary, I had every reason to suppose that steps had been taken for the rendition of the fugitives named, and I knew nothing to the contrary, until early in the present month, when I was advised by the authorities of Pike County that your Excellency had, for some cause, declined up to that time, to issue your warrant for the arrest and delivery of the parties referred to, and that, in addition to the crime for which they stood indicted, they had recently perpetrated other crimes of the most atrocious character in the same locality.

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Accordingly, on the 9th inst., I wrote your Excellency, advising you of the information which I had received, and requesting to be advised whether there was then anything which prevented the rendition of the criminals. In response to this letter I received, only a few days since, your letter of January 21st (1888) in which you did me the honor to state your reasons for not complying with my request, and in which, among other things, you say: "and although the application for the requisition does not appear to be made or supported by any official authority of Pike County, etc."

I confess myself at a loss to understand how your Excellency *could possibly know anything whatever about the character of the application made to me for a requisition in this case*. I did *not* attach it to the requisition enclosed to your Excellency, for the obvious reason that the law governing the extradition of fugitives *nowhere requires it*, or in any way intimates *that it would even be proper to do so*. On the contrary, it seems to contemplate, the papers being correct in other respects, that the Executive making the demand, must be the sole Judge of the circumstances under which it would be proper for him to issue his requisition. I, therefore, had no reason to suppose that your Excellency would feel it your duty to inquire into this point, especially as you had in your first letter, returning the requisition, given no such intimation.

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But if your Excellency desires to be advised as to that branch of the case, I certainly have no objections to telling you that the application for the requisition and rewards in this case was made by the County Judge of Pike County, indorsed by the Judge of the District Court, and urged by the Commonwealth's Attorney of the district, who was personally present when the application was presented.

In referring to Elias Hatfield and Andrew Varney, your Excellency is pleased to say: "The many affidavits of reliable persons showing that these two men were miles away at the time of the killing of the McCoys induced me to withhold, for the present, the warrant as to them, believing that when your Excellency was made acquainted with the facts their rendition would not be demanded." The indictment accompanying the requisition charges that these two men were present and aided in the killing; this being so, *I respectfully submit that the guilt or innocence of these men is a question which it is not the province of your Excellency or myself to decide*, but one which the court, having jurisdiction of the case can alone rightfully determine. And if, as you seem to suppose, the innocence of these two men can be so easily established, it would seem strange that they have not long before this voluntarily appeared in the court where they stand accused, and which is so convenient to their homes, and in which they might, if such be the case, be triumphantly vindicated against this grave charge.

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From my knowledge of the enlightened and upright Judge of the court in which they stand charged, I feel assured that they would be awarded a speedy and fair trial; but if they think otherwise, and have fears, either as to the impartiality of the Judge, or as to the prejudice of the community in whose midst they are to be tried, they can, under our laws, not only swear off the Judge, but can, on proper showing, easily obtain a change of venue to another county in which no prejudice whatever exists. Under these circumstances, your Excellency can readily see that they would, in any event, have no difficulty whatever in obtaining a fair and impartial trial.

Before receiving your letter I had been fully apprised of the efforts on the part of P. A. Kline to secure a withdrawal of the requisition and rewards in this case; in fact, the cool proposition made to me by the indicted parties through their attorney, to the effect that they would obligate themselves not to come again into Kentucky, provided I would withdraw the requisitions and rewards named, was endorsed by Mr. Kline, who had previously shown an active interest in their apprehension. But this proposition, I, of course, declined to entertain, much less to agree to; and even admitting the truth of the

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affidavit enclosed by your Excellency, which charges in terms that the friends of the indicted parties succeeded in bribing Kline, their former enemy, to urge the acceptance of their proposition, I cannot see why this should cause your Excellency to hesitate about issuing your warrant for the rendition of these parties to the proper authorities, upon whose application the requisition was issued, and whose conduct is not even questioned. Indeed, it seems to me that the questionable means which the friends of the indicted parties have been employing to secure a withdrawal of the requisition and rewards of this case ought, of itself, to induce your Excellency to regard with suspicion the efforts which they seem to be making to prevent the issuing of your warrant for their apprehension and delivery.

My information as to the history of these troubles, briefly stated, are as follows: On the 9th day of August, 1882, Anderson Hatfield and twenty-two other desperate characters of Logan County, West Virginia, residing near the State line, crossed the river into Pike County, Kentucky, arrested three sons of Randolph McCoy, and having tied them to trees, deliberately shot them to death. It was for this cruel and inhuman murder that the parties named in my requisition were indicted in the Pike Circuit Court, three separate indictments having been found against the parties named for the murder of the three McCoy brothers, respectively; though it is possible that only one of these indictments was attached to the requisition issued upon your Excellency on the 10th day of September last.

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So far from "no move having been made in this matter for more than five years after the finding of the indictments," as stated by your Excellency, the fact is, that bench warrants have been all the while in the hands of the officers of Pike County, in the hope that these parties, who lived near the State line, and were frequently seen in Kentucky, could be arrested by the authorities of the State without the necessity of applying for a requisition upon the Governor of West Virginia; and my predecessor at one time offered a reward for those who were supposed to be most responsible for the murder. But the indicted parties, knowing the efforts which were being made for their arrest, though frequently seen in Kentucky, always came in crowds, well armed, so that it was impossible to arrest them before they could return to the West Virginia side of the river. They have, on several occasions, while in Kentucky, *unmercifully whipped defenseless women* and inoffensive men, whose only provocation was some alleged remark in disapproval of their lawless conduct.

The names of the various persons, who, at different times, have been thus brutally assailed, and the circumstances connected therewith, have been furnished me, but it is not deemed necessary here to mention them in detail.

Finally, on the 10th day of September last, upon the application of the local authorities, as heretofore indicated, I issued my requisition for all the persons named in the indictment for the murder of the McCoy brothers, and offered suitable rewards for four of the number, represented as being the leaders of the party and most responsible for their conduct.

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Thus matters stood until the latter part of December (1887), when Frank Phillips, named as agent in the requisition for these parties, having sent the required fee, and being unable to hear anything from your Excellency, went into West Virginia in company with two others, and without any disturbance or conflict of any kind, succeeded in capturing Tom Chambers, Selkirk McCoy and Moses Christian, three of the persons named in the indictment for the murder of the McCoy brothers, who were brought to Kentucky and lodged in the jail of Pike County. This so incensed the Hatfield party that on the night of January 1st (1888) a company of twelve men, headed by Cap Hatfield and James Vance, Sr., came from West Virginia into Pike County (Kentucky) and having surrounded the house of Randolph McCoy, the father of the three McCoy brothers, who had been murdered in 1882, commanded him to surrender, saying they were the Hatfield crowd. They then forced their way into a room where the daughters were sleeping, shot one of them through the heart, and set fire to the house. The old man and his son, Calvin, seeing that they intended to kill them, made the best defense they could, but the flames soon drove them from the house.

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The son, in his efforts to escape, was riddled with bullets, and the old man, who ran in an opposite direction, was fired upon by several of the party, but escaped unhurt. His wife, had, in the meantime, come out of the house and begged for mercy, but was struck on the head and side with a gun, breaking her ribs and knocking her senseless to the ground, after which she was thrown back into the house to be burnt, but was dragged out by her daughters as they left the burning building. Some days thereafter, twenty-six men armed themselves and went into West Virginia in pursuit of the perpetrators of this atrocious crime, and on reaching the house of Anderson Hatfield, so far from abusing or mistreating his wife, as has been represented to your Excellency, they treated her kindly, and at her request left some of their party there with her to quiet her fears; but after leaving there in search of the men, they were fired upon by James Vance, Sr., Cap Hatfield and others, and in the fight which followed, James Vance, Sr., was killed, having on his person when killed two pistols and a repeating rifle. Old Randolph McCoy was not with this raiding party, as has been represented to your Excellency, but was at that time in Pikeville, Kentucky, as the citizens of that place

will all testify.

The pursuing party then returned to Kentucky, and being reinforced by ten additional men, went the next day and succeeded, without the firing of a gun, in capturing six more of the men indicted for the murder of the McCoy brothers, in 1882, bringing them back to Kentucky, where they were lodged in the jail of Pike County.

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Eight or ten days thereafter, Frank Phillips and eighteen others went again into West Virginia in pursuit of the remaining parties, belonging to what is known as the Hatfield crowd, and only a short distance from the State line were met by Cap Hatfield, Anderson Hatfield and ten armed men, who fired upon Phillips and his posse from ambush before they were aware of their presence. Phillips and his party returned the fire, killing Dempsey and putting others to flight. Phillips and his party then returned to the Kentucky side, but went back on the following day, and as to what has since occurred I have no information.

The foregoing account, which differs so widely from that received by you, was obtained from the County Attorney of Pike County, who claims to have taken great pains to ascertain the real facts, and who seems to have no doubt about its correctness; but I, of course, understand how difficult it is to arrive at exact facts in an affair of this kind from the statements which he may have heard from the parties on either side. I regret exceedingly that any portion of the citizens of Pike County should have attempted, under any circumstances, to arrest citizens of West Virginia for crimes committed in the State without first obtaining the requisite authority therefor. I am satisfied that Frank Phillips, the agent appointed by me to receive the fugitives named in my requisition, is not the murderous outlaw your Excellency seems to suppose; but as he has undertaken to arrest some of the parties in West Virginia, without your warrant, and is, therefore, objectionable to you, I will, when your Excellency indicates your readiness to surrender the persons demanded, take pleasure in designating another agent for that purpose.

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Your obedient servant,
S. B. BUCKNER.

Governor Wilson still refused to honor Kentucky's requisition for the indicted outlaws, asserting that the requisition of Governor Buckner had been and was being abused and prostituted for base purposes; that a warrant issued by the Governor of West Virginia would be used for the same purpose. He would withhold the warrants for more positive proof, maintaining that a warrant issued by him before the return to the State of West Virginia of the persons kidnapped in his State and thrown into prison in Kentucky, would be construed as a ratification of acts of lawlessness on the part of Kentucky officers, which neither the peace nor the safety of his people could permit or approve of. "Instead of the Phillips raid into the territory of a sister State being allowed to stand as examples for the invitation of like occurrences, I am impressed with the belief that they should be made examples of judicial determination, which would discourage their repetition either to or from this State." Governor Wilson further announced that he had instituted proceedings in the United States Circuit Court for the District of Kentucky for a settlement of the questions involved.

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Comment on this attitude of West Virginia's chief executive is unnecessary. Yet we feel that a few paragraphs of Governor Buckner's response are in place.

"Your Excellency," answered Governor Buckner (in part), "seems to have forgotten that, long before any of the Phillips raids referred to had occurred, a band of armed men from West Virginia came into Pike County, Kentucky, violently seized three citizens of the State who were at the time in custody of the local authorities of that county, forcibly took them to West Virginia, and after detaining them there for some time, brought them back to this State and deliberately shot them to death; that, as early as the tenth of September last, I demanded the rendition of the persons who then stood indicted in the courts of this State for the perpetration of this atrocious crime; and that it was not until *after* your Excellency had refused to surrender any of the persons so demanded, and until *after* said persons, or a portion of them, had committed other crimes of the most cruel and revolting character, upon unoffending men and helpless women in this State, that Frank Phillips and other citizens of Pike County, were guilty of the acts of violence and bloodshed complained of.

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"If Frank Phillips and other citizens of this State have been guilty of crimes against the laws of West Virginia, however great their provocation, I quite agree with your Excellency that 'they should be made examples of judicial determination' and up to this time there has certainly been no refusal, upon a proper demand, to surrender them to the authorities of West Virginia for that purpose. On the other hand, however, your Excellency has, for months past, steadily failed and refused to surrender any of the persons who stand charged, by indictment, with the perpetration of the most atrocious crimes against the laws of this Commonwealth, although the demand for them is accompanied by every requirement which your Excellency has indicated that you thought necessary. And you now indicate that you will not in the future surrender any of the persons thus demanded until certain citizens of West Virginia, who you think, are illegally detained in this State, shall be released from custody and set at liberty.

"With all due respect I fail to see that the 'honor' of your State will be maintained, or that the 'peace and safety of its people' will be preserved, by a refusal on your part to surrender persons charged with the most flagitious crimes against the laws of this State, simply because certain citizens of this State, acting on their own motion, and without the knowledge or approval of the authorities of this State, have, in a violent and unauthorized way, *done that which it was the duty of your Excellency to have done* in the manner required by law; or because I have not felt authorized to interfere with the administration of justice by one of the coordinate branches of State Government, by attempting to release prisoners over whom I had no control whatever. On the contrary, I respectfully submit that the honor of both States can be better maintained, and the peace and safety of their respective citizens can be better preserved, by a prompt rendition of the persons charged with the perpetration of crime in either State, in all cases where such rendition is demanded in the manner prescribed by law" etc.,

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For complete correspondence and exhibits filed therewith, see Documents (Ky.) 1888, No. 1.

Immediately upon the institution of proceedings in the United States Circuit Court for the District of Kentucky, the prisoners captured by Phillips and his men were removed to the Louisville jail pending trial. A great legal battle followed. Kentucky was ably represented by General P. Watt Hardin and former Governor Proctor Knott. The best counsel of West Virginia represented the interests of that State.

Phillips was charged with kidnapping citizens of another State and was taken in charge by the United States marshal. Phillips, on the stand, assumed personal responsibility for all his acts, and exonerated Governor Buckner from any connivance therewith.

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The case was argued at length for days. Judge Barr, who presided, decided, in an exhaustive opinion, that the Court had not jurisdiction. The prisoners were therefore returned to the Pike Circuit Court to be tried there for their crimes.

As a matter of retaliation Phillips was indicted in West Virginia with kidnapping citizens of that State without warrant or authority of law. After a long continued legal battle the redoubtable raider, the captor of as dangerous and desperate a lot of men as ever trod American soil, won his fight in the courts as he had won the many battles with the outlaws.

For years afterwards Phillips traveled in West Virginia wherever he desired. Although the Hatfields did their "trading" at Matewan, W. Va., he visited that town frequently and alone, though always well armed. None ever molested him. It is significant, however, that the Hatfields and Phillips were never seen in that town on the same day.

For some time no further arrests were made or attempted to be made with the result that those of the Hatfield clan who had never been arrested, again issued forth from their hiding-places and appeared more boldly. Kentucky officers had long and patiently waited for an opportunity to apprehend Bill Tom Hatfield, for whom there was a large reward. Learning that his partners in crime, Devil Anse and Cap Hatfield, remained at home unmolested, he, too, had returned to the scene of his evil deeds. The officers kept a sharp eye upon him, however, and succeeded in deceiving him near the Kentucky line, the scheme being accomplished through a pretended friend of Bill Tom Hatfield. When he reached the spot designated, he was surrounded and disarmed. The officers attempted to cross into Kentucky. But before they could do so, the news of the capture had spread into the Hatfield neighborhood. A strong force rushed to the rescue of the prisoner. Sheriff Keadle of Mingo County, W. Va., being near, summoned a posse and started in pursuit. He prevented a bloody encounter by prevailing upon the Kentuckians to release their prisoner. The Hatfields, of course, accused the McCoy's of being at the bottom of this affair, which the latter stoutly denied.

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Bill Tom Hatfield was, however, later in the year, again taken and finally convicted for his participation in the murder of the three McCoy brothers.

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After the return of the prisoners from Louisville to Pike County a number of the parties were put on trial. Ellison Mounts was sentenced to hang for participation in the murder of Allifair McCoy during that infamous night attack, while Johns Hatfield, Valentine (Val) Hatfield, the "Justice of the Peace of West Virginia," Plyant Mayhorn, and others, were convicted to the State penitentiary at Frankfort, Kentucky, for life.

Val Hatfield set up the remarkable defense that the brothers were killed on the Kentucky side, and that at the time of the *shooting* he was on the West Virginia side. This was the gist of his appeal to the Court of Appeals of Kentucky. This Court, however, in a very pithy opinion, among other things said, confirming the judgment of the lower court:—

It is not pretended here that the State could enforce its laws beyond the State boundary, but it is well settled that if either of the appellants had stood on the West Virginia side and shot the deceased in Kentucky, the offense would have been against the laws of Kentucky. (I Bishop on Criminal Law, III.) Regarding the appellants Mayhorn the Court expressed itself in emphatic language, when it said:

"The law has been enforced in this case, and in its administration the appellants (defendants in the lower court) can truly say to the jury that in inflicting punishment by

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imprisonment for life 'it has tempered justice with mercy.'"

The Kentucky Appellate Court affirmed each and every one of the cases appealed.

Ellison Mounts, sentenced to die on the gallows for shooting and killing Allifair McCoy, appealed on the ground that he pleaded *guilty* to the charge, and having done so he was entitled to a sentence of confinement in the State prison instead of hanging. It was claimed for him that the State, in introducing the wife of Randolph McCoy, so brutally beaten that night of January 1st, 1888, had taken unfair (?) advantage of his condition and that, therefore, the case should be reversed. As in the other cases, the Court of Appeals refused to disturb the judgment of the lower court, maintaining that all the authorities agreed that unless a tacit agreement between the State and defendant had been entered into to reduce the punishment, the State had a right even under the plea of guilty to introduce testimony *illustrating the atrocity of the crime*.

On February 19th, 1890, Ellison Mounts was hanged. For some time previous to the day of execution the sheriff had on duty a guard of from fifty to seventy-five men, armed to the teeth, and in addition had appointed and sworn an additional force of some twenty deputy sheriffs for the special occasion. Repeated reports had come to Sheriff Mayward that the Hatfields of West Virginia would attempt a rescue. In view of what had transpired in the past, the precaution of the Kentucky sheriff was entirely warranted.

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On the day of the execution the largest crowd ever brought together in Kentucky on a similar occasion assembled at the little country town of Pikeville, careful and conservative estimates judging the number to have been nearly eight thousand. They came from all directions, on horseback, on foot, in wagons drawn by oxen. They came long before daybreak and from that time on until the time of the execution, after noon, the stream of visitors poured into the town. Little children even were brought along by mothers who had come to see the hanging with an eagerness with which they would have attended a circus. Is it not strange how morbidly curious most of us are? How we jostle each other so as not to lose a glimpse of misery or death? Not strange, after all—the savage of the stone age is not yet eradicated from our natures.

While the crowd collected, an incident marred the generally peaceable behavior of the mass of people. Frank Phillips was "in his cups." With a revolver in each hand he walked the streets of the town, announcing that he had run the Hatfields down and that now he proposed to run the town of Pikeville. Sheriff Mayward remonstrated with Phillips, who showed fight. A number of deputy sheriffs soon disarmed him and the trouble passed without serious casualty. In the scuffle the sheriff had been severely injured. As soon as he recovered from the shock he called the guards and from that time on matters progressed without any other interruption.

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At that time executions were public, not behind walls or enclosures as now. A mile and a half from the town, in a natural amphitheatre, the old-fashioned gallows had been erected. The hills overlooking the scene were black with people. A few minutes past twelve the sheriff repaired to the jail and read the death warrant. Keen-eyed guards scanned the people around to detect any possible attempt at rescue. None was made. The condemned criminal listened to the reading of the warrant with the same stoicism that had marked the commission of his crimes. He claimed conversion, and hoped that "all men and women would lead good lives and to meet him in heaven, where he was going."

A short time after one o'clock his lifeless form dangled from the gallows-beam. Ellison Mount had ceased to be a dread to humanity. Ignorant as the savage of interior Africa, he had no conception of the magnitude of his crimes. A criminal by nature, he was easily influenced to obey the command of those who used him as a tool. Shedding human blood was a pastime with him. However, according to orthodox teaching, he consorts now with the saints. A life of crime seems to have some compensation, after all.

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Many of the criminals being still at large, wanted in Kentucky or elsewhere, the Eureka detectives now took a hand. Among these were A. W. Burnett, W. G. Baldwin, Kentucky Bill, Tom Campbell and Treve Gibson. To the credit of these brave men be it said that they apprehended many of these outlaws to answer for crimes other than those recited in connection with this feud. They effected the capture of John Norman, Joe Frank Smith and John B. Dodson, all of whom were put on trial before Judge T. H. Harvey in Logan County, West Virginia. Johns and Cap Hatfield went West for a time, and, though hounded from place to place, Cap was never caught. Johns Hatfield afterward served a short term in the State penitentiary at Frankfort for participation in the night attack on the McCoy home and murder of Allifair and Calvin McCoy. Life's cheap, isn't it?

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The feud was at an end. Some years later, however, in 1896, Cap Hatfield, still at large, residing unmolested in West Virginia, committed a triple murder under circumstances quite in keeping with his former record of bloodshed. While this killing is only indirectly connected with the feudal troubles, an account of it and the attempted capture serves, however, to illustrate the daring and recklessness of this outlaw.

On November 3rd, 1896, it being the day of the Presidential election, Cap Hatfield and his stepson, Joseph Glenn, whom he affectionately called "his boy," went to the voting place at Thacker, West Virginia.

Both were heavily armed with Winchester rifles of large calibre and braces of Colt pistols. They had been at the polls but a short time when they began a dispute with John and Elliott

Rutherford, two natives of that county, and who, according to Hatfield's story, had been members of the McCoy clan, and had fought with them in various battles against him and his relatives.

Cap Hatfield's menacing threats and flashing eyes boded evil. The Rutherfords, knowing well the desperation of the man in anger, attempted to leave the polls, when Cap Hatfield threw the gun to his shoulder and instantly killed John Rutherford. The "boy" fired upon Ellison Rutherford, who dropped to the ground, gasped and expired. Hence Chambers, a prominent citizen, rushed forward just as the lad fired. The boy, presuming Chambers to be a friend of the Rutherfords, turned upon him, fired, and the triple murder was complete.

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The murderers retreated very deliberately toward the mountains. Indeed, there was no necessity for hurry. Every man upon the voting ground appeared dazed, dumbfounded, paralyzed with astonishment and fear. The tragedy had started and finished so suddenly and unexpectedly that it was impossible to realize in a moment the magnitude of the crime. Even after the men regained their power of speech and action, pursuit was not thought of. No one dared attempt the arrest of the fugitives, knowing that it would result in more bloodshed, and there had been enough for one day.

But on the following morning, over one hundred armed and determined men answered the summons of Sheriff Keadle, and started on their perilous task to arrest the outlaws. This force was augmented by another, which, on the night following the tragedy, kept a close watch over the "Rock Fort," a retreat in mountain wilds, much in favor with the Hatfields when pursued by officers.

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During the night Deputy Sheriff Clark and one Daniel Christian were informed by a spy that the fugitives had stolen away from the fort and were going in the direction of Kentucky. Clark at once followed the trail indicated and located the two near the house of one of the Hatfields where they had gone for food.

Clark and Christian, in following the trail, on passing a large rock or cliff on the hillside, came upon the two men, who were fast asleep. Cautiously approaching, the officers recognized the murderers. The hazardous pursuit was at an end, and the capture effected without the shedding of blood.

The excitement attending the arrest of the criminals was great throughout the county. Officers feared mob violence. To avoid it the prisoners were taken to Huntington, but were returned within a few days to Mingo County and lodged in jail, which was heavily guarded.

Cap Hatfield's version of the tragedy is interesting and characteristic of the man. It was a total contradiction of the statements made by all the eye-witnesses.

Cap Hatfield said: "I believe it to have been a prearranged attempt to take my life. Rutherford was jealous of me years ago. Some two years ago he said I had done him an injury and demanded an apology. I told him I had not wronged him, but if he thought I had, I regretted it. He seemed to accept this explanation and I thought the matter ended. On the day of the killing he was quarrelsome and I avoided him, telling him that I had enough trouble in my time and wanted no more. Late in the evening Joe and I started for home. Rutherford renewed his quarrel and suddenly drew his revolver and began firing at me. I threw my gun up to get it in position and the first ball from his revolver hit here" (showing a heavy indentation on the underside of the heavy steel gun barrel). "The gun prevented the ball from entering my breast. He fired twice more before I could get my gun in position, then I fired my gun twice and drew my revolver. At the third shot he fell, and some one, Ellison Rutherford, I think, was firing on me from behind, and getting very close to me, as you can see" (exhibiting a nick in his left ear and a grazed place or scratch in the neck). "Chambers was shot by accident, I suppose. When I reached the railroad they were so hot after me I reloaded my revolver. Young Rutherford was shot purely in self-defense, either by me or the boy, I don't know which. We made for the woods."

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"Yes," he said, in answer to a question, "Clark and Christian got the drop on us. I was doing picket duty and sleep overcame me. The boy would have shot Clark had I not stopped him."

An organized band of the Hatfields attempted a rescue of the prisoners, but the celerity with which the officers acted, frustrated the attempt. Devil Anse Hatfield and others were arrested for this, taken to Logan County and placed in jail there, but were soon afterwards released.

Deprived of a leader, the famous clan dispersed and the country breathed freely once more. Although a reward had been hanging over Cap Hatfield for many years without effecting his arrest, the tragedy of November 3rd, at last brought him behind prison bars. But the good fortune, which always attended this man, did not leave him even in this dire extremity. He was tried on one of the cases, fined and sentenced to imprisonment in the county jail for one year. Two other indictments, both for murder, were still pending in court. He was to be tried on these the following term.

In the little county jail at Williamson, West Virginia, Cap Hatfield now posed as a hero, receiving his wife, friends and relatives daily. One evening he held a "levee" and was the gayest of the gay. His gayety was explained when, on the following morning, the jailer made the discovery that the man who carried eighteen scalps at his belt, was a prisoner no longer. At midnight the crowd of visitors at the jail had gone. At three o'clock in the morning Hatfield was in the mountains. A hatchet, given him by some of the visitors, did the work of liberation. A large hole through a sixteen-inch brick wall caught the attention of the village policeman, who gave the alarm.

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A crowd of men soon collected and started in search of the fugitive. It seems that Cap Hatfield, though getting off easy in one of his cases, was afraid to stand trial on the others, fearing a death sentence. But a few days before his escape he had remarked that he preferred death at the mouth of Winchesters to being made a show subject on the scaffold.

By noon of the following day the whole country was in motion. Like the gathering of the clans of old the sturdy citizens poured into the county seat and offered their services to bring back into the hands of justice the man who had for so many years defied the laws of two States. The county offered rewards, private citizens contributed to defray the expenses of the posse. Governor Atkinson of West Virginia promised aid; the State of Kentucky, through Governor Bradley, tendered assistance, and Virginia's executive declared that the outlaw should find no asylum in that State.

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The banks of the Ohio river were lined with armed men for many miles to prevent his escape into that State. It was generally believed that he would be apprehended within a day or two. But days passed and yet the outlaw had eluded his pursuers. He was no longer alone now. To his aid came his relatives, Johns, Elias and Troy Hatfield, Clark Smith, Henry Harmon and others, each heavily armed, and amply supplied with ammunition. Familiar with every nook and corner of that part of West Virginia, he was secretly assisted by other friends and henchmen, bound to him by ties of relationship or forced to render assistance through fear of incurring his enmity.

This condition aroused the entire State of West Virginia. On Wednesday the sheriff, with a considerable force of "militia," composed of men to be depended upon, again took to the mountains. Within three hours of their departure old Randolph McCoy came into Williamson, West Virginia. He was clad in the homespun of the country. His large-brimmed hat was adorned with a squirrel's tail. Carrying an old-fashioned, muzzle-loading rifle, he looked worthy of the comradeship of Daniel Boone or Kit Carson. Years before that, three of his sons had been foully murdered while being tied to bushes; some years afterwards another son and a daughter were shot down in cold blood, his wife brutally beaten, his home reduced to ashes, himself escaping only by a miracle, and now the old man is on the trail of one of the participants, if not the actual instigator of these outrages. He had come, said McCoy, to aid in the capture of "six feet of devil, and 180 pounds of hell," as he always described Cap Hatfield.

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Seven miles below Williamson, McCoy overtook Sheriff Keadle, and united with him. Stretching over as much country as possible, the force scattered and advanced in skirmish lines. Nothing was seen of the fugitive on that day. At night camp was made on lower Beech Creek. The posse was now in the very heart of the Hatfield country, on Cap Hatfield's native heath.

Some years before in this locality Charles McKenney, a cousin of the McCoys, a lad of only eighteen, had been riddled with buckshot by Cap Hatfield and two others.

During the night, after the moon had risen, guards reported a column of smoke further up on the creek. This was not unexpected. The stronghold of the Hatfields was on a decided elevation some four miles away. The smoke suggested that they were there. The rumor served to keep the camp awake until daylight, when the march was resumed, the posse heading direct for the old palisade. The advance was made with caution. When within a quarter of a mile from the "fort," the first glimpse of the outlaw was had. His oft repeated boast that if once he gained the mountains, he would turn his back on no man, proved idle talk. He and his comrades rapidly retreated toward another mountain stronghold. When the log cabin was reached it was empty. No time was lost here. The men, elated at being so close upon the outlaws' trail, marched with spirit and rapidity. The direction these had taken indicated that they were straining every nerve to reach the mountain crag known as the "Devil's Backbone." It is said that from this point, some years previous, Devil Anse Hatfield had fought single-handed a considerable force of men. It was then that the summit was christened and received its weird name, and where old man Hatfield won his "nom de guerre" of "Devil Anse."

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The mountains in this section are very steep to the southeast; Beech Creek cuts and winds through the hills until it empties into the Tug Fork. Huge walls of rock fringe the stream on each side. The strata is tilted until it stands on edge, a remarkable, interesting geological formation. Approach is impossible except from one direction. A slender footpath at that point clammers laboriously upward. At no place is there room for two men abreast. Two sharpshooters on top might successfully defend the place against a regiment. It was this stronghold that Cap Hatfield and his companions were so anxious to gain. He finally reached the foot of it, but at a loss. Old man McCoy was among the first of the attacking party, forging ahead with grim determination. Intuitively he seemed to know his old enemy's destination. McCoy and six or seven men at last separated from the main body of the sheriff's force and followed a cattle path. Sheriff Keadle pursued the other trail. It was along in the afternoon that the quiet of the forest hills was suddenly broken by a shot. Before another was heard, the armed posse was in a clearing which commanded a view for a mile or more toward the "Devil's Backbone." Nothing, however, could be seen except that the summit of the citadel was yet unoccupied. Then a white puff of smoke, followed instantly by a rapid fusilade, told that the battle had begun. McCoy and his party had intercepted the Hatfields. At that distance it was impossible to see the actors in the drama then being acted. Shot followed shot. Both parties were in ambush. Ever and anon old Randolph McCoy's rifle could be heard. Then there came a lull. By the aid of his field-glasses the sheriff saw that Hatfield was flanking McCoy. It was plain that the old man must either retreat or perish. But the old fox had not lost his cunning. He quickly saw the danger and effected a safe retreat, while the Hatfields stopped at the foot of the coveted fortress. It was seen that two of the

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Hatfield crowd were wounded.

The sheriff and his posse now pressed forward with speed. Within a few minutes they joined McCoy. It was almost dark, now, when the forces were once more united, and approached within range of the Hatfield guns. Bullets whistled and cut the twigs of limbs over the heads of the pursuers. The sheriff commanded his men to seek cover. Instantly every man "treed." Then began a fight after the fashion of Indian battles of old. The moment a body was exposed from a protecting tree, it was certain to become a target for many guns. Gradually, carefully, nevertheless surely the posse forged ahead, always under cover, yet advancing, concentrating and getting closer. Escape for the Hatfields seemed now impossible, unless they could put into effect one of their wonderful dashes which in the past had extricated them out of many dangers and difficulties. Cap Hatfield directed the fire of his men with utter disregard for their own safety. He seemed to bear a charmed life. The target of every sharpshooter in the sheriff's posse, not once did a bullet touch him. The Hatfield rifles did better execution. The posse, which had left Williamson the previous morning with flying colors and full of hope, was now decimated. Two of the deputies were fatally wounded and seven members of the posse more or less severely.

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As night drew near the battle ceased. The posse camped. A council of war was held. Some were for pressing on in the night. Others, with cooler judgment, suggested that it was safer to starve the outlaws into submission. The latter opinion prevailed.

Early on the following morning (Friday), there was a short but hot skirmish during which another of the posse was wounded. At noon the sheriff was reinforced by a force led by J. H. Baldwin. This man had, for some time, led the Hatfields a hard life. Ever on their trail, he either captured them or drove them from the country. Cap and his band were those who had given him the most trouble and had constantly eluded him, thus far. Now he had another opportunity to try conclusions with them. Baldwin was a splendidly courageous man, and a crack shot with the rifle. He at once took the lead. "When I was a boy," he said, "I smoked many a rabbit out of a hollow tree." With this remark he despatched two men to Williamson for a supply of dynamite. The besiegers sat down to wait.

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Late on Friday evening Baldwin "winged" one of the Hatfields. The man had attempted to reach water.

At nine o'clock Saturday morning, the dynamite arrived and preparations were made to place the mine. By eleven o'clock the work was complete, the match applied and the command given to retire.

Until now the besieged had apparently been in utter ignorance of what was being done. But the flashing of the train of powder leading to the dynamite, brought them to a full realization of their peril. Men sprang from cover and rushed hither and thither in full view. Cap Hatfield was seen to start for the path, heedless of the bullets that spitefully hissed about his ears. Then they made a sudden rush down the mountain. In this "sortie" three men went down. This convinced the rest of the uselessness of an attempt to escape by the path thus guarded. The trapped desperadoes returned to the "fort" and began to throw stones and bowlders upon the train of powder in the hope of breaking it. Then came the explosion. It sounded as though the mountains were slipping from their sockets. Pieces of rock and portions of trees flew in every direction. The atmosphere was surcharged with dust and smoke. When the air cleared at last, it was seen that more than half of the "Devil's Backbone" was torn up and blown down the mountain-side into a small arm of the Tug Fork, changing the course of the stream. Hatfield was still unharmed. In the excitement of the moment, Dan Lewis, Steve Stanley and Jack Monroe of the posse had left the shelter of the trees and were wounded. Another charge of dynamite was placed, and the besiegers retreated still further down the valley. The second explosion shook the earth—the Hatfields seemed doomed. But the moment the smoke cleared away rifle shots poured into the flank of Baldwin's men. Cap Hatfield had again successfully foiled the plans of his pursuers. His retreat had been made possible under cover of the smoke from the explosion. Thus the dynamite charge had effected nothing except the destruction of one of nature's unique works.

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The chase was renewed, and though hampered by the wounded members of his clan, he made his escape. The spectacular attempt to capture the famous outlaw bore no fruit save wounds for many of the posse. Cap Hatfield, the man who is said to have a record of having killed eighteen men in his life, was gone. He was never apprehended.

Some years ago he lived in Virginia, apparently peaceably, but engaged in the sale of whiskey, a vocation which is almost certain to get him into trouble again, as it did two of his brothers, Elias and Troy, during October, 1911. They were shot and killed in a pistol duel at Cannelton, W. Va., by Octavo Gerone, an Italian, with whom they had a dispute over saloon property. The Italian opened fire upon the two Hatfields, fatally wounded both, and was himself instantly killed, riddled with bullets from the dying men. When the brothers were found by neighbors, the expiring Troy Hatfield made the characteristic remark: "You need not look for the man who did this, he is dead."

Years ago the prophecy was made that "Devil Anse" would inevitably die with his boots on. But he has confounded the prophets. He still lives, from last accounts. The daring feudist, who, with his sons, defied the law and authorities of three States, for twenty years, the chieftain of as daring a band of outlaws as ever trod American soil, has more than lived his "allotted three score years and ten." He is approaching the nineties. But a few days before the killing of Elias and Troy, just mentioned, he was converted and baptized, declaring that henceforth he would lead a

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Christian life. It was high time, a resolution unfortunately long deferred.

Randolph McCoy also passed the four score mark. He seemed to have borne a charmed life. Marked for assassination a hundred times, he had always escaped bodily harm. But his heart almost broke when three of his sons were slaughtered in one night; his spirit was crushed when another son and a young daughter were foully slain, his aged wife was brutally beaten and the home burned.

After all, he had the questionable satisfaction of assisting a few of his tormentors to a temporary berth in the penitentiary. One and only one was hanged, Ellison Mount, the slayer of Allifair, and he was the gainer at last, for he went straight to heaven. So he said. Perhaps he knew, perhaps he didn't.

Somehow, it seems difficult to believe that murderers should have a monopoly of heaven. The murderers' band there must be very large. Let a man be sentenced to death for a heinous crime, let his attempt to obtain a commutation to imprisonment prove abortive, and straightway he repents and away he goes—to heaven, so 'tis said. His victim, snatched into eternity without the formal preparations which orthodox religion prescribes for candidates for heaven, must suffer an eternity of hell.

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They tell us "we shall know each other there." Will Randolph McCoy and his wife thrill with pleasure and be overcome with ecstatic spasms of happiness on beholding among the saints the slayers of four sons and a daughter? Will they join in the anthems warbled by these celestial birds, whose victims— But let that be. We did not mean to be irreverent. We simply cannot help differing from the approved and established conception of God's justice.

THE TOLLIVER-MARTIN-LOGAN VENDETTA. (ROWAN COUNTY)

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The royal murder at Serajevo was the spark that set the world on fire. It would be silly, however, to place the blame of the world war upon it. To find the real causes of the appalling tragedy one must go further back.

So it is with the great Rowan County war. There were many agencies at work that contributed, little by little, but none the less surely, to that state of anarchy which disgraced Rowan County and Kentucky during the eighties. The evil influences which initiated it were: Politics and Whiskey. A weak-kneed, yea, corrupt administration of justice permitted its continuation. The reign of terror which continued so long unhindered could have been crushed in its infancy with any sort of an honest, determined effort at law enforcement.

A verse or two of Mulligan's "IN KENTUCKY" finds excellent application here:

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"The bluegrass waves the bluest
In Kentucky;
Yet, bluebloods are the fewest (?)
In Kentucky;
Moonshine is the clearest,
By no means the dearest,
And yet, it acts the *queerest*
In Kentucky.

"The dove-notes are the saddest,
In Kentucky:
The streams dance on the gladdest
In Kentucky:
Hip pockets are the thickest,
Pistol hands the slickest,
The cylinder turns quickest
In Kentucky.

"The song birds are the sweetest
In Kentucky:
The thoroughbreds are fleetest
In Kentucky:
Mountains tower proudest,
Thunder peals the loudest,
The landscape is the grandest,
AND POLITICS—the damndest
In Kentucky."

In the long continued struggle which brought Rowan County into disrepute, many families of high reputation, men of wealth and influence, as well as men of reckless, undaunted, desperate character, were pitted against each other. Officers of the law, lawyers, judges and politicians of

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more than ordinary ability and reputation, quarreled, disputed and excited such unreasoning passion as to result in bloodshed. After that the dogged, stubborn determination of the different factions admitted of no other settlement of the controversy save by the arbitrament of arms, a war to the death.

Patrick Henry cried out before the Virginia Convention: "Gentlemen may cry peace, peace, but there is no peace." In Rowan County, too, men cried continually for peace, yet there was to be no peace until anarchy had almost depopulated the county and its name had become synonymous with outlawry. The only alternative left was to leave the country or fight. Some did leave, most of them remained and fought, fought with a courage worthy of a better cause.

The courts appeared powerless. The officers were themselves bitter partisans. The government of the State, when applied to for troops to assist in restoring order, sometimes refused aid, owing to a technicality in the law, and thus was precipitated the famous bloody battle at Morehead, in which many men were killed and wounded.

It may be well to add that Rowan County was not a remote, inaccessible region where civilization had made but little progress, as was the case along the border of West Virginia and Kentucky, the scene of the Hatfield-McCoy war. Good roads and railroad communication had introduced to Rowan County even then a civilization which should have made the bloody conflict impossible; it certainly made it inexcusable. [Pg 114]

It is difficult to produce a fair picture of the political upheavals and complications which eventually led to and resulted in so much bloodshed without going behind the actual outbreak of the feud. While this necessitates the narration of incidents of purely local interest, and may, therefore, not grip the interest of outsiders, a patient reading of it will develop the fact that it is indispensable to a true understanding of the history of this war, and also that it teaches a moral.

As early as 1874 political quarrels arose, engendering bitter hatred, between prominent, wealthy and influential men of Rowan and surrounding counties. At that time it was hoped and generally believed that the difficulties would be forgotten as soon as the heat of the political contests had abated. But as the years passed factional division grew more and more pronounced. Citizens who had theretofore held aloof from the disputes, were gradually and surely drawn into the vortex of strife. As is usual and unavoidable under such circumstances, many desperate, degraded characters attached themselves to the various factions. These would commit deeds for pay, from the commission of which the more circumspect employers of them shrank in fear. In such wars the hired assassin always finds lucrative employment. He becomes the blind tool of the coward with the money, and the greater the compensation the more horrible his crimes. [Pg 115]

The innocent but direct cause of the political struggle to which we must refer, was the Honorable Thomas F. Hargis, who, in after years, rose to the highest judicial position in the State. His father, before him, served in the constitutional convention of the State in 1849 and was a very distinguished Kentuckian.

When the great rebellion broke out, Kentucky soon began to suffer the distress and horrors of civil war. It at first declared its intention to remain neutral. Governor McGoffin refused to furnish troops to the Union army and attempted to enforce neutrality by maintaining a "Home Guard." This brought on many conflicts with the State Guards. It became at once apparent that the two bodies of troops were nothing more than partisans. The Home Guards often employed their military power and authority in harassing and mistreating actual or suspected sympathizers with the cause of the South. The State Guards, on the other hand, used their influence and made every exertion toward turning the tide of public sentiment in favor of the Confederacy. [Pg 116]

The sudden invasion of Kentucky by the federal troops was greeted with joy by the Home Guards, who made no attempt to repel it or to preserve the State's neutrality for which purpose they had been organized. The larger portion of the Home Guards, in fact, at once joined the Union army. The State Guards disbanded and a majority of them joined the Confederates. The division of Kentucky was now complete.

In the general rush to opposing armies we find Thomas Hargis donning the grey and fighting for the "Lost Cause" as captain until the close of the war.

Returning home, he studied law and was admitted to the bar. The date of this admission, an unimportant point it may seem, was nevertheless responsible for the internecine strife of after years.

In the year 1874, Captain Hargis, who had already won prominence as a lawyer of ability and sagacity, was nominated by the democratic party as its candidate for judge of the circuit court. Opposed to Hargis in this race was Geo. M. Thomas, afterwards United States District Attorney for the District of Kentucky. He was the nominee of the Republican party. The race was exceedingly hot and spirited from the beginning. The contest became bitter. It was charged by the friends of Thomas, among whom were not only the Republicans whose nominee and choice he was, but enemies of Hargis in the ranks of his own party, that he was not eligible to the office because he had not attained the requisite age, and that he was still further disqualified from holding the position of Circuit Judge because he had not been licensed as a lawyer for a sufficient number of years. These reports were industriously circulated against him. Appreciating the danger of such a rumor in a contest like this was, and knowing that only a prompt refutation and repudiation of the charges could prevent his signal and disastrous defeat, he hastened to obtain copies of the records of his age, and of the date of his admission to the bar from the records of [Pg 117]

the Clerk's office.

At the time of his candidacy Hargis was a resident of Carlisle, Nicholas County, but when admitted to the practice of the law had resided in Rowan County. So the records of his admission to the bar must be obtained there. He, therefore, went at once to Morehead and instituted an examination of the records, but to his consternation it revealed the astounding fact that the only record and evidence of his admission to the bar had been mutilated and destroyed; the pages containing them had been cut out from the books. Added to this was the unwelcome discovery that the family Bible had also been mutilated in so far as it contained the record of his age. The charges of ineligibility had been widely circulated and published in the newspapers and Hargis' inability to refute them for lack of record evidence now gave them the stamp and color of truth. The Republicans, and the personal enemies of Hargis among the Democrats, were jubilant, while his friends flatly and broadly accused Thomas' friends and supporters of the crime of stealing and destroying public records. This further increased the already bitter feeling. The friends of Thomas now charged that if any such records had ever existed Hargis himself had stolen and destroyed them. The result of it all was that Hargis was defeated by his Republican opponent, and this in a district theretofore always safely Democratic. The close of the contest brought out another truth no longer to be denied or overlooked. Every circumstance and condition existing after the election pointed clearly to the fact that something more than factional, political animosity, common in all hotly contested races for position, had been awakened and that in the hearts of many, malice had taken deep root. Each succeeding election only augmented the bitter feeling. Desire for revenge, and, what at first seemed but political excitement and zeal for the favored candidate, now caused friends of old to cancel their friendship and the most prominent leaders of the opposing factions regarded each other no longer as merely political, but as personal enemies.

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In the year 1876 the Legislature of Kentucky created a Circuit Court for Commonwealth proceedings alone, the new district being composed of the same counties as the old. Hargis again announced himself a candidate for judge of the newly-organized court. This time he was elected with an easy majority. He continued in this office, which he filled with signal ability, until in the spring of 1879, when an event took place which opened to him the road to still higher honors, and also still further fanned the flame of political and personal strife.

The event referred to was the vacancy created on the bench of the Court of Appeals as the result of a tragedy enacted upon the streets of the capital of the State, at Frankfort,—the assassination of Appellate Judge J. M. Elliott, by one Thomas Bufford. The tragic death of this able jurist horrified all Kentucky.

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His slayer pleaded insanity. The trial jury on first ballot stood six for conviction and six for acquittal on the ground of insanity. Finally, the verdict of the whole jury declared him insane. He was transferred to the Asylum at Anchorage where he remained but a short time. He escaped to Indiana where he remained because our requisition laws were then not sufficient to enforce his return to Kentucky.

Immediately after the death of Justice Elliott an election was ordered for his successor and Judge Hargis again became a candidate before the Democratic convention. A number of able and distinguished jurists opposed him before that body, many of these much older and experienced than he. In spite of the powerful opposition brought to bear against him, Judge Hargis again succeeded in obtaining the nomination, another proof of his political influence as well as of his talents and abilities as a lawyer and politician.

This last and most important success of Hargis aroused anew the malign hatred and envy of his numerous enemies in the camps of his own party. The old charges were renewed, remodeled, rehashed, renovated and added to, as the occasion demanded. The story of his wilful, felonious destruction and mutilation of court records was republished and more extensively circulated than ever. Newspapers, circulars, hand-bills and letters telling the story were scattered throughout the district, posted up at all public places, on fences and trees along the highways, thus increasing factional enmity to a dangerous intensity.

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Opposed to him in this race was Judge Holt, a Republican politician and lawyer of prominence, and of unassailable purity of character.

The contest between these men was waged with spirit with the result that the mantle of Judge Elliott fell upon Judge Hargis. During the canvass Judge Hargis, through the *Courier Journal* and other newspapers, had denounced the persons over whose signatures a number of the scandalous accusations and derogatory charges had been made, as liars, calumniators and villains.

Thomas M. Green, editor of the *Maysville Eagle*, also correspondent of the *Cincinnati Commercial Gazette*, had been most persistent in industriously keeping the disparaging accusations against Hargis in the columns of the Republican press of the country. Editor Green was, in consequence, singled out by Hargis in his card to the *Courier Journal* as the chief offender, assailing him in most bitter terms. Green applied to the law for redress and instituted suit for libel in the Jefferson Circuit Court at Louisville, asking for a large sum in damages.

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Early in the spring of 1880 the case came on for trial. Hargis waived all questions of jurisdiction which it had been expected he would use as a defense. He somewhat staggered his enemies by admitting responsibility for the article upon which the suit was based, and declaring his ability to prove the charges made against Green as true. The trial lasted for many months. It was minutely

reported in the press of the country and read everywhere. Even now the angel of good fortune did not desert Judge Hargis. He won the case.

During this period the controversy between Green and Hargis had very sharply aligned the friends and enemies in Rowan County. So complete was the breach that the thoughtful ones looked forward to open, actual hostilities. Hope of compromise disappeared as time passed.

A storm so long brewing is apt to accumulate extraordinary force. A fury long pent up will break loose with greater fierceness. The strife had penetrated every neighborhood, almost every household. Any public occasion, especially the biennial election, was looked forward to with dread. Minor political contests, waged in these elections, served to open old sores and to inflict new wounds, adding material for the spirit of revenge to feed upon.

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At that time the Australian ballot system had not yet been introduced. The *viva voce* system was in vogue, and bribery in elections was, therefore, much more common than it is now. Candidates practically bought their offices. The voter cast his vote publicly; it was recorded publicly, and cried out publicly. In this wise the buyer of the vote controlled the seller, and, very often, vote sellers were driven *en masse* to the polls like so many sheep, a cause of innumerable election fights.

Another successful instigator of trouble on election day was the free and promiscuous use of liquor with which candidates treated and influenced the voters. Election contests frequently excite the most staid and conservative citizens, but when whiskey is added it is certain to arouse passions which might, otherwise, have slumbered on.

Such were conditions in Rowan County on the day of election, August, 1884.

A hot political race was on between one S. B. Goodan, the Democratic nominee for sheriff of the county, and W. C. Humphrey, commonly known as Cook Humphrey, the Republican nominee. The county being almost equally divided politically, the contest was close. Each of the candidates was wealthy, influential and extensively related. Money was used without stint, barrooms were thrown wide open at Morehead, the county seat, and principal town of the county, as well as at most other precincts in the county.

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The town was crowded with excited, angry, drunken men and all through the day there were fist fights and brawls. During one of these, the prelude to the conflict which afterward attracted the attention of the American press, John Martin, son of Ben Martin, a wealthy farmer, was struck down and seriously injured. He immediately sprang to his feet, drew his pistol and a general pistol battle followed. When the smoke had cleared away, Solomon Bradley was found dead, Adam Sizemore severely wounded.

The death of Bradley, a good citizen, who had taken no part in the fighting, and the wounding of Sizemore and Martin proved of fatal consequences. Bradley was one of the most influential Republicans of the county. He and John Martin were members of the best families and extensively related even in adjoining counties. The Martins were known to be ambitious and brave men. It appeared that Martin received his wounds at the hands of Floyd Tolliver, a brother of Craig Tolliver, who afterwards attained such unenviable notoriety and bore the distinction of being one of the most cruel, bloodthirsty desperadoes Kentucky ever had the misfortune to own as her son, and whose tragic death on the day of the memorable battle at Morehead some years later was heralded throughout the country.

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John C. Day, the then acting Sheriff of Rowan County, was charged with the shooting and wounding of Sizemore.

The first blood had now been spilt; more was bound to follow. Even the most hopeful became convinced that a long and bloody conflict could no longer be averted. Those best acquainted with the state of affairs knew, and rightly predicted, that the law would not be invoked to settle the trouble and punish the offenders. "A life for a life" was the motto that henceforth governed the factions, now arrayed against each other in open, desperate warfare.

The wounding of Martin by Floyd Tolliver placed the latter and his friends and relatives in a dangerous position. They knew the Martins would not pass lightly over the matter. Their numbers and influence made them dangerous adversaries. Floyd Tolliver lived at Farmers, a small village on the Licking river, a station of the Chesapeake & Ohio Railway, which traverses the county and passes through Morehead. The Tollivers also were a large family. Floyd, believing himself in danger, now turned to his relatives and friends for assistance. They responded promptly, armed and organized. The Martins, the Sizemores and the Days did likewise, thus dividing the county into four factions, composed of determined, courageous and desperate men.

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During the Circuit Court following the murder of Bradley the grand jury returned indictments against John Martin, Floyd Tolliver and Sheriff John C. Day for malicious shooting and wounding and murder. Bail was granted, bonds were readily executed and the cases continued until the next term of court.

In December following the fight of August, 1884, Floyd Tolliver and John Martin, who had recovered from his wounds, came for the first time face to face outside of the court room and when not in custody of the officers, since their fight. They met in a barroom, a place never suitable for enemies to meet. Had both men been duly sober trouble might have been averted. But, flushed with liquor, the old grudge soon got in its work, a dispute arose, their hands reached

for their pistols, the shining weapons flashed for a moment, then belched forth fire and flame,—a cry, the dull thud of a falling body—Floyd Tolliver lay prostrate upon the floor—dead. [Pg 127]

Martin was immediately arrested and conveyed to the county jail. To his friends the killing was a shock. They were fully convinced that Craig Tolliver and the other brothers of Floyd Tolliver would seek summary vengeance. Grave fears were entertained for the safety of John Martin in the old jail. Rumors of the organization of a large Tolliver mob increased anxiety and apprehension with each fleeting hour. But, as much as the Tollivers were feared, and the more they threatened, Martin's friends bravely prepared to protect him at all hazards. Thus the aggressiveness of the Tollivers was counteracted by the bold defiance of the Martins.

The County Attorney, Mr. Young, was one of the ablest and most fearless Commonwealth lawyers in Kentucky. By his enemies, and they were numerous, he was regarded as wholly unscrupulous. They refused to credit him with even one pure thought, or action, emanating from a noble impulse. But unbiased investigation of the facts of this matter clearly shows that Mr. Young did his duty in this particular. He was perfectly acquainted with the character of the men arrayed against Martin, and was not the man to be deluded by their repeated declarations that the law would be permitted to take its course. At the risk of antagonizing the Tolliver faction against himself Mr. Young promptly directed the removal of John Martin to the Clark County jail at Winchester for safekeeping. County Judge Stewart saw the wisdom of it and issued the order for the removal, which was accomplished without mishap. [Pg 128]

As soon as it became known that their intended victim had escaped them, the Tollivers, furious and raging, gathered in large force, spreading terror wherever they appeared. "We can wait—" they said, "there is another day coming. John Martin must be brought back to Morehead for trial and then—just wait."

December 10th, 1884, was the day set for the examining trial before County Judge Stewart at Morehead. Before that day arrived, the unusual activity of the Tollivers, the ominous collection of all the members and friends of that family, the frequent but secret meetings, had been quietly, but nevertheless keenly observed by Judge Stewart. He was convinced that if Martin were brought back to Rowan County at this time of ferment and excitement he would suffer a violent death at the hands of his enemies, and that any attempt on the part of the officers and friends of the prisoner would precipitate a conflict the magnitude of which could not be foretold. [Pg 129]

In this opinion Judge Stewart was sustained by Attorney Young. After a careful investigation of the state of affairs the court decided on an indefinite postponement of the trial. The order to the jailer of Clark County, directing him to deliver Martin to officers of Rowan County, was suspended on the 9th day of December, but unfortunately (fateful neglect!) the order of suspension was not communicated to the Clark County jailer. The wife of John Martin had been advised of the postponement of the trial. The faithful woman who had already suffered untold anxiety and fear for the safety of her husband, felt relieved and hastened to Winchester to inform him of the action of the Court of Rowan County.

As soon as the Tollivers were informed that the trial would not take place, and that, therefore, Martin would remain at Winchester for an indefinite time, they convened in a council of war to discuss plans of campaign.

A raid upon the Winchester jail was suggested, but the leaders, though desperate and brave enough to have attempted and dared anything, did not believe that such an undertaking would meet with success. They advised strategy instead of force. [Pg 130]

On the 9th of December, on the same day that Judge Stewart canceled the order for delivery of the prisoner by the jailer of Clark County, an order was delivered into the hands of A. M. Bowling, town marshal at Farmers, directing him to demand Martin from the jailer at Winchester and to convey him to the county jail at Morehead. The order also directed the jailer of Clark County to surrender Martin into the custody of Bowling. The plot was shrewdly planned. The order, forged, of course, would open the doors of the Winchester jail without difficulty, and the prisoner must, therefore, become an easy victim on his way to Rowan County.

Bowling, a Tolliver clansman, engaged four other members of it to accompany him to Winchester, —Hall, Eastman, Milt and Ed Evans. Four men to convey a handcuffed prisoner! It was deemed best to send a sufficient number to prevent outsiders from interfering in the final act of the inhuman drama staged by Craig Tolliver and his henchmen.

On arriving at the jail at Winchester, Bowling presented his order, which was signed (?) by two Justices of the Peace of Rowan County and which directed the delivery of Martin to Bowling. The order was carefully drawn in the usual form, and had every appearance of genuineness. A few minutes after John Martin's wife had bidden her husband good-bye at the Winchester jail, Bowling presented his order for the delivery of Martin. [Pg 131]

While the wife was at the station awaiting the arrival of the train which was to carry her homeward, little dreaming that she had clasped the hand of her husband warm with life for the last time, the prisoner was aroused by his keeper and told to prepare for his removal to Morehead. Martin at once became suspicious. He remonstrated against the transfer, but the jailer produced the order. The prisoner pleaded long and earnestly. He explained to the official that he had received definite information through his wife that on account of the danger that awaited him at Morehead the county authorities of Rowan County had indefinitely postponed his removal. He insisted that Bowling and his companions were his deadly enemies; that every

surrounding circumstance pointed to treachery, and that his delivery into the hands of Bowling meant nothing more nor less than assassination.

The jailer turned a deaf ear to his entreaties. He argued that a refusal to comply with the imperative order of the Rowan County Judge would involve him in trouble. He had no right to believe the order forged. It bore the stamp of genuineness. It seems to us, however, that a more circumspect officer, informed of the conditions and circumstances surrounding the prisoner, acquainted with the dangerous state of affairs in Rowan County as the result of which Martin had been removed to Winchester, would have held the prisoner until he could have communicated with the authorities at Morehead. Disobedience to the court's orders, intended for the protection of a helpless prisoner, could not have been subject to censure, especially when the forgery of the order was later on established. He might easily have verified the genuineness of the paper by telegraph. Blind obedience often works injury. Threatening disasters through blunders of commanding officers have often been averted by the disobedience of inferior officers, who preferred facing court martial rather than become a party to useless slaughter and defeat.

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John Martin was delivered to Bowling and his companions. Securely shackled, he was marched to the train. Doubtless he suffered the same mental agony as does the man on the way to the scaffold. It was pathetic chance that Mrs. Martin boarded the same train. She entered another coach, entirely ignorant of her husband's presence in the next one.

While this occurred at Winchester, Craig Tolliver and his band had already assembled at Farmers, ready to play their part in the cowardly deed. Armed to the teeth, they were posted at and near the railway station, impatiently awaiting the arrival of the train. The night was dark and disagreeable, perfectly suited for a hold-up.

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Presently the flash of light pierces the gloom, the shriek of the engine whistle echoes mournfully through the night. The train bearing John Martin thunders toward the station. The air-brakes wheeze, the train slows up; the conductor cries "All out for Farm—" He does not finish the call of the station. A pistol is thrust into his face. Armed men board the engine and cover the engineer and fireman. Others enter the coach in which Martin is sitting, handcuffed, utterly helpless, surrounded by Bowling and his confederates.

Martin sees the men enter and instinctively realizes that his end has come. He attempts to rise to his feet. Instantly shots are fired. Martin sinks back upon his seat, lifeless, his "protectors" calmly witnessing the murder.

Martin's wife, in another coach, had up to this time believed her husband secure in his cell at Winchester. But the moment she heard the shots, unaccountable, undefinable dread seized her. Instinctively she rushed to the scene of the tragedy and found her suspicions realized. There lay the blood-covered body of her husband, literally torn to pieces and perforated with leaden messengers of death. All that the faithful, grief-stricken wife could do was to order the remains taken on to Morehead. Martin was buried amid a large concourse of sorrowing friends and relatives. The solemnity of the occasion accorded ill with the many suppressed, yet none the less ominous threats of terrible and swift punishment of the murderers.

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The news of the cowardly assassination spread like wildfire over the county. The war had begun in earnest. From the day John Martin's body was consigned to the grave, the angel of peace departed from Rowan County. For more than three years a reign of terror was to sweep over it with all its attendant horrors, cutting a wide path of desolation and misery. Deeds of violence now occurred at frequent intervals. All manner of crime went unpunished by the law. The whole machinery of the law was rotten, the officers of the courts being themselves partisans, in some instances very active as such.

Mr. Young, the county attorney, was the first to feel the wrath of the Martin faction. While riding along the road on Christi Creek he was shot from ambush and painfully, but not fatally, wounded. The perpetrators of this deed were not definitely known, but Young's friends claimed to have certain information that the men who attempted his assassination had acted under instructions from the Martin faction, which had openly accused Young of playing into the hands of the Tollivers, and had even gone so far as to allege that he had with them connived in the murder of John Martin.

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Whether he was or was not a Tolliver sympathizer, another murder committed soon afterwards was laid at the door of the Tollivers, to avenge, it was charged, the wounding of Mr. Young. Under the circumstances this gentleman determined to and did remove from the county where his life was evidently no longer safe. He located in an adjoining county. At the succeeding election his son was elected to the office his father had vacated.

The murder above referred to was that of Stewart Baumgartner. Cook Humphrey, the Republican Sheriff, had appointed him a deputy. On the 17th day of March, 1885, Baumgartner rode along Christi Creek, when, almost at the identical spot where Mr. Young had been fired upon, he was shot and instantly killed—from ambush. No one was ever indicted for that killing, but it was generally believed, charged and never denied that Craig Tolliver's subordinates were the murderers.

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Shortly after the death of Baumgartner, and during the month of April, 1885, Cook Humphrey and a stranger, afterwards ascertained to have been Ed. Pierce of Greenup County, Ky., appeared on the streets of Morehead, heavily armed and followed by a number of Martin sympathizers. This act of defiance called forth bitter denunciation from the Tollivers and their friends, among

whom was ex-Sheriff Day and Jeff Bowling, men of reckless courage. The leaders of the opposing factions assembled every available man, and provided them with arms. The most determined preparations were made to fight out their differences on the streets of Morehead. Humphrey's headquarters were at the Carey House, a hotel owned and operated by James Carey, an ex-captain of the Union army and a very influential citizen. The Tollivers occupied the Cottage Hotel near the Chesapeake & Ohio Railway depot, then owned by Dr. R. L. Rains. As quickly as possible a message was forwarded to Craig Tolliver, absent from Morehead at the time. He came, accompanied by a number of Tollivers from Elliott County. The battle opened fast and furious. A continuous fire from many guns kept the citizens of the town in terror for many hours. The balls whizzed through every portion of the ill-fated village. Storehouses and dwellings were riddled. None dared to enter the streets, or expose his body for an instant.

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The Carey House apparently bore the brunt of the firing. Hundreds of balls struck and shattered the slight frame structure. The Tollivers, beside superior numbers, had the advantage of position. Their marksmanship was better, too. Humphrey and his clan soon realized that a charge upon their position would mean their annihilation. So at an opportune moment the Carey House was abandoned and the Tollivers remained in undisputed control.

In spite of the long-continued, heavy firing, an unremitting fusilade of many hours' duration, there were no casualties. The battle, however, exercised such a terrifying influence over the peaceable citizens of the town that all that could left.

Morehead, in fact the county, was now in a state of anarchy. The matter was reported to the Governor, who immediately ordered General John B. Castleman, then Adjutant General of Kentucky, to Morehead to investigate conditions there and to discover the causes of this shameful lawlessness. General Castleman, in company with others, went to Morehead and interviewed the adherents of the different factions and leading citizens of the county. This commission, on completing its mission, reported its findings to the Governor. The result was that the leading spirits in the feud were summoned to Louisville, Ky., where a *compromise* was patched up between the belligerents. Both sides pledged themselves to return home, to lay down their arms and to cease to molest each other. This proceeding brought into prominence H. M. Logan, Judge James Carey and Cook Humphrey as adherents of the Martin faction and Craig Tolliver, Dr. Jerry Wilson and others as the Tolliver faction leaders.

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The agreement entered into at Louisville, intended to restore peace, effected the opposite result. It prevented prosecution of either side for the Morehead riot. The leniency extended by the authorities merely emboldened and encouraged the warring parties—the truce was violated by both sides within a short time after it had been agreed to.

The factions charged each other with insincerity, of secretly maintaining armed bands and preparing for renewed hostilities. Within a few weeks after the compromise at Louisville, conditions in Rowan were as bad as ever, nay—worse.

As we have stated, the shooting of Young, the County Attorney, had been charged to the Martin faction. In retaliation for this crime the Tollivers had murdered Sheriff Humphrey's deputy, Baumgartner. Subsequent developments then seemed to directly implicate Cook Humphrey in the shooting of Young, and this led to a renewal of active hostilities. It appears that immediately after the treaty at Louisville, Ed. Pierce, the man who had so mysteriously appeared on the streets of Morehead in company with Cook Humphrey on the day of the riot, was arrested in Greenup County and taken to Bath County for trial on a charge of robbery. A jury found him guilty. He was sentenced to the penitentiary for a long term. While confined in jail previous to his trial, he admitted his participation in the shooting of Mr. Young, implicating also Ben Rayborn of Carter County, a man but little known in Rowan County. In his confession Pierce claimed to have been employed to kill Mr. Young by the sisters and family of John Martin, and that Sheriff Humphrey and Baumgartner, his deputy, had aided and assisted in arranging the details of the plot.

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Humphrey and the Martins indignantly denied every word of Pierce's confession, and asserted that he had been bribed by Mr. Young to make it for the purpose of destroying the prestige of the Martin family in the county, and to furnish the excuse for further outrages.

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Humphrey and the Martin family were now put under constant surveillance by the Tollivers. The Martin homestead, situated about one mile from Morehead, became an object of special vigilance. Finally, on the evening of the 27th day of July, 1885, the Tolliver spies reported to their leader at Morehead that two men had been seen around the Martin home. Instantly everything was in commotion at the Tolliver headquarters. Craig Tolliver, Jeff Bowling, T. A. Day and others, all sworn enemies of the Martins, surrounded the homestead in the dark of night and remained on watch until morning.

Shortly after daylight a stranger, afterwards recognized as Ben Rayborn, in company of Sue Martin, a young woman of much native sense and energy, emerged from the house and "robbed" a beehive in the yard without having discovered the enemy. Rayborn was heavily armed. His presence convinced the Tollivers that Cook Humphrey was in the house; they now determined upon open attack. But to avoid possible failure of the plot it was deemed necessary to increase the force. A messenger was hurriedly dispatched to Morehead.

A short time afterwards the Tollivers had assembled a force of twenty-five or thirty men, among whom were many of the most violent men of Rowan County.

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At nine o'clock Craig Tolliver had stationed this force at every point of vantage. Then he and Bowling appeared at the front door with Winchester rifles gleaming in the sunlight. For the first time the inmates of the house seemed aware of the presence of the enemy. There was apparently no chance of escape. Every door was securely guarded. Tolliver was met at the door by the brave Martin girls who demanded an explanation for the intrusion. Tolliver demanded the surrender of Cook Humphrey and any other man or men that might be with him. The girls stoutly denied the presence of any one save the members of the family. Tolliver knew this to be false. With his own eyes he had seen Rayborn that morning. He charged the girls with duplicity and forced his way into the house. No one was found on the first floor. Then they attempted search of the upper story. At the stairway a shotgun suddenly belched forth fire and flame into the faces of the Tollivers. Craig's face and part of his body was filled with shot, the gun stock shivered to pieces in his hand. He sank upon the steps and rolled helplessly at the feet of his companions. Bowling miraculously escaped unhurt.

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Craig Tolliver was immediately placed upon a horse and sent to Morehead for repairs. The others, not daring to force the stairway, went outside and contented themselves with firing through the doors and windows. The fusilade continued incessantly for a long time. Black smoke hung like a cloud over the premises. If the Tollivers hoped to force the surrender of Humphrey and his companion by mere intimidation, they soon saw their mistake. These two men were brave to the core. Besides, they preferred to die fighting rather than being mercilessly butchered as helpless prisoners. They remembered the fate of John Martin.

Finally Humphrey managed to make himself heard through the din and crash of battle. He informed his assailants that he was there in the house and that by virtue of his office as sheriff of the county none but the coroner had the legal right to arrest him. The Tollivers sneered at this speech. They had not come to uphold the law; they had succeeded in trapping the enemy, and meant to use the advantage they had gained. Hours thus passed. All day the guns roared into and from the house. The sun was sinking rapidly toward the western horizon; the shades of evening grew longer. As long as daylight lasted the assailants had kept covered and protected, held at bay by the brave defenders. But in the dark of night, the end must come. They could not prevent a simultaneous attack from the entire force of the assailants. Surrounded on every side, escape seemed well-nigh impossible. Yet Humphrey essayed to make a sortie with his companion, hoping thereby to draw the fire of the enemy upon themselves and to thus at least relieve the women in the house of further danger of death which had threatened them every moment throughout that long day. It was a desperate undertaking, with ninety-nine chances in a hundred against its success. But Humphrey was brave, and so was Rayborn. As expected, the instant they emerged from the house a shower of balls greeted them. They ran for their lives. Rayborn sank, rose and fell again, to rise no more. His body was riddled. Humphrey, however, seemed possessed of a charmed life. Though his clothing was torn to shreds, his body received not a scratch.

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Satisfied now that there were no more men in the house, the Tolliver clan crowned their infamous day's work by setting fire to it. The inmates escaped without even necessary clothing. The body of Rayborn was left lying where it had fallen until the next day, protected from mutilation by dogs and hogs by a rail pen which had been built around it by the heroic Martin girls.

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The excitement that prevailed in the county when the news of the cowardly attack upon the Martin home became known, can better be imagined than described. The lover of law and order was terror-stricken. The question was asked in whispers—"Where will it all end?" The County Judge was a well-meaning man, but utterly incompetent as an officer, possessing none of the qualifications for such an office in a county like Rowan at such a time of lawlessness and anarchy. He was weak and timid. Always in fear for his life, he completely lost his head.

Warrants were at last issued upon the affidavits of the Martin girls against Craig Tolliver, Jeff Bowling and a number of others, charging them with murder and arson. An examining trial followed. At that time such trials were held before two justices of the peace. One was said to be a Martin sympathizer; the other stood accused of being under the thumb of the Tollivers.

The court's decision gave color to these suspicions. One of the magistrates decided for commitment of the prisoners to jail without bail; the other declared that no offense had been proven. Under the law then existing this disagreement of the court permitted the murderers to go free.

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The trial was a pronounced farce. Afterwards some of the parties were indicted by the grand jury for arson, but none was convicted and the murder charges against them all fell.

Jeff Bowling, one of the most desperate of the Tolliver faction, removed from the county of Rowan a short time afterward, and settled in Ohio, where he continued his career of crime, evidently believing that there, as well as in Kentucky, none dared molest him. He saw his mistake too late.

It appears that his mother-in-law had married a wealthy farmer named Douglas, of Licking County, Ohio. It had been due to the persuasion of Douglas that Bowling left Kentucky and settled in or near his Ohio kinsman. Bowling had resided there but a short time when Douglas was found one morning in his barn—murdered. The finger of suspicion pointed to Bowling as the only one who had a tangible motive for the commission of the crime. He was promptly indicted, tried and sentenced to death, but the sentence was finally commuted to life imprisonment. He served seven years of his time and moved to Texas.

Humphrey, after his miraculous escape from the Martin house, had become thoroughly convinced that it was impossible for him to longer continue in the office of sheriff and resigned, William Ramey being appointed and qualified in his stead.

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Craig Tolliver for a time absented himself from Rowan County. He turned up in jail at Cincinnati, imprisoned on the charge of robbery. He was tried, acquitted and returned to Rowan County, when trouble started anew.

Several killings occurred in the county during the year, some of which had, however, only remote connection with the feud. John G. Hughes was killed by a mob styling themselves "regulators." Wiley Tolliver, son of L. H. B. Tolliver, was killed about Christmas, 1885, by one Mack Bentley, during a drunken row.

Early in 1886, the murder of Whit Pelfrey, at Elliottsville, Rowan County, came near precipitating another outbreak. He was stabbed and killed by Tom Goodan, brother of S. B. Goodan, a prominent Tolliver man and brother-in-law of Jay, Bud and Wiley Tolliver. Pelfrey, known as a strong Martin sympathizer, was an influential citizen and wealthy. Goodan was tried for this murder, but acquitted.

The year 1886 brought with it an annual election at which all county officers were to be chosen. Each faction had its candidates in the field. It may, therefore, be easily imagined that neutral citizens remained in a state of constant anxiety and apprehension.

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Cook Humphrey and Craig Tolliver roamed through the county at the head of large forces, frequently entering the town of Morehead and parading the streets in defiance of each other.

On July 2nd, 1886, it being County Court day, a warrant of arrest was placed in the hands of Sheriff Ramey for the arrest of Humphrey, who was in town that day. The officer went in search of and found him near the store of H. M. Logan. An altercation ensued between the men, both drew their pistols and began firing. Friends of both parties became involved and the shooting became general. When the fight was over it was found that the sheriff and his son and deputy, were both dangerously wounded, while W. O. Logan, H. M. Logan's son, a youth hardly twenty years of age, was killed.

Immediately after the fight the factions retired to their headquarters and prepared for another conflict. The County Judge was prevailed upon to demand troops. His request was readily granted and a detachment of State Guards, commanded by Major K. W. McKee of Lawrenceburg, hastened to the scene of the trouble.

When July 3rd came, the citizens, women and children, trembled with fear of a bloody conflict. At the quarters of the factions guns and pistols were cleaned, oiled and loaded, cartridge belts filled—every preparation made for battle.

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Then the long-drawn notes of a bugle floated in the morning air—the astonished people peered through the windows and beheld in the court house yard a long line of soldiers, their guns and bayonets glistening in the morning sun. There was a sigh of relief—danger had passed for the moment.

The troops remained at Morehead until some time in August. It was due to their presence that the election passed off without violence and bloodshed. When Circuit Court convened, the Commonwealth was represented by the Honorable Asher C. Caruth, Commonwealth Attorney of the Jefferson Circuit Court, and afterwards member of Congress from the Louisville District.

As at this time practically every citizen in the county was aligned on one side or the other, it seemed impossible to secure juries that would try cases impartially and without prejudice. This state of affairs did not escape the attention of Mr. Caruth. The result of his investigations of affairs in Rowan County resulted in a *nolle prosequis*, qualified by certain conditions, of the charges against the Tollivers and Humphrey. His proceeding in this respect is contained in the following report to Judge Cole, presiding judge of the Circuit Court:—

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Hon. A. E. Cole,
Judge of the Rowan Circuit Court.

Under your appointment I have acted as Commonwealth Attorney pro tempore at the special July and present August term of the Rowan Circuit Court. I have given the felony docket, over which alone, under the present law, I have jurisdiction, careful study and attention. I have also investigated as thoroughly as a stranger to the people of Rowan County could do in the limited time of my service, the causes which led to the present unhappy condition of affairs, and have sought to find a remedy for the evils afflicting this people.

I find it to be the opinion of the law-abiding citizens of all parties that the public peace could be best secured by the continued absence from the county of Rowan of the acknowledged and recognized leaders of the two rival factions—Craig Tolliver and Cook Humphrey. Against the former there is now pending one felony charge, that of false arrest and imprisonment. Against Humphrey there are three indictments for felony on the docket, each for conspiring, etc., to commit personal violence. I have the written request of each of these persons accused to suspend further proceedings in their cases, coupled with a promise on the part of each to leave the county of Rowan never to return unless, temporarily, to attend the funeral of some immediate relative.... The

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persons charged to have been injured by their acts also request this disposition of the pending cases. It is the opinion of the members of the grand jury now in session, and of the vast majority of the citizens of the county, that this disposition of the cases will do much to restore peace and confidence to the community. After full consultation with the members of the bar residing here or practising here, with the commander of the forces now stationed at the county seat, and with citizens of high position and authority in the Commonwealth, and considering the *uncertainty of the criminal trials*, I am convinced that this is the best available method to secure the end in view. No harm can, by this means, be done the State, because, should the agreement be violated, the cases can at once be set for trial and prosecutions made.

The following written agreements were then signed and attested:

Asher G. Caruth,
Commonwealth's Attorney pro tempore,
14th Judicial District:—

I request you to suspend any further proceedings in the cases now pending in the Rowan Circuit Court against me, and promise that I will remain away from the county of Rowan permanently. Should I ever return to said county I am willing that the cases shall be redocketed and the trials proceed. I will leave said county on or before the 8th day of August, A. D. 1886. In this agreement I reserve the right, in the event of the death of any of my immediate relatives, to return to attend their burial, but I must immediately thereafter leave the county to permanently remain away.

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(Signed) CRAIG TOLLIVER.

Attest: D. B. Logan.

A similar agreement was prepared and signed by W. C. Humphrey, attested by G. A. Cassidy.

We do not wish to criticise Mr. Caruth's course in this matter, but it occurs to us, and must occur to the reader, that the practice of compromising with outlaws proves a weak-kneed administration of the law. It seems that a man or set of men may terrorize a community as pleases them, then demand of the authorities immunity for crimes, on certain *conditions prescribed by the criminals*. Mr. Caruth acted for the best interests of the community, as he believed. Aware that juries were partial or prejudiced, he realized that trials in Rowan County of either of the factions would result in injustice one way or another. The Grand Juries were corrupt and accustomed to wreak vengeance on some and whitewashing others. The selection of trial juries was so palpably unfair that visiting lawyers commented upon it and afterward testified before the legislative committee to that fact. Several court officers were undisguised partisans. It seems to us, however, that these cases might have been removed from the county and tried elsewhere upon a change of venue. At any rate, the compromise effected by Mr. Caruth proved not only unsatisfactory, but ill-advised. The success of his scheme was founded upon the belief that the parties to the agreement would adhere to the pledge to leave the county. He did not understand the character of Craig Tolliver. To secure his signature to an agreement that would put an enemy out of his way was one thing, to make him keep it, another. Tolliver remained absent from Morehead long enough to assure himself that the indictments against him were dismissed, when he promptly returned. Although the compromise was based upon the understanding that if either returned except under the conditions recited in the agreement that the indictments against the party so returning should be redocketed and revived, *this was never done*. Tolliver was free to continue his career of crime. Humphrey kept his word, and never violated his pledge. He sold out his earthly possessions in Rowan County and bade farewell to his native State.

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Previous to his election as sheriff Humphrey had been a highly esteemed citizen, a man of exemplary character, of amiable disposition. His fatal connection with the feud was mainly due to his unfortunate selection of Stewart Baumgartner as his deputy. The latter was a citizen of Elliott County, where he had a reputation for violence and desperation. Pursuing the same course in Rowan, Humphrey's association with him made him many enemies. Baumgartner's connection with the Martin faction compromised Humphrey; thus step by step he was thrown into the whirlpool of trouble. The formerly quiet, inoffensive citizen grew dangerous and violent; the dormant, unholy passion of revenge was aroused. Humphrey became for the time being a character dreaded by those that opposed him. At the time of his participation in the feud he was yet in his twenties and unmarried. After leaving Kentucky he went West, never to return to his native heath until after the death of Craig Tolliver and his followers, and then only on special business.

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With Humphrey gone, the Martin faction practically disbanded. Had Tolliver observed the treaty stipulations as faithfully and honestly as did Humphrey, this chapter might end here. The writer would be spared the unpleasant task of continuing the record of violence, murder and anarchy. It is evident that Tolliver had entered into this agreement with the avowed purpose of violating it. He had every reason to believe that Humphrey would observe it. He out of the way, there stood no one to dispute Tolliver's undisputed sway in the county, especially at Morehead. His adherents remained faithful and joined him. They did as they pleased, in fact had things their own way. If the authorities did not dare molest them, who should? A few of the citizens who had attempted a mild protest against Craig Tolliver's dictatorship, were easily intimidated by keeping them in

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constant fear of death or destruction of their property.

Saloons were opened and operated without license. Magistrates refused to issue warrants, knowing that such an act would forfeit their lives. Had the warrants been issued, no officers could have been persuaded to execute them. The residences and grog shops of the Tollivers resembled and were arsenals. An effective and favorite method of Craig Tolliver to rid himself of any, to him, undesirable citizens, was to send a written communication to them, setting forth the fact that Rowan County could dispense with their presence, and that on a certain day in the near future certain funerals would take place unless they were gone from the county. A funeral is not a pleasant function at any time, and the prospect of one's own set for a definite time, has a tendency with many persons to try hard to avoid it, if possible. It was, therefore, not surprising that parties thus notified preferred absence from the county to being principals at funerals. A few regarded those letters as idle and meaningless threats, but the sincerity of the advice could no longer be doubted or questioned when several prophesied funerals did take place.

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To detail the circumstances of the various killings that occurred during that stormy period of Rowan County would prove tedious. Suffice it to say, that from the first Monday in August, 1884, to the 22nd of July, 1887, twenty-three men were killed in Rowan County. No convictions were secured for any of these murders. But of this later on.

On October 20th, 1886, H. M. Logan was shot from ambush in the streets of Morehead, while walking from his place of business to his residence. The wound was dangerous but not fatal.

Judge Carey came in for a full share of the enemy's hatred and vengeance. His hotel was frequently fired into at night by parties armed with needle guns and large calibre Winchesters. His house assumed the appearance of having been struck by a cyclone. Windows and doors had been completely shot away and the walls perforated in a thousand places. It required neither doors nor windows to admit daylight.

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The Exchange Hotel shared a similar fate. It was managed by H. C. Powers, another Humphrey adherent.

This kind of argument was convincing, more forcible than words or letters. Powers and Carey both felt a sudden desire to remove from the atmosphere of Morehead, concluding that Covington, Kentucky, possessed greater allurements for the time being than did their home town. Both remained away from the county until after the bloody, final battle at Morehead in 1887. Unfortunately, we have no authentic account of the leave-taking between the Tollivers and Carey and Powers. It must have been very affectionate, since the Tollivers had exhibited such concern for their safety, comfort and health as to persuade them so urgently to remove to a happier and better land.

Howard Logan (H. M.) too, had enough of this joke about funeral predictions. He could not see the point of it, and concluded that Ashland, on the banks of the beautiful Ohio, would be the proper place to recover from his labors and see the world. He also remained away until after the annihilation of the Tollivers. There were a number of others who seemed suddenly seized with a fever to emigrate. Among them were John R. Powers, James E. Clark, a prominent lawyer, who found a more congenial home at Unionville, Clark County, Missouri; James Brain, a brother-in-law of Judge Carey; R. C. Humphrey, brother of Cook Humphrey; both of whom settled in Missouri. Many others "scouted" in neighboring counties until the return of peace. Judge Tussey, brother-in-law of the murdered John Martin, on the advice and persuasion of his wife, remained absent in Carter County and returned only to take part in the final drama.

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Nearly all of the parties who were thus driven from the county, were men of wealth and business capacity. Removals continued. The magnitude of the exodus may be realized by examining the figures giving the population of the county seat, Morehead, from 1885 until the early part of 1887. In 1885 Morehead was a flourishing town of more than seven hundred inhabitants. Within two years this figure was reduced to less than three hundred. More than *half* the population had removed. Private residences and storehouses stood empty, with windows nailed up or were taken possession of by the Tollivers whenever it suited their fancy. The Tollivers made up the population. The offices of police judge and town marshal were filled by Tollivers. On June 1st, 1887, Craig Tolliver had the entire town under absolute control. He was elected police judge without opposition. He did a driving business, selling whiskey, without license, of course. The law as to obtaining license to sell liquor applied not to him. He was above the law. He took possession of the Exchange Hotel, which H. C. Powers had left without a tenant, by right of conquest. Why should he have troubled himself with renting property when houses stood empty, and he was monarch of the town! The property of his enemies was his—the spoils of war.

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The Central Hotel was placed at the disposal of Tolliver by its owner; the former leased it to Bunk Mannin and his brother, Jim Mannin. These two were Craig Tolliver's constant associates. He had brought them from Elliott County. Knowing their reputation as desperadoes, he created them his body-guard. Bunk Mannin, bloodthirsty, brutal, but courageous, believed he could serve his chieftain best by capturing the office of town marshal. He set himself up as candidate and was elected without a whisper of opposition. As town marshal and hotel keeper, he opened a saloon at the Central Hotel, operating it in the manner of the one run by Craig Tolliver, in violation of the law. Bud Tolliver was made a member of the town council. Craig Tolliver's triumph was now complete. The midnight carousals, the continuous discharges of Winchester rifles and pistols, made night hideous. Persons of unquestionable courage grew nervous. At this period the exodus of the inhabitants was greatest.

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Social functions were out of the question. Adjutant-General Hill says in his report to the Governor, after the final battle of July, 1887:

“One night while I was there the young people of Morehead had a social at the home of a prominent citizen, and I was told that it was the *first event of the kind which had occurred in the little town for years.*”

The Tollivers controlled the court and the grand juries. A witness daring enough to indict them for their many offences was certain to be indicted for some imaginary offense in return for his audacity. Thus during one court, shortly after the “shooting up” of the Carey House, two daughters of Howard Logan testified before the grand jury and indicted one Dr. Wilson for participating in the riot. The same evening the grand jury returned indictments against the two young ladies for “false swearing.”

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The secrets of the grand jury leaked constantly. Every word of testimony uttered before it was promptly and minutely reported to the Tollivers. Mrs. Martin, who had been a witness against them on several charges, was indicted for sending a poisoned turkey to a Tolliver sympathizer. Is it a wonder that Attorney-General Hardin stigmatized the whole machinery of justice in the county as “rotten”? Is it a wonder that crime was rampant and of daily occurrence? Is it a wonder that outraged manhood at last took the law in its own hand and annihilated the outlaws?

Sometime in the latter part of 1886, or early part of 1887, H. M. Keeton, constable of Morehead precinct, was shot and killed by Bud Tolliver. Keeton, too, had been duly served with notice of the date of his funeral. Remaining in the county, he furnished the body.

W. N. Wicher was shot and killed by John Trumbo, a Tolliver man.

At the February term of the Rowan Circuit Court (1887) Dr. Henry S. Logan, R. M. McClure, John B. and W. H. Logan and Lewis Rayborn, were indicted for conspiracy to murder Circuit Court Judge A. E. Cole, James H. Sallee, Commonwealth’s Attorney, and Z. T. Young. All the parties indicted were prominent citizens and of such a character that those not prejudiced against, and acquainted with them, at once declared the charges false. The entire transaction bore the earmarks of a shrewdly laid plot to rid the county of these men, who had become objectionable to *Czar* Craig Tolliver because they had dared to criticise his rule. The indicted parties were arrested and confined in jail, their bail having been placed at an exorbitant sum. They were hustled off to Lexington for “safekeeping.” John B. and W. H. Logan gave bond and returned to their home, about four miles distant from Morehead. Their father remained in prison.

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When it became known that James Pelfrey was the chief witness against them, it seemed easy to see through the whole affair. Pelfrey’s black character was well-known by some of the Tolliver clan, and to this unscrupulous man they had turned to effect their villainous conspiracy. A suitable story was concocted and rehearsed. With it Pelfrey appeared before the grand jury, and loaded upon his sin-stained soul the dastardly, black crime of perjury. After their return home the Logan boys lived quietly and alone, taking charge of the farm in their father’s absence. W. H. Logan (Billy) was a consumptive, twenty-five years old, and almost reduced to a skeleton by the dread disease. His brother, J. B. Logan (Jack) was a youth of eighteen.

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On the 7th of June, 1887, a disreputable character named Hiram Cooper, who lived in the neighborhood of the Logan boys, came to Morehead and swore out a warrant against the Logan boys and their cousin, A. W. Logan, charging them with confederating and banding together for the purpose of murdering him (Cooper). This act was in pursuance of the original plot to rid the county of the family, which, however, had failed to some extent when the boys had succeeded in giving bail and were released from prison.

Craig Tolliver, the police judge, issued the warrants. They were placed in the hands of his confederate, Town Marshal Bunk Mannin, who summoned a posse of *ten* men to assist him in the execution of the warrants against the two boys. Among these *brave* officers were Deputy Sheriff George Hogg, Bud Tolliver, Jay Tolliver, Cal Tolliver, Hiram Cooper and one Young.

Completely ignorant of the impending danger, the boys were found at home. The first warning they had of the approach of the assassins, under the guise of officers, was the rapid firing of guns. The boys, terrified, ran up-stairs, Mannin and Craig Tolliver rushing after them. Jack Logan seized a shotgun, and over the earnest protest of his brother Billy, fired into the body of Mannin, inflicting a painful, but, unfortunately, not fatal wound. Mannin and Craig Tolliver retreated from the house, while the boys waited tremblingly, with bated breath, for developments. They saw there was no hope for them. The smell of burning wood and clouds of smoke told them of their peril. By order of *Judge* Tolliver the posse comitatus had built a fire on the porch intending to burn the house, and thus force the boys to come out. The crackling of flames, the shouts and cruel, derisive laughter of the brutal band outside presented a scene such as we read of with horror in the stories of the Indian wars. Deputy Sheriff Hogg then *requested permission* to extinguish the flames. The other “representatives of the law” consenting, a parley was held. Hogg went into the house and offered the boys the alternative of surrender or death by fire. They naturally chose the former, hoping against hope that some miracle might yet save them, or that, perhaps, their appearing unarmed, might move the band with compassion and mercy. However, before leaving the house, they wished assurance that their lives should be protected. Deputy Sheriff Hogg reported to Craig Tolliver, and that redoubtable officer of the Commonwealth authorized him to *promise* them protection. This assurance was then communicated to the boys, supplemented by the personal guaranty of Sheriff Hogg. The boys determined to leave the house.

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Billy Logan went down-stairs in company of Hogg. The younger boy was yet reluctant to trust himself into the hands of Craig Tolliver and Bunk Mannin, the town marshal, but being again assured that no harm should come to him, he, too, followed and emerged into the yard. They were led away some fifty feet from the house to near a spring. There John Mannin opened fire upon the elder boy, shooting him in the back. This was the signal for a general fusillade by Craig Tolliver, Bunk Mannin and others. The boys fell dead. Not satisfied with their deaths, the heartless assassins, among whom Town Marshal Mannin was the most ferocious, trampled the prostrate forms, stamped them, and poured volley after volley into the dead bodies, thus mutilating them beyond recognition.

They were left lying where they had fallen, a gory, shapeless mass, the glassy eyes upturned to the sky, in mute appeal to God to avenge this horrible assassination. God saw, and retribution followed close upon the heels of the inhuman wretches.

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Deputy Sheriff Hogg testified afterwards that he ran away as soon as the firing began. The murderers joined him, however, before he had reached town. On the brow of a hill overlooking Morehead Craig Tolliver halted the red-handed band and instructed them all to tell the same tale—that the boys were killed in resisting arrest, and that their killing had been an absolute necessity.

On the following day D. Boone Logan, a cousin of the murdered boys, accompanied by H. M. (Hiram) Pigman and Ap. Perry, went to the Logan homestead, and found and cared for the mangled remains of his relatives. On that evening, upon their return home, they were warned that they would share a similar fate in the event they attended the funeral.

Up to the time of the murder of the Logan boys neither D. Boone Logan nor Pigman had taken any active part in the feudal strife, indeed they had carefully kept aloof from any act or speech that might in any way connect them either directly or indirectly with the faction. Boone Logan had attested the agreement signed by Craig Tolliver to remove from the county. But beyond this he had remained neutral. Not content, however, with foully murdering his young relatives, Craig Tolliver sent to Boone Logan the exasperating message that he must leave, that he, Tolliver, would rent his house, and hire Logan's wife out to make a living for her children. By threatening D. B. Logan, Craig Tolliver made the mistake of his life. He conjured up a storm which passed soon beyond his power to control. When it broke loose in all its fury on the 22nd day of June, and the streets of Morehead ran red with blood, the desperadoes experienced at last the lash of an avenging God.

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Boone Logan made futile efforts to have the murderers arrested. After several days had elapsed, Bunk Mannin, the town marshal, went to Logan and told him that he wished to have a trial, and that the Tollivers were also ready for trial. "But," said Mannin, "it must be understood that we attend court with our Winchesters." Judge Stewart was also notified by the Tollivers that they wished a trial, to which request Judge Stewart made answer that he "would not hold a bogus trial" and refused to try the case.

Logan, Pigman and Ap. Perry, in danger of their lives, yet burning with indignation, entered into a solemn compact to effect the arrest and trial of all the parties engaged in the murder of the Logan boys. A resolution made by such men as Boone Logan and his friends meant something more than mere words. They, too, were men of action. They went to work in the preparation of their plan with coolness and circumspection. Caution was needed indeed. They first attached to their cause a number of men upon whom they could rely. Meetings were held at secret places. Boone Logan was at once chosen as the leader in the enterprise. In the prime of manhood, of fine physique and intelligent, he was just the man to place at the head of such a hazardous undertaking. Combining indomitable courage with prudence, sagacity and coolness, he was also a man of unflinching determination. Such was the man with whom the Tollivers now had to deal. Educated, a lawyer of prominence, and a polished, quiet gentleman, one would scarcely have picked him out as the man to oppose the outlaws, to attack them in their very stronghold and give them battle.

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Logan and Pigman avoided being seen in each other's company, yet the Tollivers by some means had learned of their secret meetings, and, growing suspicious, began hunting them high and low. To relate the many narrow escapes these two men had from death would fill pages. Every road was patrolled by the Tollivers, passing trains were searched, inquiries made everywhere, and insulting messages sent to Logan's family. Shrewdly he avoided any encounter, but with dogged determination continued his preparations.

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On the 16th day of June Boone Logan eluded the vigilance of the Tollivers and succeeded in reaching Frankfort, Ky., where he asked for, and was accorded, an interview with Governor Knott. To him Logan related the existing conditions in Rowan County, the despotism exercised by Craig Tolliver and his associates in crime, the horrible murder of the Logan boys, for which no one had as yet been molested, and asked for troops to effect the capture of the outlaws. The Governor listened attentively to Mr. Logan's representations, but replied that he had already sent soldiers to Morehead at the cost of many thousands of dollars to the State, with no other result than aiding courts in committing travesties of justice; that under the circumstances he could not see his way clear to repeat his experiences with that county. He then asked Logan what per cent of the population was actually engaged in the trouble, and on receiving reply, answered that the good citizens being so largely in the majority, they should be able to themselves put down lawlessness. Logan admitted that he could find a number of citizens who would be willing to aid him in arresting the outlaws if they could secure the necessary arms. He asked the Governor for

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the loan of a few guns from the arsenal at Frankfort, offering to give satisfactory security for their safe return. The Governor explained that such a course was unwarranted and a matter beyond his control. Logan's face turned almost livid for a moment. He did not blame the Governor, who acted under the law. But he became exasperated at the thought that a band of murderers were under the law permitted to remain in undisputed possession of his county, his home, while the Governor seemed without authority to come to the rescue of order and to maintain the dignity of the law. Courts had refused to do their duty; officers championed openly the cause of the murderers; peaceable citizens had been driven from their homes—anarchy reigned supreme. These thoughts filled his brain. Before his mind's eye appeared the mangled remains of his cousins. He feared for his wife and children at Morehead. His home might at this moment be reduced to ashes and its inmates burned or shot. The young man's eyes gleamed with a dangerous fire. His lips quivered while the strong heart beat almost audibly with excitement, indignation and utter disgust. At last he spoke, slowly, firmly, every word full of meaning. It was then he made his famous reply, so often repeated and commented upon:

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"Governor," he said, "I have but one home and but one hearth. From this I have been driven by these outlaws and their friends. They have foully murdered my kinsmen. I have not before engaged in any of their difficulties—but now I propose to take a hand and retake my fireside or die in the effort."

Future events proved that these words were uttered for a purpose other than mere dramatic effect. The flashing eye told plainly of the passions that had been kindled in his heart, and the Governor could not but admire the man's just indignation and determination to do what the highest authorities in the State could not do.

The action of Governor Knott in refusing to send troops to Rowan County has been criticised by those ignorant of the law and the powers of the Governor in such cases. The law lays down the scope of his authority. The power of the county had not been exhausted in bringing about, or attempting, the apprehension of the criminals. He had already responded with troops to protect the court only to find that the authorities showed the white feather; that compromises with criminals had been entered into; that juries and officers were corrupt, and when trials had occurred had proved a farce. No doubt in his heart he wished for Logan's success. The man had made futile attempts to live peaceably. Now he intended to act in self-defense. The government cannot help him—he must therefore help himself. A man's home, no matter how humble it may be, is sacred as the King's palace in the eyes of the ancient common law. To defend it from intrusion and attack is man's God-given right, his duty; Boone Logan set about to retake his fireside.

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FINAL BATTLE OF MOREHEAD. JUNE 22ND, 1887.

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After leaving Frankfort, Logan hastened to Cincinnati, Ohio, where he purchased several hundred dollars' worth of Winchester rifles, pistols, shotguns, and an ample supply of ammunition. These were boxed and shipped as saw-mill fixtures, and consigned to a small station (Gate's) in Rowan County, some miles from Morehead.

Immediately upon his return to Rowan County Logan summoned his friends. They responded with a will. Many came from the neighboring counties, except Elliott County, which section sympathized strongly with the Tollivers, whose relatives were strong there. Sheriff Hogg was placed in possession of the warrants against Craig Tolliver and his confederates, charging them with the recent murders of the Logan boys (June 7th). It was definitely and explicitly agreed upon and arranged that the sheriff should demand the surrender of the Tollivers, and only in case of their refusal to comply were the citizens to take a hand. This, of course, was a mere matter of form. It was easy to predict to a certainty that the Tollivers would not obey the demand of surrender by the officers. That had been tried too often before. Yet the Logan faction desired to exhaust all lawful means before resorting to bloodshed.

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Sheriff Hogg was instructed to demand the surrender and upon its refusal to retreat in order to insure his personal safety, and to give the forces under Boone Logan an opportunity to enforce the demand.

Thus far all went well. When the morning of June 22nd came, bright and beautiful, everything was in readiness for the coming struggle.

Logan, with some of his men, was stationed near the Chesapeake & Ohio Railway Depot. Just across, at the business place of Vinton & Pigman, Hiram Pigman, with six or seven men, stood in readiness to act in concert with Logan. On the opposite side of the town another detachment was carefully posted in concealment. The Tollivers were completely surrounded.

Strange to say, with all their vigilance, they had remained in utter ignorance of Logan's final preparations. Logan was despised by them. His frequent absences from home had been attributed to fear. Of his visit to Frankfort and his purchase of arms at Cincinnati they knew nothing.

It was late in the morning of the 22nd, when an accident revealed to them their danger, though the knowledge came too late to enable their escape. The wife of a railroad man was visiting friends at Morehead. Her husband had noticed bodies of armed men closing in upon the town. He

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also knew of the large shipment of arms to Gate's station. Anxious for the safety of his wife, after his suspicions had been aroused, he telegraphed her to leave Morehead at once, that a battle was impending without doubt. This information was conveyed to the Tollivers, who immediately prepared for the attack. Thus it happened that when the battle commenced, Logan and his men were put upon the defensive instead of the offensive, as they had anticipated.

The Logan forces awaited the appearance of the sheriff to demand the surrender of the Tollivers. He failed to arrive. The sheriff afterward testified that he had been prevented by armed men from entering the town. Be that as it may, the fight opened without him, and during the battle neither he nor his son participated.

Logan, unaware that his plans had been betrayed to the Tollivers, attempted to communicate with his friend Pigman at the latter's store. He despatched a young man, William Bryant, with a note. To his surprise, the Tollivers suddenly appeared, armed to the teeth, and opened fire upon Bryant. The boy fled for life and escaped without a wound.

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Logan and Pigman, finding their plans discovered, and the sheriff having failed to put in his appearance, now commenced the work they had cut out for themselves and their friends to perform. Firing began from every direction—every man fought independently, as best he could. Each part of the town became a separate battlefield. The non-combatants sought safety in flight or in the shelter of their homes. Black clouds of smoke hung over the ill-fated town; the air was stifling with the smell of sulphur. The grim monster of civil war raged in all its fury. Well might we say with Chalmers:

"O, the miseries of war! We recoil with horror at the destruction of a single individual by some deed of violence. When we see a man in the prime of health suddenly struck down by some deadly aim, the sight of the lifeless body haunts us for days and weeks, and the shock experienced, only time can wear away.

"The scene stands before us in daytime, is the subject of our dreams, and spreads a gloom which time can only disperse.

"It is painful to dwell on the distressing picture of one individual, but multiply it, and think of the agonies of dying men, as goaded by pain, they grasp the cold ground with convulsive energy, or another, faint with the loss of blood, his pulse ebbs low, and the gathering paleness spreads itself over his countenance; or, wrapping himself round in despair, he can only mark by a few feeble quiverings, that life still lurks and lingers in his lacerated body; or, lifting up a faded eye, he casts a look of imploring helplessness for that succor which no sympathy can yield."

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The moment the battle opened, Logan became the target for many guns from the concealed Tollivers. The balls fell all around him; plowed up the ground at his feet and hissed by his ears. Craig Tolliver and his confederates instinctively singled him out as their most dangerous adversary and made every effort to kill him.

The details of the battle are authentically recorded in the report of Ernest McPherson, captain of a detachment of the Louisville Legion, to the Adjutant-General of Kentucky, Sam E. Hill, which report was transmitted to the Governor and reported to the Legislature. (See documents 1887, No. 23.)

As the Tollivers were coming back, Boone Logan commenced firing. He was at once deserted by the men with him, but continued the fire which was returned by the two Tollivers, Craig and Jay, until their Winchester rifles and pistols were empty. They ran from below the depot to the American House, Craig Tolliver's hotel, and obtaining a fresh supply of ammunition, were joined by Bud, Andy, Cal and Cate Tolliver, Cooper and others. All then started on the run for the Central Hotel. Andy was the first to reach that building by going through alleys and back ways. Bud Tolliver, Cooper and the rest went by way of Railroad Street, under constant fire from the bushes. Halting near the drug store they fired upon the concealed enemies and wounded one Madden. Bud Tolliver was here shot in the thigh. Cal and Cate, who were mere boys, assisted Bud up the lane and secreted him in the weeds back of Johnson's store. They then rejoined their comrades. Cooper presently emerged from the Central Hotel and fired upon some of the Logan men, but was himself shot through the breast. He retreated into the hotel and secreted himself in a wardrobe, up-stairs, and in this place of fancied security was again hit by a bullet and killed.

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The Central Hotel was surrounded, a cessation of firing ordered and Logan called upon the Tollivers to "come out and they should not be hurt." A message of the same purport was delivered to the Tollivers by a woman. She returned with Cate Tolliver, a boy fifteen years of age, who was disarmed and allowed to go unmolested. The others in the house refusing to surrender, Logan resorted to the tactics employed by the Tollivers against his cousins and directed his men to fire the building. The Tollivers broke cover and started for the bushes. Before leaving the house Craig Tolliver coolly pulled off his boots, saying that it had always been prophesied he would die with his boots on, and that he intended to disappoint the prophets. He emerged in his stocking feet. Jay Tolliver got out the rear way, ran about fifty feet, was shot three times and fell dead. Craig and Andy broke from the hotel on the south side and were greeted with a hail of bullets. Andy was wounded twice, but not seriously, and under cover of the smoke succeeded in reaching the woods. Craig Tolliver's former good luck at last deserted him. He ran, firing at his enemies, down a lane which leads from the hotel to the railroad track. At the corner of the drug store already spoken of, Pigman, Apperson Perry and three others were posted. They instantly

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opened fire on Tolliver, the score or more still at the hotel, also continuing their fusilade upon the fleeing outlaw. Craig Tolliver ran a few steps beyond the corner of the store, fell, rose again and, running toward the switch, sank to the ground to rise no more. He was riddled with balls and buckshot. To the great regret of the Logan men, the man whose death they most desired, was not injured. This man was Bunk Mannin, the town marshal, who so brutally maltreated the dead bodies of the two Logan boys.

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There were undoubtedly some bad men in this fight against the Tollivers to whom may be ascribed some excesses which occurred on that memorable day. But they do not appear to have been actually connected with the Logans. One of these men admitted that he fired three shots into the body of Jay Tolliver after he was down. This same man afterwards became a willing witness for the prosecution against the slayers of the Tollivers. It was this band of guerillas that shot Cooper while secreted in the hotel, dying from a wound in the breast. After completing their inhuman butchery, this same guerilla band sacked the American Hotel and committed other outrages.

The firing was continuous for two hours, except while the Logans made proposals to the Tollivers to come out and surrender. Over fifteen hundred shots were fired.

There was a general sense of relief among the inhabitants when the battle was over and the dreaded Tollivers were wiped out. A public meeting was held and largely attended. A party, styling itself the Law and Order League, took possession of the town and held it until the arrival of troops.

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Boone Logan had faithfully kept his word and retaken his fireside. The sinking sun witnessed his return to the home from which he had been banished. His enemies had crossed over the great divide.

For the first time in many months the town was quiet. The yells and defiant curses of the drunken desperadoes were heard no more. The lips that had uttered them were still. Peace entered Morehead once more. It had been purchased at the price of much blood.

The battle of June 22nd, 1887, was the last bloody clash between the various factions of Rowan County. The Tollivers, deprived of their leader, gave the town a wide berth after this. It soon resumed its former appearance of thrift and prosperity. Many of those who had removed from the county, now returned and took possession of their abandoned property. Business houses, closed for many months, were reopened, the illegal saloons closed tight, and law and order have been reasonably well maintained in the county ever since.

Several of the Logan men were indicted for murder, Hiram M. Pigman, who had been Logan's right hand man, and of whom the latter spoke as the bravest and most circumspect man on the field that day, was indicted jointly with Apperson Perry. They were tried by a jury of Fleming County and promptly acquitted. Logan was never tried.

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"The court was held under the protection of State troops. The trial lasted for seven days. Pigman and Perry were shown to be men of excellent character, neither of them had been parties to previous killings in Rowan County. The evidence being concluded, the court instructed the jury. Briefly summarised, these instructions were 'Convict these defendants.' The jury, however, were really 'good men and true' and to the evident surprise of the court, and the chagrin of the prosecuting attorney, returned a verdict of not guilty. These jurymen had been summoned from the adjoining county of Fleming. Their names deserve the thanks of all good citizens of the Commonwealth. Obedience to the law and protection from the law, are reciprocal rights and duties, and this jury really decided that where those to whom it is delegated to administer the laws, and to protect the lives, liberty and property of the citizens, wilfully disregard, or timidly refrain from discharging their duties, the citizen has the right to protect and defend himself." (Capt. McPherson's report. Documents 1887. No. 23.)

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The glaring partiality of the court and corruption of most of its officers he illustrates in the following language:

"Not infrequently a witness would apply to an attorney the epithet of liar, and when questioned relative to some crime charged against him, a witness would defend his credibility on the ground that his questioner was guilty of offenses similar in character, which he would proceed to enumerate.

"Even the court would express his opinion in words of abuse and very plainly exhibited his partiality or prejudice. Indeed, when the case of the Commonwealth against John Keeton was called for trial, and the affidavit of the defendant and two reputable housekeepers, asserting the belief that the presiding judge would not afford the defendant a fair and impartial trial was by the defendant handed to the judge, he remarked, after reading the instrument aloud, that he was not surprised; that John Keeton would swear anything; that he had sworn to so many lies already that it was not astonishing that he (the judge) would not give him a fair trial. This observation of His Honor was delivered in the presence of the jury selected to try John Keeton."

Reverting to the excesses committed by the guerillas during the battle and afterwards, Adjutant-General Hill says: (Documents, Ky. 1887.)

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"Almost every one with whom I talked, heartily approved the day's work, barring some excesses, which were committed, such as the killing of the two wounded men after the

fight was over, and the disposition on the part of certain members of the posse to abuse their victory by manifesting some disregard of property rights, which conduct was bitterly lamented by the more conservative members of the posse, notably Boone Logan himself. The victors of the 22nd of June were in the main, singularly moderate and forbearing, and it is denied by none of the people there that they rendered a most valuable service to the county in overthrowing the outlaws who had so long terrorized the community."

During Circuit Court the commanding officers of the troops noticed one of the sheriffs and several Tolliver sympathizers in secret consultations. So suspicious were their actions that they were watched. In the afternoon these parties disappeared from Morehead. The next afternoon they brought a box of Springfield rifles, calibre fifty, by train. One thousand rounds of ammunition accompanied the guns. Col. McKee promptly seized the arms over the vigorous protest of the Tolliver faction. The court had directed their shipment "for the purpose of securing peace and quiet and preventing a fight among citizens of this community." Another order of the court declared "arms and weapons are kept or hidden or concealed, with the intent and purpose of being used by partisans of the factional war or strife now disturbing the peace, quiet and good order of said county of Rowan or being delivered to said partisans" etc., and directed the seizure of all arms. The officers complied, collecting all arms discovered in the possession of the Logan faction, and, of course, retaining the box of Springfields consigned to White, a Tolliver sympathizer. Then, strange to say, on August 24th, an order was issued by the Circuit Court directing the Colonel commanding the troops, or rather the Adjutant-General, to immediately deliver to the sheriff the box of Springfields and ammunition to arm a posse of citizens of Rowan County to make an arrest, and demanding a reply in writing should the officer refuse to comply with this strange order. The Adjutant-General replied that he could not comply with the order for the reason that the arms could not be released except under direction from the Governor.

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The effect of obedience to this order would have been to restore the arms to the Tolliver faction, while retaining those of the Logan party, and to arm a posse, perhaps to be guided by Deputy Sheriff Hogg, with its recent infamous history still in mind, would scarcely have been consistent with the duty of an officer sent to Rowan County to preserve peace. A day or two afterwards the court severely censured the Governor for not permitting His Honor to arm such sheriff's posse as he might select. Before departure from Rowan the officer commanding restored the guns and pistols taken from private individuals during the term of court.

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The box of Springfield rifles was retained and loaded upon the cars for shipment to Frankfort. The Tollivers were incensed. Deputy Sheriff Hogg and Andy White sauntered through town breathing threats and dire vengeance if the guns were not left behind. The soldiers loading them, however, were not disturbed, and the guns were deposited in the arsenal at Frankfort.

The presiding Circuit judge was soon afterwards, the following January, brought before the Legislature on impeachment proceedings. During the long-drawn-out investigation many witnesses were examined, whose testimony fills an entire volume. The result of the investigation was censure, a quasi whitewash, and a recommendation to abolish the county and attach it to another. But this would have meant nothing more nor less than to saddle upon innocent people the settlement of a controversy. To have transferred the county to another district would have resulted in involving other sections hitherto not affected by the trouble. To have abolished the county would have been an open acknowledgment of the weakness of the State to execute its laws and to cope with crime. It was this confidence of the lawbreakers that their crimes would never be punished, and the belief of many good citizens that the machinery of the law was set in motion only in the interests of certain parties, that was responsible for the long-continued, shameful disorders in Rowan County.

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THE FRENCH-EVERSOLE WAR.

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The scene of this war was Perry County, Kentucky, one of the most mountainous sections of all Southeastern Kentucky. Hazard, the county seat, was then a small, but very thrifty and enterprising village. It was called a town. Rightfully it ought not to have aspired to that title. It is situated on the North Fork of the Kentucky River, and was built in scattered fashion, between abrupt hills in the rear and the river, with but a single street running through it.

Here at Hazard was the cradle of the feud which for years filled newspaper columns and furnished most sensational reading. Many of the stories which have gone out to the world had, however, no other foundation than a lively imagination of newspaper writers who were anxious to fill space and to please the readers that loved the sensational. In this purpose they have succeeded admirably.

Here at Hazard resided the chieftains of this war—Joseph C. Eversole, and Benjamin Fulton French.

Both were men of fine business abilities, successfully engaged in the mercantile business; both were prominent, able lawyers of the Perry courts; both were in easy financial circumstances.

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Eversole was extensively related in Perry and adjoining counties.

French had originally come from the State of Tennessee, but had married a Kentuckian and by marriage had become related to influential families of Breathitt, Leslie and other counties.

Prior to the difficulties which eventually arrayed them against each other, Eversole and French had been apparently close friends.

A misunderstanding over a rather trivial matter furnished the basis of their future enmity, an enmity to the death.

The bird on the snowy alpine slope starts an insignificant slide. It increases as it rolls downward and becomes an avalanche; thundering into the valley below, carrying everything before it and leaving a path of desolation, destruction and death behind it.

So a trivial difference over a business transaction opened graves for many brave and generous men, desolated happy homes, and for a long time heaped shame upon the name of Perry County and the State at large.

French and Eversole disagreed and quarreled. At each subsequent meeting the quarrel was renewed with ever increasing bitterness; menacing threats were freely indulged in until the vials of hate became filled to overflowing. A theretofore existing sharp business rivalry materially assisted the estrangement from the start. As stated, both were engaged in the mercantile business in which each tried to outdo the other, often at a material loss.

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Serious trouble might yet have been averted through the interference of honest friends but for an unfortunate circumstance, which involved them to such an extent that the breach became irreparable.

The circumstance referred to might, however, never have had serious consequences had it not been for the pernicious activity of the slanderous tale teller. In this feud, perhaps more so than in any other of the internecine strifes which, during the eighties added to the significance of the title, the "Dark and Bloody Ground," and intensified the crimson hue of its history, we find those who shunned battle, feared to oppose their breasts to the shock of bullet, but gloried in pouring oil upon the flames, without danger to themselves.

In such a struggle the tale-bearer is more dangerous than powder and shot. Morally and legally, he who instigates a murder, even by indirection, is as much a murderer as the man who fires the gun and accomplishes the bloody deed. With the countenance of the saint such a man will seek the confidence of both sides. He loves to pose as a peacemaker; he preaches brotherly love. Yet, when the trouble is about to abate, he seems to regret it, for then he seizes upon every chance, uses every opportune moment to convey some confidential intelligence to the party or parties for whose ears it had been least intended. The strife is renewed; passions are rekindled; yet, while men welter in their hearts' blood, widows mourn and orphans cry, the traitor, the tale-teller, the scandal peddler, maintains his saintly countenance and bewails the fate of the unfortunates.

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Yet it is not always the spoken slander, the spoken tale, that hurts. The old adage that "silence is golden" is not to be applied in all cases. Silence is often even more dangerous than spoken words.

Silence may become a greater liar than the tongue. We often hear the expression "if you cannot speak good of any one, say nothing!" Yet silence is the most bitter, poisonous, insidious traducer. Silence may convey contempt more completely than a torrent of spoken words. Silence is most treacherous because it places the burden of its interpretation upon the other side. That interpretation may be wrong, but the silent slanderer does not correct it.

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Silence is also many sided. It may mean consent; it may mean denial. It does incalculable harm without being in the least responsible or actionable. One cannot horsewhip one for injury to character through silence. Silence and innuendo are closely related; both are the most dangerous weapons of the moral coward.

Spoken lies are soon forgotten. They "rile" the blood—but that passes. Spoken lies are tangible, as it were, and may be met. Silence and innuendo are like enemies in invisible ambush. One cannot attack an invisible foe.

What we have reference to might best be illustrated by the following dialogue the writer once overheard:

A. "Tell me truly, did he make that charge against me?"

B. turns away and refuses to answer.

A. "I heard he had made that charge against me to you and threatened my life—is this true?"

No answer.

A. "I may then presume by your *silence* that it is true what I have asked you about?"

No reply.

Result of *silence*: A homicide, and the destruction of two families.

Asked later on why he did not nip the trouble in its incipiency by resorting to a white lie, B. answered with asperity that A. had put his *own construction* upon his silence and refusal to have

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anything whatever to say in their controversy. On the stand B. admitted that the third party in question had not told him what A. had inquired about. Ergo: B. was morally responsible for the homicide, as much so as the man that pulled the trigger.

Reverting to the circumstance which completed the breach between French and Eversole: A certain friend (?) of French conveyed information to Eversole that he, French, sought his life.

This informant was a clerk in the store of French and known to be in his confidence. Naturally, under such circumstances, Eversole gave the report credence. Why not? We are ever ready to believe and accept as true anything that is spoken of an enemy, and French and Eversole had already become such in their hearts, if not outwardly.

The tale-bearer, who shall be nameless, related how French had planned to rid himself of his business rival and thus make for himself a clear field for mercantile operations; that French expected to accomplish his purpose with the aid of trusty, hired assassins, and that one part of the plan, the employment of reliable murderers, had been entrusted to him, the informant, who had been promised any amount of money necessary for this purpose, and a partnership with French in the business as a further reward for his services.

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Whether for real or imaginary causes, this tale-bearer had become intensely jealous of French over a woman. He sought consolation in revenge; one of the first steps toward the consummation of his desire to ruin his "rival in love" had been the bearing of the tale referred to to Eversole.

Eversole, after weighing carefully the statement, seemed to have entertained some doubt of its truth, and requested a sworn affidavit containing the statements made. This the tale-teller readily prepared with such clearness of detail as to cause Eversole to dismiss all doubt of the truth of the revelations and at once prepared to meet his enemy well.

French saw the ominous gathering of the Eversole clan, fully armed, and surrounded himself with an equally strong force.

Both of the belligerents kept busy recruiting among their friends and kindred in Perry and even adjoining counties. Man after man was added to the clans, some joining them bound by the strong ties of relationship or friendship, the most, however, were attracted by promises of good steady pay, and an opportunity to violate the law on a grander scale than they would have dared to do single-handed.

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The first murder occurred shortly after the gathering of the clans.

One of French's staunchest friends, one Silas Gayhart, was shot and killed—from ambush.

This mode of warfare was resorted to in this feud perhaps more generally than in any of the others. It must not be attributed altogether to cowardice—this murdering from ambush. It has many advantages. Of course, killing an enemy from ambush puts the slayers out of danger. That is one consideration, but the chiefest one is that it is almost impossible to fasten the guilt of the crime upon the proper person. When men are banded together for the purpose of committing crime, the sanctity of an oath is easily laid aside when an alibi becomes necessary. The entire population of the county may *know* the assassins, point them out to you as they stalk proudly along, yet, when it comes to trials by jury, the evidence seems to signally fail to connect them. The very men that might have told you in confidence the most damaging circumstances connecting the accused with crime, will, on the stand, disclaim all knowledge, or so soften down their statements that no jury could, under their oaths, find a verdict of guilty.

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In this murder of Gayhart at least a dozen white men and some negroes participated. It is unfortunate that circumstances do not permit us to give the names of them. They should be preserved for posterity, and added to the list of feud heroes. As no one was ever indicted for that cowardly assassination, although its perpetrators were well-known throughout the county, history must necessarily remain silent in so far as the publication of their names is concerned.

It has been stated and contended that the killing of Gayhart was an affair entirely disconnected with the French-Eversole controversy; that the man had fallen as the victim of a quarrel with persons not members of the clan. This may be true and it may not. It is difficult in such social upheavals to get at the unvarnished truth. When crimes are committed under cover of black night, from well-secreted places, suspicion might point in the wrong direction and accuse the innocent. For this reason it is best to abstain from charges not definitely established beyond any sort of doubt. The result of the Gayhart murder, however, was the same as if he had been publicly assassinated by the Eversole clan, for French believed that Gayhart lost his life because of his friendship for him.

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French sent out more recruiting officers. The increase of his "army" forced the Eversoles to do likewise. How similar is this to the struggle of nations to maintain superior armies and navies. It is not strange, after all. Communities stand relatively in the same attitude as do nations. A community is a miniature state, nothing more.

The little village of Hazard, with its one hundred inhabitants, was now thrown into a state of perpetual excitement which continued uninterrupted through the summer, fall and winter of 1887.

That no battle was fought was due to the extreme caution with which the clans watched each other's every move.

Then early one morning the Eversole faction learned to their astonishment that French and his army had evacuated the town during the night.

Many theories were advanced in explanation of this singular action. Some attributed it to fear. Those better acquainted with the temper and make-up of the French clan scouted that idea and suggested that French was seeking reinforcement in the country, and that at an opportune moment he would sweep down upon the village, trap the hemmed-in Eversoles, and annihilate them with overwhelming forces.

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This seemed a rational conclusion. With French gone from town, Eversole declined to be caught in such a trap, as trap it would have been, and to prevent the execution of French's plan the Eversoles themselves retreated to a section of the country peopled with their sympathizers.

However, Eversole did not leave Hazard open to undisputed occupation. He left a bait there, a small force. If French should learn of the weakness of the garrison he would be tempted to sweep down upon it. In doing so he would find Eversole striking in his rear. French himself was shrewd and refused to fall into the trap.

Eversole scouted everywhere, frequently on the trail of French. During the month of June, in the dark of night, the latter reentered Hazard, took possession of his fortified places where most of his men remained secreted, while the more daring of them walked the streets the next morning, bantering the Eversoles that had been left in town. Their leader was at once notified by messenger to the country of the state of affairs. He had but few men with him at that time, but with these started for town. Seven or eight men, fortunately for him, joined his ranks on the way.

It was late in the day when Hazard was reached, but the lateness of the hour did not defer attack. From well selected positions the Eversoles opened a plunging fire upon the housed-up French men. These replied to the fusillade with equal spirit. Hundreds of shots were fired at a great expenditure of ammunition and without appreciable result. Only one man was seriously wounded on the side of French. No casualties were admitted by the Eversoles.

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The darkness of the night brought the engagement to a close. French withdrew from town.

This kind of almost bloodless warfare continued throughout the summer with no decisive result. Both clans grew weary. Great expense had been incurred in keeping a large, paid army. The leaders were threatened with bankruptcy. So when the friends of both sides interceded, French and Eversole seemed more than willing to appoint and send representatives to a conference, which was held on Big Creek in Perry County. It was attended by prominent citizens of both Perry and Leslie counties, who were anxious to bring about a settlement of the war.

Articles of agreement were finally drawn up, in which the belligerents agreed to return to their homes, to disband their armies, and to surrender their arms and ammunition.

This agreement was duly signed by the representatives of the clans and duly witnessed.

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In accordance with this agreement, French surrendered his arms to the county judge of Leslie County, while Eversole placed his guns in charge of Josiah Combs, county judge of Perry County.

The clans disbanded. Still, there were but few who promised themselves lasting results from the Big Creek Treaty of Peace. It was nothing more *than a scrap of paper*. The compromise had not been prompted by any desire for friendship.

Its underlying motive was mercenary. The chieftains sought merely to avoid financial outlay. The welfare of the country, respect for the law, these were considerations of secondary importance only, if taken into account at all. This may be fairly deducted from the fact that the old distrust of each other never vanished. *The grudge was there*, it rankled still.

Indeed, it was but a short time after the conclusion of the treaty that French claimed to have unquestionable authority for the charge that Eversole had violated the stipulations by repossessing himself of the guns. These, as we have seen, had been turned over to Judge Josiah Combs, who, by the way, was the father-in-law of Joe Eversole.

When Eversole was confronted with this breach of a solemn treaty he attempted to justify it by declaring that at no time had it ever been observed by French, who, he maintained, had never in fact disbanded his army, and that the surrender of arms had only been partial, a blind.

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Whether these reports had been actually brought to the ears of the chieftains, or had been invented by them in order to manufacture some sort of pretext upon which to renew hostilities, must ever remain in doubt. Future events seem to prove rather clearly that neither of the parties was in very good faith toward keeping the peace. Both French and Eversole appeared singularly well prepared to re-enter the war. The ink had hardly dried on the treaty when Perry County was again thrown into turmoil and strife.

What had the authorities been doing during this period of quasi warfare? We find absolutely no record of any sort of any attempt to maintain the dignity of the law.

As in Rowan County, many of the court officers were rank partisans, who used their power to protect in outlawry their own particular friends and kindred. Those not in their favor had little cause to appeal to the law, had they been inclined to do so, which they were not. It seemed to suit both sides perfectly to let justice sheath her sword and stand idle, and—blind as usual.

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On the 15th of September, 1887, Joe Eversole and Bill Gambriel, a French sympathizer, met in the streets of Hazard, when a quarrel ensued. This was followed by a most sanguinary duel in which Gambriel was killed.

Gambriel was a minister of the gospel, a typical mountaineer, tall, powerful and game. He would fight at the drop of a hat and drop the hat himself. It was said of him that he considered moonshine whiskey of much benefit for the stomach, and a game at cards an agreeable diversion from the cares and toils of life. It was said of him, too, that he carried a testament in one pocket, a deck of cards, a bottle of liquor and a pistol in the others. This had been told in a joke; but straightway this description of him was accepted as a fact and was widely published in the papers at the time.

The truth of the matter is that he was a man who entertained rather singular, independent and free ideas of the duties of a preacher. He was a good man, and had a wide circle of friends.

Joe Eversole was physically a small man, of slight stature, but quick and agile as a boy. Certainly he was fearless.

When such men engage in combat blood is sure to flow. As to who began the difficulty there is but little doubt. Official reports to the Governor, which will be found later on, place the blame upon Eversole. [Pg 202]

After a short exchange of blows between the men, Gambriel was fired upon by secreted friends of Eversole. Attempting to escape by running around a house, Gambriel was fired upon from another quarter and fatally wounded. Staggering and reeling, he turned upon Eversole, who fired into his head, instantly killing him.

Several parties were indicted for the murder, but one only was tried. The trial resulted in a hung jury the first time, and in an acquittal on the second trial. It has always been an open secret about town that the man who fired upon Gambriel while he attempted to escape death, has never been indicted, and that he was an officer at that time.

The killing created intense feeling. Gambriel had many friends. He was a staunch French adherent and it was well within the course of reason for French to regard the killing of the man as a challenge. The Eversoles themselves believed that Gambriel's friends would not pass lightly over the homicide and prepared to meet all danger. The clans, disbanded (?) but a short time before, reassembled and for several months roamed the ill-fated county at will, terrorizing its inhabitants and defying the law. [Pg 203]

But little fighting was done. It seems that they contented themselves with manoeuvring, marching and counter-marching. In such warfare, if warfare it was, the innocent were made to suffer more than the warriors.

Such an armed vagabondage was as useless as it was silly. It furnished material for the sensational newspaper, but even these failed to discover anything of the heroic about this campaign.

The leaders must have felt something of that themselves, for during the winter the armies were again disbanded. Permanent restoration of peace, however, was not to come to Perry County yet for a time.

The apparent calm through the winter was suddenly disturbed in the following April, when the news of the brutal assassination of Joseph C. Eversole and Nick Combs excited and horrified Hazard.

On the morning of April 15th, 1888, the valley of Big Creek, Perry County, became the scene of a tragedy which might well cause one's blood to run cold with horror, one's cheek to blush with shame.

On the Sabbath day, when human hearts should turn to God in prayer, when nature even seems to bow in reverence, the birds of the forests sing His praises with more than usual sweetness, two lives were hurled into eternity without warning, murdered, butchered from ambush. [Pg 204]

When a man resents an insult, when passion clouds all reason, and in momentary frenzy, under the impulse of hot, red blood, he shoots his fellow man, there is yet some excuse. But when men with the savage instinct of beasts of prey fall upon their unsuspecting victims from ambush, like the tiger that glides noiselessly through the thick jungle and suddenly springs upon its prey, then the word man becomes a mock and devil is the proper epithet.

Nowhere in the valley of Big Creek could a more suitable spot have been selected from which to accomplish such a hellish crime as was committed on that fatal Sunday morning, than the one chosen by the red-handed demons.

The valley is narrow, the hills enclosing it are steep, rugged and covered with dense forest. The spot where the murderers were in hiding, commanded an uninterrupted view of the road up and down the valley. Nothing short of a lynx's eyes could have penetrated the leafy, thicket-grown murderers' retreat.

On the day of the murder, Joe Eversole, in company of his father-in-law, Judge Josiah Combs and the latter's youthful nephew, Nick Combs, bade a last farewell to his family and the host of friends at Hazard and started for Hyden where the regular term of the Circuit Court was [Pg 205]

scheduled to begin the following morning. This court Eversole and Judge Combs had always attended, having been practising members of the bar there for years. Of this fact the assassins had been well informed.

They seemed to have feared that their intended victims might possibly leave for Hyden a day or two in advance of court, which they had done on several occasions in the past, so the murderers prepared for such an exigency and stationed themselves at the ambush for at least a day before that memorable Sunday.

Their patient waiting was rewarded on Sunday morning by the appearance of the victims. On the way the three travelers were joined by one Tom Hollifield, an officer, who was conveying a prisoner, Mary Jones, to Hyden. Judge Combs rode by the side of the officer, well in advance of Eversole and young Nick Combs.

They had passed the ambush some forty yards or more, when suddenly the roar of rapidly fired guns echoed and re-echoed through the valley. At the sound of the shots Judge Combs turned and saw, to his horror, that the messengers of death had accomplished their cruel mission, saw Joe Eversole and Nick Combs fall from their rearing and plunging horses, saw them struggle in their blood and then lay still.

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Paralyzed with horror and agony, he gazed upon the scene. He had no sense or realization of his own danger, for in danger he had been. It was purely accident that he had ridden in advance of his kinsmen.

One of the assassins climbed down the steep hillside and approached the body of Nick Combs, who was then in his death-throes. He had fainted, but upon the approach of the assassin, opened his eyes.

The murderer, finding life still lingering in the mangled, bleeding body, raised his rifle to finish the bloody work. The youth begged piteously to shoot him no more, that death would claim him in a few moments. Mountains might have been moved by his pleadings, but not the heart of the cowardly assassin. "Dead men tell no tales," he exclaimed, with a smile of derision upon his lips. Slowly he raised the Winchester rifle, placed the muzzle against the boy's head and fired, dropping the eyeballs from their sockets.

The murderer then calmly rifled the pockets of Eversole of their contents and retreated, thus adding the crime of robbery to that of murder.

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Judge Combs, brought to himself, spurred his horse to utmost exertion and dashed like a maniac into Hyden to bring the news.

The scene of the crime was within about three hundred yards of a house. Shortly after the shooting one Fields, the owner of the house or cabin, and one Campbell proceeded to the scene of the tragedy.

They found the dead in a pool of blood, lying within a few feet of each other. They discovered Eversole's pockets turned inside out. Nick Combs' horse was found, shot, in a little meadow by the side of the road, while Eversole's horse was afterwards caught some miles further down the stream.

The news of the tragedy aroused the people to instant action. A force of men was assembled, who started upon the trail of the murderers. The place of ambush was found. It was located exactly sixty-one feet from the point where the bodies had been found, in a dense spruce-pine thicket. Several of the pine bushes had been bent over and the tops tied together, thus forming a complete screen and shelter.

Behind this blind or screen they found a considerable depression in the earth, a natural rifle pit. This had been filled with leaves and appeared packed and trodden into the ground. Numerous footprints were plainly visible. Remnants of meals were also found. Everything tended to confirm the theory that the assassins had been there for at least two days before the killing. From this screen the trail was followed up the hill until it divided. One of the trails led to the top of a high ridge, one turned to the right, another to the left. This discovery proved that there had been at least three assassins. When this fact became known the pursuers retreated, seemingly afraid of an ambush. They reasoned that three or more men so desperate as to commit a cold-blooded double murder in the broad-open light of day, almost in sight of human habitation, would and could, in this wild mountain region, successfully fight an even larger force than was at the command of the pursuers.

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The bodies of Eversole and Combs were conveyed to Hazard in the afternoon and consigned to their graves amid a great concourse of sorrowing people.

Thus the bloody drama ends. The sombre curtain of mourning falls. The story of the brutal assassination is finished. Justice hides her head in shame for no one has ever been punished for it.

The French faction was at once openly charged with responsibility for the outrage. French himself was indicted. So boldly and undisguised were these accusations circulated that French feared for his safety and again surrounded himself with men. He almost immediately withdrew from town and scouted through the country.

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If those who committed the murder of Eversole, or their accessories, had hoped to thereby crush the enemy, they found themselves sadly mistaken. The vacancy created by the death of Joe Eversole was quickly and ably filled by John Campbell, a man of acknowledged bravery, as well as caution, and well-fitted as a leader in such a struggle.

He surrounded the town with guards; squads of men patrolled the streets; his force made repeated scouts into the neighboring hills. No man not in possession of the password could enter town. An unauthorized attempt to do so drew upon the rash one the fire of many guns. Campbell had been for days in hourly expectation of an attack by French. He, therefore, believed it wise to resort to military methods and discipline. The rigid order to shoot any one who dared to pass into town without first giving the pass-word resulted in his own death.

He was returning one night from his usual rounds when, on approaching a sentry, he found him asleep. He ordered him harshly to arise, when the man, half asleep, and dazed, threw the gun to his shoulder and fired. Campbell uttered a groan and fell heavily to the ground. [Pg 210]

The sentry, on perceiving his mistake, gave the alarm; the wounded chieftain was carried to his home, where an examination of his wound by the surgeons disclosed the fact that he had been fatally wounded. He lingered, however, for more than thirty days in intense agony before he died—the victim of his own precautions.

During Campbell's leadership one Shade Combs conceived the grand idea that he was the man who might summarily end the war by killing off certain obnoxious members of the French faction. He communicated his plans to Campbell, who furnished him the required men. But by some means Combs' intended victims had gotten wind of his scheme and forestalled it in such manner that the hunter now became the hunted. One fine morning, while saddling his horse, a well-directed shot from ambush ended his life.

Such were conditions in Perry County during the summer and fall of 1888. People who had continued entirely neutral, grew exceedingly nervous. One never knew when his turn would come next to die from a shot from the bushes. The law had utterly failed to give the citizens the protection to which they were entitled. The state and county government enforced the collection of taxes but seemed unable to enforce the law. Had the people of Perry County withheld their hands from their purse-strings and refused to pay taxes, we honestly believe that the high authorities would very quickly have found or invented a remedy for the lawlessness which was depriving the State of revenue. The citizens of Perry County would have been justified in a rebellion against taxation, unless the government protected them in their rights. When people are taxed, they in turn are supposed to have their lives and property protected. When one consideration of a contract fails, the other may be avoided. [Pg 211]

On the 9th of October, 1888, the news of another assassination increased the terror of the people. Elijah Morgan, a French adherent, a man of courage and unswerving determination, was shot and killed within less than two miles of Hazard—shot from ambush.

On the morning of his death he and one Frank Grace were on their way to town in pursuance of an agreement that had been entered into by him with members of the Eversole faction. Morgan was the son-in-law of Judge Combs, but in spite of all efforts from that direction to throw his influence with the Eversoles he had continued to remain loyal to French and for this he was promptly slain. [Pg 212]

His death had been decreed some time before this, but his shrewdness and knowledge of the tactics of his enemies had made him a very slippery proposition. A ruse was, therefore, resorted to. For a short time previous to his death Morgan had frequently expressed his desire for peace, an earnest wish to lay down his arms, and to be permitted to return to peaceful pursuits. This commendable desire on his part assisted his enemies in the formulation of plans for his destruction. They assured him with every pledge of sincerity that he should not be molested; that he might freely come to town whenever he wished; that on a certain day (the day of the murder) if he would meet them at Hazard, they would all renew the friendship that had existed until the feud tore them asunder.

Morgan promised to attend the proposed peace jubilee. Little did he dream that the pretended friends were cold-blooded, calculating enemies, seeking his life under the miserable mask of friendship; that to be certain of success, to avoid any possible miscarriage of the plot, every avenue of escape had been carefully considered and guarded against.

Assassins were placed at various points along the road and at convenient spots in town. [Pg 213]

The actors in the tragedy were all at their posts when Morgan stepped upon the scene, unknowingly playing the chief role.

Within less than two miles, in fact, but little more than a mile from town, at a spot where the road is flanked by large overhanging cliffs on one side and the steep river bank on the other, Morgan was fired upon. With a bullet in his back he sank to the ground. A number of shots followed the first one. Grace was driven to cover. Morgan, in his death struggle, rolled over the river bank where a small tree arrested further descent. Grace, not daring to abandon his place of comparative safety, remained a helpless spectator of the agonies of his dying friend.

Country people, traveling toward town, at last came to Morgan's relief, but he died within a few hours.

As soon as the alarm had been given, a posse of his friends started in pursuit of the murderers, but nothing came of it.

The French faction openly charged the Eversoles with the murder. The Eversoles expressed indignation at the imputation. They had no right to complain. On other occasions they had themselves preferred similar charges against French upon no better authority than suspicions based upon suspicious circumstances. The murder of Morgan had followed closely upon the heel of the assassination of Shade Combs for which the Eversoles held the French faction responsible. Certainly there were some well-grounded suspicions that the slaying of Morgan was an act of retaliation on the part of the Eversoles.

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Now the State government and the circuit judge began to take a hand in the matter. It was time. Circuit Judge Lilly, a gentleman of the highest type, an able jurist, had somehow or other seemed unable to inspire the district with respects for his courts. This district embraced the counties of Breathitt, Letcher, Perry, Knott and others. In each of those lawlessness had spread to such an extent that the judge found himself defied on every hand and felt himself compelled to request the State to furnish troops for his courts.

This led to the following spirited correspondence between the Governor and Judge Lilly:

Hazard, Ky., Nov. 13, 1888.

To the Governor of Kentucky:

Sir:—Captain Sohan has succeeded in organizing a company of about 45 State Guards in Perry County. He informs me that he has no orders and does not know whether he will be ordered back to Louisville or to go with me to Whitesburg, thence to Hindman and thence to Breathitt; but, in any event, expects to be ordered away from here very soon. Mr. B. F. French is here with 15 or perhaps more men, well armed, and the people are so much alarmed, fearing that they will be left to the mercy of these men, that I have decided that I will take the responsibility upon myself to order the Perry Guards on duty, hoping that you will approve my action and order them on duty, and let their pay begin on the 17th instant.

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I will not attempt to hold courts at Letcher, Knott, or Breathitt unless you send guards along. No good can be accomplished by holding courts in any of those counties without a guard. If a sufficient guard is present, I think that much good will be accomplished in and by the moral effect it will have on the people by showing them that you are determined to have the courts held and the laws enforced, and to give protection to the good citizens.

Please write me and send by way of Manchester, as I shall return that way, and if I do not receive your letter here, can get it on the road. If you order the guard to go with me I will go and hold the courts if not Providentially hindered.

I remain, Yours truly,
H. C. LILLY.

The Governor answered in rather caustic manner.

Governor Buckner's Reply.

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EXECUTIVE DEPARTMENT.

Frankfort, Nov. 27th, 1888.

Hon. H. C. Lilly, Judge, Irvine, Ky.

Dear Sir:—I have the honor to acknowledge the receipt of your communication of the 13th inst. from Hazard, Perry County, in which you say "Mr. B. F. French is here with 15, or perhaps more, men, well armed, and the people are so much alarmed, fearing that they will be left to the mercy of those men, that I have decided that I will take the responsibility upon myself to order the Perry Guards on duty, hoping that you will approve my action and order them on duty, and let their pay begin on the 17th inst."

At the time I received your communication I was in communication with the sheriff of Perry County. I inferred from his statements that there was no immediate danger of an outbreak or opposition to the civil authorities; and, second, that but slight effort had been made by him to arrest violators of the law.

Your own statement does not inform me of anything more than a vague apprehension in the public mind, and does not advise me that the civil authorities cannot suppress any attempts at disturbance by employing the usual force of civil government. *I assume that if danger had been imminent, both you and the sheriff would have remained on the ground.*

The object of furnishing troops on your application was to protect the court in the discharge of its duties, and not to supercede the civil authorities by a military force.

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Under the circumstances I do not feel authorized to call the local militia into active

service.

Respectfully, your obedient servant,
S. B. BUCKNER.

The letter of Judge Lilly is significant as an admission of the cowardice of the entire population. He says "Mr. B. F. French is here with *fifteen*, or perhaps, more men, well-armed, and the people are so much alarmed fearing that they will be left to the mercy of those men" and so on.

Had Judge Lilly been correctly informed? If so, what had become of the boasted bravery of Kentucky mountaineers that the manhood of an entire county, containing many thousand inhabitants, should shiver and tremble like frightened sheep and tamely submit to the intimidations of a band of *FIFTEEN*, or perhaps more, men.

Was it possible that in this land of the free and the brave the proportion of brave men stood fifteen to one thousand cowards? Oh no! The authorities had simply never put the law-abiding, the true citizen element, in a position to show its mettle; it had never been given a proper test. The attempt to restore order had not been made at all; if it had, it would have succeeded. No outlaw band, however strong, can, or will, long defy the law when a firm and *determined* move is made to enforce it. Why is it that one courageous blue-coat policeman can scatter a crowd? It is not his bulk, his figure, but the uniform he wears, the badge of authority—the law. If he is a credit to that uniform he may, single-handed, disperse a mob. The consciousness of having the law behind him makes him dauntless; the thought of duty steels his nerves. If those entrusted with the execution of the law in Perry County had made *one* firm, unflinching effort to uphold its dignity, the period of assassinations would have ended then and there. The history of lawlessness in Perry County furnishes ample lessons to other counties, and to other states, for that matter.

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Governor Buckner aptly expressed his opinion of the situation when he terms the "fears and alarms" of the people as "anything more than a vague apprehension in the public mind."

Judge Lilly probably accepted the trembling cowardice of a few as the criterion by which to measure the manhood of an entire county.

However, on the 29th of October, the Governor notified the Adjutant-General to forward troops to Hazard. His report to the Governor later on furnishes interesting reading, as does the report of the commander of the expedition, Captain J. M. Sohan.^[6]

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ADJUTANT-GENERAL'S OFFICE.

Frankfort, Ky., Nov. 14, 1888.

To his Excellency, Governor S. B. Buckner.

Dear Sir:—Pursuant to Executive order, bearing date the 29th ult., I left Frankfort on 31st and proceeded to Hazard, the county seat of Perry County, arriving there noon of Sunday, the 14th instant, where I remained till Thursday, the 8th, when I left on my return, at 10 o'clock A. M., arriving here Saturday morning. Hazard contains near 100 inhabitants, when they are all at home, but I was told that not more than about thirty-five people were at home when I reached there, the rest of the population having fled in consequence of the French and Eversole feud which has distracted the people of the town and county for more than two years, and during which some ten men have died by violence as the result thereof. Many of the refugees returned before I left there, a number having joined the troops en route, and returned under their protection to Hazard, arriving there on the afternoon of Sunday, the 4th, while others returned Sunday night and others as late as Wednesday night.

Among those who had sought safety in flight were George Eversole, county judge, and brother to Joe Eversole, the leader of the faction of that name; Ira Davidson, circuit and county court clerk, a sympathizer with that faction, Josiah Combs, late county judge and father-in-law of Joseph Eversole, and his son — Combs, who is an officer of the circuit court, and Fulton French, the leader of the French faction, together with the families of each, except Davidson, who is a single man. These all returned, except the elder Combs, either with the troops or after their arrival, and before I left. The killings above referred to were mostly assassinations from ambush, which seems to have been the favorite method of warfare adopted by both factions for ridding the community of the presence of persons who, from causes real or supposed, had made themselves obnoxious to the slayers, though one killing, that of Mr. Gambriel, was committed in the town of Hazard, in broad daylight, by two Eversoles and two of his henchmen, and was witnessed by a number of people; was committed without anything like adequate provocation, but for which no indictment had ever been found. Grand juries and witnesses seem either to have sympathized with the law-breakers or to have been intimidated by them; but it is not improbable that both of these causes have operated to paralyze the administration of the law, and to correspondingly stimulate crime. As is usual in such cases, I found that the county authorities failed to act with any degree of promptness and vigor at the inception of the difficulties and the result was the inevitable one—the troubles soon grew beyond their control. Josiah Combs, the father-in-law of Joe Eversole, was county judge at the beginning of the feud and Eversole and his friends were evidently the aggressors—at least were first to resort to violence—and

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when the county judge was appealed to by outsiders to issue warrants for their arrest, positively declined to do so, saying that Eversole had done nothing to be arrested for, and that French ought to be driven away from town. Thus the inaction of the authorities stimulated the friends of each faction, and each sought safety in arming such persons as would take service with them, and setting at defiance the law instead of looking to it as their best protection. Finally, one Sunday morning last April, Joe Eversole, in company with Nick Combs, his brother-in-law, and Josiah Combs, started from Hazard to Hyden to circuit court, and when about five miles out from Hazard they were fired upon from ambush and Eversole and young Combs were instantly killed.

Fulton French was indicted for that killing, and while he may have instigated it, he certainly did not participate in the shooting.

The killing of Joe Eversole seems to have demoralized his friends, the most prominent of whom soon after left Hazard.

The last assassination was that of Elijah Morgan, who was shot from ambush, near Hazard, on the 9th of last month. His only crime appears to have been that he sympathized with French. Morgan was also a son-in-law of Josiah Combs and brother-in-law of Eversole.

And now, perhaps, you are ready to ask what it was all about? Well, I cannot say, although I very naturally sought to learn the cause. Some of whom I enquired thought it was business rivalry, while others said there was a woman in the case, and I think it attributable in part to both those causes. French and Eversole were both merchants and lawyers, and I was told that some three years ago a man who was clerking for French accused French of deflowering his wife, and quit French and took service with Eversole, and told the latter that the former had offered him five hundred dollars to murder him, and soon afterwards Silas Gayheart, who was a friend of French, was murdered, as it is charged, by Eversole and his friends, and from that time on the troubles have grown and assassinations multiplied, the victims being first from one side and then from the other. I thought it advisable to call out 44 of the reserve militia, all that I had arms for, and selected these from the best, non-partisan people that I could.

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The list was not complete when I left, but I authorized Capt. Sohan, whom I found to be an excellent officer, to muster them in, and gave him similar instructions to those you gave me on the subject.

Judge Lilly is very anxious that the troops go with him to Knott and Letcher Counties, but I heard of no organized band of outlaws in those counties too strong for the civil authorities, if the latter will do their duty. The troops, officers and men comprising the detail, conducted themselves in a soldierly and appropriate manner, and I apprehend that they will have no trouble in protecting the court from violence should any be offered, which I think improbable.

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Very respectfully,
SAM E. HILL,
Adjutant-General.

Captain Sohan's report contains additional facts of interest; the difficulty in reaching the remote, mountainous section, and facts connected with the conduct of the court.

HEADQUARTERS LOUISVILLE LEGION.

FIRST REG. KY. STATE GUARD, ADJUTANT'S OFFICE.

Louisville, Ky., November 27th, 1889.

To the Adjutant-General, Frankfort, Ky.

Sir:—Under instructions contained in your letter of March 8th, 1888, handed me at Hazard, Perry County, Kentucky, I have the honor to submit the following report:—

Pursuant to General Orders Nos. 38 and 39, issued from regimental headquarters, and authorized by Executive Orders, I left Louisville October 30th, at 8.05 P. M. with a detail of four commissioned officers and 63 non-commissioned officers and privates, and 1 gatling gun, under instructions to report to Hon. H. C. Lilly, Judge of the 19th Judicial District, at Hazard, Perry County, Kentucky.

The detail occupied 2 passenger coaches and 1 baggage car, which were attached to the regular 8.05 P. M. train on the Knoxville Branch of the L. & N. Railroad. We arrived at London, Ky., about two o'clock, and there our cars were sidetracked and the command occupied them until daylight, when we disembarked, had breakfast and started for Hazard, which is about 75 miles distant. We traveled in wagons, which had been provided by Lieutenant J. H. Mansir, Acting Quartermaster, who had preceded the command to London for that purpose. To transport the command were required 14 wagons and teams, and 1 team for gatling gun. The officers were mounted. Owing to the condition of the road, in places almost impassable, the march was very tedious; the men had frequently to dismount and help the teams up the hills or over rough places. About 4 o'clock we went into camp for the night, and resumed the march next morning

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at good daylight. We continued the march in this manner from day to day, going into camp between 3 and 4 o'clock, and resuming the march between 6 and 7. We reached Hazard at three o'clock Sunday afternoon, November 3rd, 1888, it being the fifth day out from London. On the second day of the march we were joined by Judge Lilly, when about 25 miles from London. He remained with or near the command until we reached Hazard. At various points along the route we were met by the officials of the Perry Circuit Court—the circuit court clerk, sheriff and deputy sheriffs—all of whom were awaiting escort, and who accompanied the troops into town.

Arrived at our destination, I found the court house unsuitable for a camp-ground, and selected for that purpose a hill in rear of the court house, and about 200 yards distant. It proved an admirable site, being dry, easily picketed, in a manner secluded, and affording good opportunity to command the town in case of difficulty. We were comfortably encamped before dark, and entered at once upon the routine of camp life, the full particulars of which have been made known to you in my daily reports. I reported for duty to Judge Lilly at the court house on Monday, the 5th inst., at 9 o'clock A. M. He instructed me that he would not require a guard at the court house or town just then, not deeming it necessary, as but few people were in, and that in any case he did not intend to try to do anything until after the election, which occurred on the 6th, and that when he wanted a guard he would let me know. I returned to camp and the judge adjourned court until Wednesday, the 7th. Upon resuming Wednesday, the town being well filled with people, the judge required a guard in the court room as a precautionary measure, and entered formally upon the business of the term. I noticed that in charging the grand jury he dwelt at considerable length upon the crimes of illegal selling of liquor and gaming, but passed murder with the remark that "it was unnecessary for him to call the attention of the jury to the fact that murder was a crime," and also when one of the attorneys at the bar wanted to introduce a motion to reorganize the grand jury, in order to get a jury that would indict certain persons for murder, the judge informed him that he would overrule any motion to that effect: "That if commenced, there would be no end to it; that the jury was carefully selected, and was as good as could be had in the county." The business of the court proceeded slowly, the great majority of the cases having to be passed, owing to the absence of the accused, or of important witnesses, whose attendance it seemed impossible to secure. A few convictions for minor offenses were secured, the penalty inflicted generally being the lowest prescribed by law; besides these, but one important case was decided, one man being sent to the State prison for one year for shooting and wounding, receiving the lowest penalty. The judge, in finally dismissing the jury, reprimanded them for their leniency, and called attention to the light sentence imposed as indicative of the state of feeling throughout the community. As far as I could judge the court officials used every endeavor to promote the ends of justice, but were effectually hampered by their inability to make arrests and secure the attendance of witnesses and get juries to convict. About the third or fourth day of the court, B. F. French, one of the principals in the French-Eversole feud, was brought into town by the sheriff of Breathitt County. He was surrounded by a posse of about twenty men who rode in in good order, in column of twos, each man holding his rifle at an "advance." They went at once to French's residence, where they remained during the court. I believe French was nominally surrendered to the sheriff of Perry County, but was permitted to remain in his house and was constantly surrounded by the Breathitt County posse, which was made up of his friends and followers, and which was represented to me as containing some of the worst men in Breathitt County. So threatening was their appearance that the judge commanded them to surrender their arms to me. They at first refused, but finally brought nine rifles into camp, and, I suppose, hid the balance, as they did not appear any more under arms. The rifles surrendered to me were the 50-calibre Springfield, exactly the same gun as the State Guard was formerly armed with. I returned them to the posse, on an order from the judge, when they left town. French, although under arrest, went constantly armed, and seemed to be under no restraint. A day or so after his arrest he went into court, gave bond for himself and several of his followers and was released from arrest, but remained in town until near the end of the term, when he left for Breathitt County, surrounded by an armed guard similar to that which brought him in.

Perhaps the most important event of the trip was the formation of a military company at Hazard, the organization of which was commenced by yourself during your stay there, and completed by me, acting under your instructions. I have made full reports of this event to your office, with roster of company and report of election of officers. I respectfully recommend that this company be encouraged in every way possible, as in my opinion it will have a quieting effect upon the turbulent element in Perry County. The company is largely made up of the men selected by yourself, and who are, as near as possible, unbiased in the feuds of the county. The officers appear to be good men for the positions to which they were elected, and enjoy the respect of the community.

As the end of the term approached, and being without orders to govern my further movements, I despatched Lieutenant Gray, who volunteered for the service, to London, on Saturday, the 9th inst., with a telegram to your office asking for instructions. I waited until the last day, knowing Judge Lilly had asked the Governor for troops over his entire circuit. You had instructed me that definite orders would be sent me in time

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to act. The order did arrive Monday afternoon, having been delayed two days in the mail, and was to return to Louisville. I immediately made arrangements to break camp, and Lieutenant Gray having returned Tuesday night with telegram confirming the above order, the command left Hazard Wednesday, the 20th. Judge Lilly remained in Hazard, awaiting action of the Governor in regard to his application for troops, and his request for these being refused, he decided not to go any farther on his circuit, and left Hazard with us. He parted with us finally the next day, a few miles out from Hazard, and I believe returned to his home.

I desire to express my thanks to Judge Lilly for the uniform kindness and courtesy of his bearing toward myself and my command.

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The return trip was made in the same manner as the outward one, and by the same means, but was even more trying on the command, as the weather was colder and the roads worse. We reached London Sunday, 27th, about three o'clock P. M. We found cars ready for us, and at once occupied them. They were attached to the one o'clock A. M. train and arrived at Louisville Monday morning, the 28th inst., where the command, having disembarked, were marched to the armory and disbanded.

This ended a service somewhat unique, even in the varied experience in the Kentucky State Guard.

That it was productive of good there can be no doubt. It impressed the people of the community that the State was determined to assert her power and majesty, and that they would no longer defy the law with impunity. The officials of the court and residents of the town and county were unanimous in the assertion, which was made to me repeatedly, that the term of the court could not have been held without bloodshed, except for the presence of the troops, and I believe this to be true. On the day of the national election there was not the slightest disturbance, although several murders and affrays were reported from adjoining counties, in Hazard,—a thing almost unprecedented in its history. We had here the same experience that the State troops have always had on similar service, that is, the police power of the State is universally feared and respected. That there will be more bloodshed before this feud is settled was the opinion of all to whom I spoke on the subject. The men engaged in it are vindictive and daring, and will use any means to escape punishment or gratify their revenge. That the people really believe this, is shown by the fact that many of them had left the town permanently. The circuit clerk and county judge, both residents, left when we did with the intention of not returning. Half the houses in town were unoccupied, and one of the citizens lamented to me the fact that whereas they formerly had 150 inhabitants they now had but seventy. The moral condition of many of the people of this section is indeed deplorable. There is not a church of any kind in the county, but few schools, and they of the most primitive sort; not half of the murders committed are ever made known to the public; many of the people live in the most squalid poverty and social degradation; incest of the vilest sort is frequently practised, and the marriage ceremony is constantly ignored. I have counted as many as fifteen children, who, with their parents, occupied a small cabin, containing one room. It is from such conditions that the disordered state in the community arises, and in my opinion they cannot be fully removed until advancing civilization and development bring new people and new incentive to labor.

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This state of affairs renders it very difficult for the civil officers to perform the duties satisfactorily, as a majority of the people seem to have sunk into a kind of apathy regarding crime, and hold aloof from any effort to enforce the laws. The fear of secret assassination or "bushwhacking" hangs like a pall over the entire section, so that those who would otherwise aid in enforcing order do not care to risk their lives in the attempt. I will state an instance showing how widespread this fear is: Several of the men in French's body guard were wanted in Knott County, and the warrants for their arrest were brought to Hazard by a *woman*.

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Neither is this fear groundless, as is shown by the fact that more than twenty men have been killed in the French-Eversole feud, most of them being shot from ambush. This is the secret of all the troubles. The people are held in terror by a few desperadoes. The peaceable and respectable citizens largely predominate in the county, and could they be assured of protection, would soon put an end to the disorders. In closing this report, it gives me great pleasure to refer to the conduct of the detail under my command. Perhaps no part of the State Guard has ever passed through more severe test of discipline and endurance. Certainly none have ever responded more gallantly and faithfully to the demands made upon them. The march from Louisville to Hazard and back was particularly trying, the camp each night being but temporary, the men could not make themselves comfortable and suffered severely from the cold. The road is simply indescribable, being so rough that most of the command preferred walking to riding in the wagons provided. We frequently marched for hours in the water, the natural bed of the creeks being the only available way through the hills, and this was generally the best part of the road; at other times it took all hands to help the teams up the hills, or keep them from falling over precipices. Through it all the men were cheerful and uncomplaining, and though allowed every possible liberty, there was not a single serious breach of discipline, and but few even of a trivial sort. This, I think,

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speaks well for the training and reliability of the command from which the detail was taken.

The health of the detail....

Very respectfully,
Your obedient servant,
J. M. SOHAN,
Captain Commanding.

With the departure of the troops returned the same chaotic conditions which had characterized the county previous to the term of court which they had been sent to protect. During the spring term, however, a number of indictments were found against law violators. This would, of course, bring the accused, their friends and many witnesses to court, at the following November term.

Judge Lilly refused to share the belief of the Governor that the Home Guards would be able to suppress disorders and properly protect the court. He failed to appear. An election for special judge resulted in the seating of Hon. W. L. Hurst as judge pro tem.

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THE BATTLE OF HAZARD. (NOVEMBER 7TH AND 8TH, 1889.)

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Court had proceeded with unimportant business until the fourth day of the term.

Considerable disorder had occurred on the night of the third day of court, but actual hostilities did not open until the following morning.

During the forenoon a heavy volley of shots suddenly rang clear and sharp in the cold November air and echoed through the valley.

There was a momentary silence in the crowded court room. Every man looked at his neighbor, questioningly and uncertain. Then with one impulse judge, lawyers, jurors, officers and bystanders sprang to their feet, rushed for exits and into the street. There the crowd scattered like sheep in all directions, some to seek the protection of the walls of buildings, others to depart from town without the ceremony of a good-bye.

Not until after the first stampede had somewhat abated was it that the factions began to take cognizance of the situation and prepare plans for concerted action.

When the first volley fired, no one about the court house knew what had really happened. No one took the time to ask. It was instinctively assumed that it was the beginning of the long-expected general battle between the French and Eversole forces.

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The shooting had been done by the owner of a glorious jag, and if cooler heads had prevailed a battle might have been averted, but once the factions had reached their arms and assembled, peace was out of the question. The instigator of the trouble, one Campbell, had been engaged with several others of his friends, in a game of cards, on a hill overlooking the village. The hill is known as the Graveyard Hill. In a spirit of excessive hilarity, produced by over-indulgence in fire-water, he had stepped to the side of a tree and fired his pistol. At the upper end of town one Davidson kept a store. At the reports of the pistol Davidson looked out of a rear window of his place of business. He saw Campbell standing on the hill waving his still smoking gun. Davidson procured his Winchester rifle, took deliberate aim, then fired. Campbell sank dead to the ground.

As soon as the panic-stricken crowd had left the court house the Eversoles rushed into it and took possession of it.

Two French men, Jesse Fields and Bob Profitt, found themselves isolated in a jury room on the second floor, while the court room proper was already occupied by their enemies, the Eversoles. The two were in a precarious situation and thoroughly realized it. There seemed but one chance for escape open to them—a leap through the windows into the yard below. They saw themselves outnumbered twenty to one. Resistance would have been folly and surrender did not appeal to them. Neither side had thus far in the "war" exhibited much respect for principles of civilized warfare.

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The moment the Eversoles took possession of the rooms beyond, Fields and Profitt locked the door of their room and as noiselessly as possible hoisted one of the windows. On looking into the yard below they hesitated. It was a high jump, with many chances in favor of their breaking their necks, or at least a limb or two. But when the enemy attempted to break through the door all hesitation vanished. Both leaped and landed on the ground below without sustaining injury.

This daring leap had been perceived by the Eversoles. The two men were fired upon as they ran for life toward and into the jailer's residence for cover. This building, as well as the court house, was of brick. The two structures stood within fifteen feet of each other and fronted the same street. The Eversoles now passed their time in ventilating the thin brick walls of the little building. Fields and Profitt began to feel uncomfortably warm, but held the fort. They had an ample supply of ammunition and continued to pour volley upon volley into the windows and through the walls of the court house. All through the long afternoon the guns roared. Clouds of smoke hung low and heavy over the unfortunate town. Constant was the clatter of firearms. The incessant hiss of leaden missiles was interspersed with shouts and defiant curses while the silent

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terror of women and children was pitiful to behold. The whole presented a scene not easily forgotten by those who were compelled to witness it.

Thus far the battle had proved bloodless, notwithstanding the tremendous expenditure of ammunition. Neither of the belligerent armies had dared an open attack. They fought now as they had practically always fought during the war—from well-secreted places. Fortified in their quarters, they took care not to expose their persons. It was no senseless caution, for upon the appearance of an object anywhere, behind, in or under which a human being might be suspected, it became at once the target of many guns and received very close attention indeed.

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With the approach of night Fields and his comrade felt that they must evacuate the premises or succumb to an attack by superior forces under cover of darkness, but to join their friends some distance away they must necessarily run a dangerous gauntlet. However, they preferred dying in the open to being caught like rats in a trap.

It was dark when the two desperate men started on their perilous journey. With heads bent down upon their breasts, like men facing a beating hail, they ran for their lives. Every gun of the enemy was trained upon them, and fired. Presently defiant yells from the French position announced to the crestfallen Eversoles that their prey had escaped them.

When the battle started French was absent from town. He arrived during the night.

All night long the battle continued with scarcely an intermission in the firing.

During the night Tom Smith and Jesse Fields succeeded in eluding the vigilance of the Eversoles and occupied the Graveyard Hill. When the first ray of dawn approached, Fields and Smith opened a terrific fire upon the Eversoles in the court house, the balls crashing through the windows, driving the occupants to seek safety by throwing themselves upon the floor.

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During the early morning hours two of the Eversole men attempted to cross a street near the court house, when Fields and Smith opened fire upon them. One of the men, J. McKnight, was instantly killed, while his companion escaped. Smith and Fields used a sunken grave as a rifle pit and from a tombstone Smith took the rest for the shot that killed McKnight.

The strategic advantage of French's men perplexed the Eversoles, who, penned up in the court house, were rendered practically helpless. The fusillade was so continuous that an attempt to return the fire from the windows would have meant certain death. The balls crashed through the windows, tearing the wood casings to splinters and the shutters were completely shot away. The furniture in the court room was thrown about and knocked into atoms. The building, from which the Eversoles had expected so much as a point of vantage, proved a death trap. To retire from it the Eversoles appeared as anxious as they had been to take possession of it. Their retreat to the river bank was effected in safety, but to prevent attack while crossing the river, Green Morris and a companion remained concealed under the banks of the river. Fields and Smith on the Graveyard Hill were the first to see the Eversoles in retreat and started in pursuit. Approaching the hiding-place of Morris, the latter fired, wounding Fields severely in the arm and thus effectually checked further pursuit. If Smith and Fields had reached the river unharmed, the record of the fight might present an increased list of casualties, as both were men of great courage and good marksmanship.

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On the records of the Perry Circuit Court appears an order of Special Judge Hurst, giving his reason for the unceremonious adjournment of court. It is an interesting document. Certainly Judge Hurst's reason for adjournment seems a valid one:

PERRY CIRCUIT COURT.

4th day Nov., Term 1889.

At this term of the Court there were two armed factions in the town of Hazard, the French and Eversole factions, antagonistic to each other.

On the second night of the Court, the acting judge was shot but not wounded (?) in the French end of the town, French not being in the town at the time, but some of his men were and the next evening at dusk a "dinamite" or other cartridge with burning fuse attached was thrown over the judge's room or house in which he stayed and exploded heavily on the other side of the house.

Court continued till the evening of the 4th day, when the two factions began heavy cross-firing at each other in earnest about and near the court house, which completely "correlled" the court, the jury, the officers and people in court for some time, and before the firing abated, the judge plainly seeing, that it was not intended that court should be further held, and it being impossible to further progress with the business and live, the court ordered the clerk to adjourn the court, and the non-combatants to save themselves as best they could. They did so, but one shot was fired at them from the Eversole quarters as they left.

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The fighting continued through the next night and until about 9 o'clock the next day excepting some intervals of rest. The French side received reinforcement from Breathitt County. During this fight two men, friends of Eversoles, were killed in the battle, and it was rumored that one of the French party was badly wounded and perhaps killed and another one wounded.

The Eversole party claimed that they were destitute of ammunition next morning and retired from town without being injured thereby. The clerk left with his keys, the jury left, the judge remained till the next morning in the town and after the retreat of the Eversole party, when he received news as coming from the French side that he and the women and children could leave the town unmolested provided he did not go back to the court house, whereupon the court and some of the women and Commonwealth's attorney quietly marched away and in pursuance to the court's orders this court is hereby adjourned in course.

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This order was signed at the August Special Term of the court 1890 and on the 11th day of August, 1890.

Immediately after the battle the factions scattered through the neighboring counties, scouting in small detachments, and continually shifting quarters.

A special term of the Perry Circuit Court was called for August, 1890. On the night of July 4th, however, a deed was perpetrated which was intended to and did block the business of the court.

The town was awakened by the shrill cry of "fire," the crackling and crashing of burning and falling timbers—the court house was a seething mass of fire, and the people could only look on as the structure succumbed to the consuming element. There was never any question as to the origin of the fire. It was the work of incendiaries. Fortunately, most of the records were saved.

Many of the feudists now began to tire of the constant scouting. There was not enough real fighting to make it interesting. Occasional ambushes had lost their charm. Many longed for peace and home. Among these was Robin Cornett, an Eversole man. Pretending friends encouraged him to return to his home. He did so, and as day after day passed without the least mishap, he often visiting Hazard in apparent safety, he relaxed his vigilance, and fell,—a victim of relentless assassins.

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One morning (July, 1890) Cornett, in company of his little brother, started to the field to cut oats. Finding the grain not ripe enough, he abandoned the field work and proceeded to the woods to peel logs. A tree, which he had cut, fell across a narrow ravine, elevating portions of the trunk several feet above the ground. He leaped upon it, ax in hand, when shots from the near bushes accomplished another foul assassination. Cornett sank dead upon the log, while his little brother ran for life and escaped.

There can be no doubt that Cornett's doom had been sealed the instant he returned home. The murder had been planned and was executed with cruel cunning and occupies a front rank among the many infamous assassinations, which have given this feud such notoriety.

At the special term of the Circuit Court, Judge Lilly appeared, accompanied by a detachment of State Guards, commanded by Adjutant-General Gaithers of Louisville, Ky. The court house had not been rebuilt and a large tent served the purpose. It soon became evident that the court meant business. A large number of deputy sheriffs were sworn in to supplant the inefficient Home Guards. These were at once disbanded and ordered to return the accoutrements they had received, but the few articles turned over were hardly worth the shipping expenses, many of the guns being broken.

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Within a few days after court had begun, prisoners were brought into court as fast as indictments were found. The jail became so crowded that many prisoners were kept in a strongly guarded tent. As rapidly as the cases were called up and the accused were presented in court, they were transferred to the Clark County Circuit Court for trial. It was a wise and necessary step indeed. Not only would it have been impossible to secure qualified jurors in Perry County, but the attendance of the accused, their friends and witnesses would most probably have invited a clash between the contending factions.

The last days of the term of court, commonly called the "Blanket Court" had come and gone without the least disturbance, and the removal of the prisoners to the Winchester jail was also effected without mishap. The backbone of the war was at last broken. A strange, but welcome, calm succeeded turbulence, bloodshed, and anarchy.

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A great change had come over the caged warriors. Disarmed and crowded in the narrow confines of a prison, they faced each other but the deadly Winchesters were no longer in reach. Fast in the clutches of the law, the law which for so long they had disregarded, evaded, shamefully violated, they now had ample opportunity for reflection and sober reasoning. The absorbing and very pertinent question: How to escape the punishment of the law worried them. It was a knotty problem indeed. The lions, made captives, were now tame and submissive. For the first few days after these foes met in prison, hatred and bitter feeling found vent in abusive epithets and fistic encounters, but the realization of helplessness reminded them of the need of making friends out of enemies. They realized their power to destroy each other in the courts, but would not the destroyer himself be destroyed? Revenge could only open more cell doors, or furnish culprits for the gallows. It was this prospect of conviction, of punishment, which effected at last what bloodshed could never have accomplished—it reconciled in a measure the enemies of old, some of them actually becoming friends, and thus again effectually clogging the legal machinery. The necessity of self-preservation brought matters around in such shape that we find men who had

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opposed each other in deadly combat, fighting side by side the legal battles in court. None of the prisoners was allowed bail, but after removal to Clark County, one after another of the accused demanded examining trials and upon being allowed bail, readily executed bonds and returned to their homes and families, which many of them had not seen for months.

With the removal of French, Judge Combs and others of the feudists returned an era of peace which continued uninterrupted until 1894, with the exception of a street fight in the town of Hazard between some of the Eversole faction and Jesse Fields, a French follower.

In this battle some of the Eversoles and Fields were wounded, and a colored bystander was killed by a stray bullet.

In 1894 occurred the last assassination as the direct outcome of the feud.

Tired with a life that now separated old Judge Combs from his family and friends, he determined to and did return to Hazard to round out the declining years of his life.

He might have lived in perfect peace and security elsewhere, but the humble mountain home in the village of Hazard, so dear to him through the associations of his youth and manhood, now attracted him more than any other spot on earth. He could not bring himself to desert it once and for all, in the chilly winter of old age. [Pg 247]

Notwithstanding his faults, and his record during the feud shows him to have been at fault on more than one occasion, he had a host of friends, and these tried hard to dissuade him from his purpose. But he had formed his resolve, and refused to be guided by well-meant advice.

There is something very pathetic in this old man's attachment for a home which, for years, had offered him danger instead of peace, sorrow instead of happiness.

He had visited his home surreptitiously on several occasions since his removal therefrom. On one of these visits he had narrowly escaped death by assassination. This attempt upon his life should have convinced him that his doom was sealed, that his death had been decreed. Yet, notwithstanding all this, Judge Combs returned to Hazard to reside. But a little while afterwards he succumbed to the assassins' bullets.

The murder was committed in broad-open daylight, in plain view of many townspeople, and, also from ambush.

At the moment the fatal shot was fired, the old man was engaged with several of his friends and neighbors in commonplace conversation. [Pg 248]

Within a few feet of the group of men stood a fence enclosing a lot planted with corn, which, together with the thick and tall growth of weeds and bushes, offered the assassins admirable opportunity to approach their victim to within a few feet without danger of discovery.

No one noticed the slight rustling of the corn blades. No one saw the hand that parted them skilfully to make way for the gun which accomplished its deadly work. There was a puff of smoke, a loud report and Judge Combs reeled. Suddenly he straightened himself up, stood apparently undecided for a moment, then walked across the street toward home. At its threshold he sank to the ground and expired without a groan.

The murderers had evidently been determined to guard against any possible blunders which had, on former occasions, saved the old man's life. For from the moment the shot was fired up to the time the old man fell dead, the murderous gun continually covered him, ready for instant service should it appear that the first shot had not been fatal.

After the victim had fallen to the ground, the principal of the assassins deliberately walked to the rear of the lot. Here he was joined by one of his confederates. A third had already opened fire and continued a fusilade from across the river for the evident purpose of pretending the presence of a large force and thus by intimidation to prevent pursuit. [Pg 249]

The three confederates then proceeded calmly down the river. Their retreat was deliberate. At no time did they exhibit the slightest apprehension of danger or fear of pursuers.

The utter recklessness and boldness with which the crime had been committed completely stupefied the townspeople. Intelligent, prompt action was out of the question for a time. Not until the murderers had had a long start did it become possible to organize a posse.

At last the fugitives were sighted by the pursuers. A general exchange of shots followed. One of the outlaws was wounded. He continued his flight with difficulty.

A running fight was now kept up for a great distance. Then the fugitives disappeared in the dense mountain forests and the chase was given up. But one member of the posse was wounded.

Several of the eye-witnesses of the tragedy and members of the pursuing posse had recognized Joe Adkins, Jesse Fields and one Boon Frazier as the fugitives. Joe Adkins was the man who had fired the fatal shot which took the life of the old man Combs. [Pg 250]

The three parties mentioned were in due time indicted. Adkins and Fields were arrested. Frazier was never caught.

The cases against Adkins and Fields were transferred to another district in Kentucky for trial.

The best legal talent of the state participated in the famous trial. Honorable W. C. P. Breckinridge, a lawyer and orator of national fame, had been retained as counsel for the defence.

Fields and Adkins had been French men all through the feud, in fact, had been among his most trusted lieutenants since its commencement. Rumor, therefore, quickly associated the name of French with the murder of Judge Combs. French stoutly denied any complicity in this affair. Then, like a thunderbolt from a clear sky, came the startling intelligence that Tom Smith, another French warrior, had given out a confession which seriously compromised French.

Smith was then under sentence of death at Jackson, Breathitt County, for the murder of Dr. John E. Rader. As is usual with doomed felons, he became converted and sought to wash his sin-stained soul whiter than snow by a confession. It set forth that he had been present at the home of Jesse Fields on Buckhorn Creek, Breathitt County, at a time when French, Adkins and Fields discussed and perfected plans for the assassination of Judge Combs; that he, Smith, would have assisted in the dastardly murder but for a wound which he had a short time before received in a pistol duel with Town Marshal Mann on the streets of Jackson.

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This confession resulted in French also being indicted.

The confession itself was of no importance from a legal standpoint. It, however, materially assisted and strengthened the prosecution by uncovering certain circumstances of which it might otherwise have remained in ignorance. The friends of the murdered judge pointed out with emphasis and logic that Smith had always been a French confederate, had fought for him, taken life for him; that he had told the truth about his participation in the murders of Joe Eversole, Nick Combs, Shade Combs, Cornett, McKnight and Doctor Rader. Was there any reason, they asked, why Smith should have lied in regard to French's complicity in the murder of Judge Combs, yet had told the truth concerning all things else. Why, they argued, should Smith desire the ruin of his friend, his companion in arms, his chieftain, and accomplish it by false statements, when the truth would save him?

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French was indicted, tried and acquitted. On the first trial of Adkins and Fields both received life sentences. The cases were taken to the Court of Appeals and there, in an exhaustive opinion, reversed.

The second trial resulted in a life sentence for Adkins and the acquittal of Jesse Fields. Adkins, however, has been a free man again, lo—these many years. A life sentence in Kentucky is not what it seems.

Thus ended the last act of the bloody drama—the assassination of Judge Combs. He was murdered because he had espoused the cause of Joe Eversole at the breaking out of the war. Joe was his kinsman. As has been said, Judge Combs undoubtedly contributed to the state of anarchy which continued for so long in Perry County and disgraced American civilization. As a sworn officer he had no right to permit love for his kinsman, his friendship and affection for Eversole, to swerve him from plain duty. Judge Combs' partiality in the discharge of his duties as judge of the county doubtlessly hastened the conflict, for while it protected one faction, it furnished good and sufficient reasons to the other side to place no confidence in his administration of the law, and roused them to savage, retaliatory crimes. Notwithstanding all this, this last assassination was cowardly, as all the others, for that matter. If Judge Combs deserved death, we may well ask how many of the other participants in this feud ought to have shared a similar fate at the hands of the law?

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BLOODY BREATHITT.

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Several bloody feuds, innumerable assassinations, demoralized courts, the purchase with money of slayers, anarchy in its most atrocious and hideous forms—such has been the history of Breathitt County since the days of the Civil War.

Breathitt County is not a remote section, out of touch with civilization, where ignorance might be pleaded in extenuation of the shameful lawlessness. Breathitt County has furnished men of brains, of power, and of the highest integrity.

In Breathitt County, as well as in all the other feud-ridden sections, the good citizens are in the majority.

Yet there, as in the other lawless communities of which this history treats, the good element suffered itself to become intimidated to such an extent as to eliminate it as a factor to be employed and relied upon in restoring order.

It may also be stated that Breathitt's chief feudists, murderers, conspirators and perjurers have counted men of brains among them, who, however, delegated their work of bloody revenge for real or fancied injuries to persons of a lower degree of mentality. Ignorant, half-savage tools serve better.

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The murder lust has been rampant there for many years, and it is there yet. The outside world has heard only of the most important tragedies, that is, tragedies which involved men "of brains and power." The "little fellow" is murdered without much attention being paid to it.

Within eleven months during the years 1901 and 1902, nearly forty men had been slain in cold blood, and for which crimes not one has suffered the extreme penalty of the law.

Why is it, then, that since the good citizens are in the majority, they are willing to submit to terrorization by a few? Why do they stand idly by instead of rising in their might and punish?

Will the reader answer another question: Why is it that an entire train load of men will tremble and shake in their shoes, throw up their hands, and allow one or two bandits to take possession of their property?

It has happened in a few instances that bandits have come to grief through the intrepidity of an individual who acted in spite of any fear of impending death. We remember an incident of that kind during a hold-up on a western road a few years back. The engineer, fireman, conductor and brakemen were lined up and held under the guns of one of the bandits. Two of his confederates went through the coaches.

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The engineer, a small but determined man, watched his chance, made a sudden lurch forward, with his head butted the bandit in the stomach, crumpled him up and put him out of commission. The train crew then possessed itself of the guns and started for the coaches, firing a few shots as they went. This disconcerted the robbers within. They made for the doors to see what the shooting outside meant. It was their finish. Several of the passengers who had been standing, trembling, with their hands in the air, believing help had come, regained their courage, sprang upon the outlaws, disarmed and securely tied them. No one was hurt.

It is the fear of the bushwhacker that prevents concerted action of the law-abiding element in a community where assassinations from ambush are the common methods employed to rid one's self of an enemy. And it is no idle fear. For one man to set himself up as the champion of law and order and to defy the outlaws to do their worst, is equivalent to signing his own death-warrant. He is liable to be picked off as an undesirable citizen.

Assassinations from ambush are always difficult to prove and alibis are manufactured at small cost. Perjury, too, is common. It is the favorite weapon of the defense in such cases.

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Then the successful assassin is shrewd enough to conduct himself usually, though not always, in such manner as to have friends among all classes of people, even among the best.

Many of the worst men have used the cloak of religion, or church-membership, to hide their black hearts. The masonic lodge has been prostituted by such men of shrewd deceit.

It is no assurance of a man's goodness to find him sitting in a church pew on a Sunday, with the Bible in his hand, for even within the holy sanctum of the Lord the foulest conspiracies and crimes have been hatched in the brains of men. This does not apply to Breathitt County or Kentucky alone.

Some of the most noted feudists never fired a gun themselves, but in their daily intercourse kept themselves unspotted before the world, and used willing, paid tools to accomplish their bloody ends. Such men always indignantly deny any imputation of wrong-doing. They have been known to condemn in the loudest and the most emphatic terms outrages against the peace and dignity of the State, the result of their own planning.

The writer once pointed out to a gentleman from another state a certain chieftain of murderers. He shook his head. "That man a murderer?" he said. "Why, he is the most amiable person with whom I have come in contact with in a long time. That man has brains, he has education. That man is wrongfully accused, I know. No red-handed murderer could look you in the eye like that, or counterfeit the innocence imprinted upon his countenance."

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The truth was, this particular outlaw had never murdered any one with his own hands, but he had been the directing, managing spirit of foul conspiracies and of wholesale assassinations.

This adoption of the mask of deceit serves another purpose. Since you can never tell by a man's looks what is in his heart, citizens grow suspicious of one another, and fear to express their opinions. That this vastly increases the difficulty of concerted action looking toward the eradication of crime, is apparent.

Reverting again to the murder lust: What is its origin? What keeps it aflame? What inspires it? Is it that the savage of the stone age is not yet dead? That the veneer of civilization has in all those thousands of years not become thick enough to prevent its wearing off so readily? Perhaps. At least, it seems so.

Let us quote a recent example of this fearful blood lust:—

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Jackson, Ky., Aug. 29, 1916.

"Don't you want to see a nigger die," witnesses report were the introductory remarks offered by Breck Little, who Sunday shot and killed Henry Crawford, colored, 17 years old, on Old Buck Creek in Breathitt County. The shots were fired from a barn door which Crawford was passing while going up the road, and the victim fell dead in the road.

This illustrates the lust for blood. "Don't you want to see a man killed?" If you do, say so and you may be accommodated.

We have pointed out heretofore in a former history that there is much similarity between the old Scottish feuds and those of Kentucky; that the clan spirit is yet alive; that Kentucky feuds are nothing more nor less than transplanted Scottish feuds. This view has been adopted by other writers and sociologists as furnishing the solution of the riddle: What is the cause of these feuds?

But can such incidents as the one cited above be attributed to the clannishness of the people. No. Such individual acts of savage ferocity can have but one source—an inborn, natal craving for blood. This and this alone can furnish us any sort of explanation why men slay without provocation or purpose.

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Bad Tom Smith, of Perry County feud fame, slew to satisfy this craving for blood. According to his own admission, it had made itself felt when he was a mere youth. He was a degenerate pure and simple. His last murder, that of Dr. Rader, was committed without any motive whatever. "I just raised up and killed him while he was asleep!" That was the only statement he would ever make concerning that bloody deed.

Environment has, of course, much to do with it. Yet if we look about us, we find that counties in the very midst of feud-ridden sections have remained free of the murder craze.

Many years ago Breathitt, along with practically all the other mountain counties of the State, decided to abolish the saloon. Local option has been in force there now for years. It was hoped that the elimination of the legalized liquor traffic would eradicate crime, or, at least, enormously diminish it. Prohibition is supposed to exist in Jackson and the county at large. It will not do to say that notwithstanding the local option law is in operation, liquor is still at the root of the evil. We must presume that the prohibition of the sale of liquor is enforced. To presume otherwise would be to acknowledge the inefficacy of prohibition laws. Doubtless the local option law is enforced in Breathitt as much so as anywhere else where similar laws prevail, or, better said, the laws in this respect are enforced as far as is possible with interstate shipment of whiskey into local option territory remaining unobstructed.

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The "liquor argument" is no solution of the sociological question in hand. During all those years that prohibition has existed in Breathitt, ostensibly so, at least, without apparent diminution of crime, without any receding of the murder wave, other counties, neighbors to it, we might say, have rejected local option laws, and permitted saloons without any apparent increase in the crime rate.

Reverting again to the spirit of the Scottish Highlander as responsible in part for the murder lust: Nearly all of southeastern Kentucky is peopled by the same stock. Jackson and Laurel counties have never been contaminated with the feuds which have raged on their very borders. Jackson County in all its history has not seen as many murders committed as have stained the soil of Breathitt in less than one year. Jackson County has never had a feud; its chief lawlessness has been the promiscuous sale of whiskey, illicitly, of course.

The argument has been advanced that the lawlessness which has disgraced Breathitt and other mountain counties is directly traceable to the contempt for law instilled in the growing up generations during the period immediately following the Civil War.

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It doubtless furnished the foundation for the deadly feuds which have in times passed ravaged the border counties of Bell and Harlan. These counties were frequently subjected to invasion by rebel and Union troops, with their attendant elements of lawless camp followers, deserters and guerillas.

Kentucky attempted to remain neutral at the outbreak of the war. But the people divided sharply. The State Guards and Home Guards frequently clashed. They ravaged the country without regard to military proprieties or discipline. The civil authorities had been superseded by military courts which often dealt more harshly than wisely with the people they attempted to govern. In Harlan and Bell Counties bad blood was caused by these retaliatory invasions of rebels and Home Guards. Many men took advantage of the opportunity to wreak vengeance upon an enemy they had feared to attack single-handed and did so under the protection of the mass. Crimes went unpunished because committed under the guise of military operations. But in Breathitt County there did not exist a border war.

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After all the matter sifts itself down to what has been pointed out in the introduction: Lawlessness can exist only so long as the good element of a community refuses to rise up against it, and suffers itself to be intimidated.

It should be needless to say that in a republic the people must rule supreme. By their formation of republican form of government they have declared themselves capable and willing to govern themselves, and to enforce the laws they have themselves made. If a people fails to discharge the duty of properly governing themselves, they forfeit their right of citizenship.

If a community persists in its refusal to avail itself of the right of self-government, that right should be abrogated until such time as it shall be able to guarantee not only willingness, but capability for self-government. Where anarchy exists, government has fled. Where a people supinely lay upon their backs and permit anarchy, are they longer entitled to the citizenship of a great state and of a greater nation?

The people of Breathitt County, by their long years of inaction and submission to terrorization by a few, have shown that they do not or did not consider themselves longer the most potent factor

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in the conservation of order in society. Public sentiment had lost its health. The people of Breathitt County owe it to their manhood, their county, their state, to the nation, to redeem themselves. For the horrors of strife there have been published broadcast to the world. "Breathitt" has become synonymous with blood, murder, anarchy, the world over. We have read of it in foreign newspapers.

The United States only recently demanded of Mexico that the disorders there, especially along the borders, must cease. The Federal government threatened that republic with war even, unless citizens of this country and their property are protected. Government might have found as good grounds for intervention in Breathitt during the past, and may yet—if the murder mills there do not some of these days shut up shop.

America demands of foreign governments protection of the lives and property of our citizens. Yet, owing to the complexity of our governmental structure, it may not extend that protection to its citizens within her own territory.

The outlawry along the Mexican border within the last three years has not been as great in proportion to size of territory and population involved as has been the destruction of lives in Breathitt County at intervals for years. Yet with regard to Mexico this government has seen fit to say that conditions along the border had become "intolerant" and must cease even at the risk of war.

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The people of Breathitt County are citizens of the United States, as well as of their State and county. As such they ought to hasten to restore the good name and the honor of the country to which they belong, and of which they should be proud. The murderous, lawless Mexican bandit is no more a knave than the American guilty of similar atrocities.

There did come, a few years ago, a wave of reaction, an upheaval which brought into the limelight of publicity the fearful state of affairs existing there. Murders in the streets of the county seat and throughout the county had occurred with such frequency and boldness as to at last attract the attention of the press of the entire country. At last a man of wide prominence in the State was struck down. This man was J. B. Marcum, a United States Commissioner, and a trustee of Kentucky State College, as well as lawyer of prominence and a leading Republican.

The circumstances attending this murder and the prominence of the man slain aroused at last a storm of indignation throughout the land. Newspapers of other States condemned Kentucky so severely that public sentiment within the State itself became aroused and forced the investigations which revealed Breathitt County's history of blood and crime.

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In spite of the most strenuous efforts from certain quarters to hush the matter up and to block investigations of the damnable plots and murderous conspiracies by men entrusted with the enforcement of the law, the public was at last made acquainted with conditions of affairs in Breathitt County, which presented a picture so harrowing and degrading that the civilized world stood aghast and for a time refused to believe.

Breathitt is a beautiful mountain county along the Kentucky River, scarcely forty miles distant from Lexington, the metropolis of the Kentucky Bluegrass, famous the world over for the refinement of her people.

Jackson is the county seat, a small but thriving town on the Kentucky River, built upon numerous hills, which give it an irregular, though by no means displeasing appearance.

Commercially, Jackson is prosperous, surprisingly so under the circumstances. How much more rapid and greater might have been its progress but for the deplorable epidemics of murder, none can tell.

Jackson is also the terminus of three railroads. The town has good schools and several churches, but church-going, schools and trading were sadly interrupted and at times completely stopped during the reign of terror which held Breathitt in its bloody clutches during the first decade of the present century.

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It is impossible in a limited space to give more than passing notice to all of the feudal wars which have been fought from time to time in Breathitt County. To do so would fill a volume. What the reader finds detailed in this chapter relates principally to the Hargis-Cockrell-Marcum-Callahan vendetta. It is the most recent feud. What transpired during it is but a repetition of what had occurred in others.

The first widespread feud in Breathitt County originated immediately after the Civil War. In that national conflict the county furnished soldiers to the South and to the Union. John Amis and William (Bill) Strong raised a company for the Federal cause. It became a part of the so-called "Greasy Fourteenth," and was commanded by Col. H. C. Little.

It was in this regiment that the noted Amis-Strong feud arose. It was the first of a series of bloody internecine strifes in that county.

The hatred engendered during the Amis-Strong feud was more bitter than the sectional strife between the armies of the North and of the South. A feud between the two factions was not

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recognized to have existed, however, until about 1878.

In that year open and serious hostilities were precipitated by a fight during Circuit Court. In the battle Bob Little, a nephew of Captain Strong, was killed, and an Amis seriously wounded.

From that time on fights grew more numerous. Charges and countercharges were made on both sides. The county was in a ferment. Finally, nearly every family became involved in one way or another.

How many men were killed in this feud will, perhaps, never be known, but many graves were filled. In this connection it may be well to state that the county has rarely had a coroner and no records were kept of deaths. It is thus an impossibility to ascertain the number of violent deaths which have occurred in the past.

John Amis himself, the head of the faction of that name, was killed in 1873. The feud finally "burned itself out."

A few years after the termination of this one another started, under the name of the Strong-Callahan feud. Some of the members of the factions in the Strong-Amis feud also participated in this one. In this war Capt. Bill Strong headed his faction. Wilson Callahan, the father of Ed. Callahan, who figures so prominently in the Hargis-Cockrell feud, commanded the opposing forces.

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A number of men were killed off before Wilson Callahan's death by assassination put an end to it.

The Jett-Little feud next stained the history of Breathitt County. It was brought to a close about fifteen years ago, and after the principal participants therein had all been killed off. As bad as conditions had been prior to 1878, they grew decidedly worse in that year, when Judge William Randall, the presiding judge of the Criminal Court of the district, was compelled to desert the bench in the midst of a court session to seek safety in flight. The county was in a state of revolution brought about by the assassination of Judge John Burnett, then the county judge. This crime was laid at the door of the Gambles and Littles. The uprising of the factions was precipitated by Judge Randall's declaration that his court would see to it that the criminals were punished. Judge Randall never returned to Breathitt County during his term of office.

During the latter part of the eighties another reign of terror was initiated, and continued until the close of the decade.

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Lest we might be accused of exaggeration and sensationalism, we insert here the acrimonious, bitter correspondence between Governor Buckner and Judge Lilly, the presiding judge of the Criminal Court of the district which included Breathitt.

The letters are a matter of public record, and are instructive, interesting, and will no doubt materially aid the reader to understand the nature of frequent clashes between state, district and county authorities.

Judge Lilly to Governor Buckner.

Frankfort, Ky., Dec. 5, 1888.

To his Excellency, the Governor of Kentucky.

Dear Sir:—From a full investigation and inquiry into the condition of the affairs in Breathitt County, I am fully satisfied that the civil authorities cannot hold a circuit court in that county and enforce the law without the aid of the State Guard. That the people are divided to such an extent that a sheriff's posse will not be sufficient. Several murders have been committed in the county since the last term, and the offenders are not yet indicted, and cannot be, unless the witnesses can be protected. Charges are made against a brother of the sheriff, and the son-in-law of the jailer, and the witnesses cannot be induced to go before the grand jury unless they have assurance of protection. There is a number of felony cases in the court, which I think will be ready for trial....

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Governor Buckner's Reply.

Hon. H. C. Lilly, Judge 19th Judicial District,
Irvine, Kentucky.

Dear Sir:—I have fully considered your letter of the fifth inst. in reference to the condition of affairs in Breathitt County in which communication you say that you are "fully satisfied that the civil authorities cannot hold a circuit court in that county and enforce the law without the aid of the State Guard; that the people are divided to such extent that a sheriff's posse will not be sufficient; several murders have been committed in the county since the last term, and the offenders are not yet indicted, and cannot be, unless the witnesses can be protected; charges are made against a brother of the sheriff, and the son-in-law of the jailer, and the witnesses cannot be induced to go before the grand jury unless they have assurance of protection." And you further say: "I, as judge of the Breathitt Circuit Court, call upon you to furnish fifty of the State Guard, properly officered and equipped, to aid the civil authorities in holding said court and in enforcing the law."

It is needless for me to say that in a republic the employment of the military arm in enforcing the law is of rare necessity, and the occasion for its use should not be of doubtful propriety. The law invests the civil authorities with ample powers to enforce the observance of law, and expects those officers to exert their authority with reasonable diligence. When this is done there is seldom an occasion when the military arm can be employed without detriment to the public interests and without bringing the civil authorities into discredit. When a people are taught that they are not themselves the most important factor in the conservation of order in society, and that they must depend upon the exertion of extraneous forces to preserve order among themselves, they have lost their title to self-government, and are fit subjects to a military despotism. I do not believe that any portion of this Commonwealth has reached that degree of political degradation.

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As far as Breathitt County is concerned, while there have been acts of individual lawlessness, I do not find in your statement, or from any other source, an evidence of any organized opposition to the civil authorities. On the contrary, I am convinced that a reasonable exertion of their legitimate power would cause the masses of the people to rally to their support more effectually than could be done in the presence of the military force. The latter, whatever their numbers, could not influence, and ought not to influence, the character of the testimony of a single witness before the grand jury, but their presence would be a confession of weakness on the part of the civil authorities before they had made any attempt to discharge their duties, and to this extent would lessen respect for their authority, and render the subsequent discharge of their duties more difficult. A healthy public sentiment, and not the presence of an armed force, is the best support of government; and the powers conferred upon a circuit judge, both as a judge, and as a conservator of the public peace, are so unlimited that a firm and judicious discharge of his duties will almost invariably mould public sentiment in support of his judicial actions.

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Under all the circumstances, I do not believe that the presence of troops in Breathitt County is necessary to maintain the laws. With every purpose to support the judicial tribunals in the effective discharge of their duties, I feel constrained to decline the request which you make to order a detachment of the State Guard to Breathitt County. But if my own presence will be of any service to you, I will take pleasure in accompanying you to the Breathitt Circuit Court if you conclude, on reconsideration, to hold it.

In your letter, November 13th, you say: "I will not attempt to hold courts at Letcher, Knott or Breathitt unless you send guards along." This is a matter on which the Executive can take no action. It is for the legislative department of the government to judge of the facts which will justify an official in thus abdicating the duties imposed upon him by law.

But on this subject I trust you will permit me, without obtruding on your consideration any views of my own, to invite your attention to an act passed by the General Assembly at its last session, and approved March 9th, 1888. Amongst other things this act provides that "if, at any term of circuit court, the presiding judge thereof shall be absent ... it shall be lawful for any other circuit judge of this Commonwealth to attend and hold such term of court, and while so engaged he shall have and exercise all the powers and authority of the regular judge of such court."

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I am informed that under authority of this act, some circuit judges have already interchanged courts, and if there are any reasons why you prefer not to hold the court in Breathitt, I have no doubt that many of the circuit judges would be willing to interchange with you. I happen to know that Honorable Lucius P. Little is willing to hold the Breathitt Circuit Court for you, if you will hold the McLean Circuit Court for him....

Your obedient servant,
S. B. BUCKNER.

Judge Lilly to Governor Buckner.

Irvine, Ky., February 4th, 1889.

Governor S. B. Buckner.

Dear Sir:—Your letter dated 14th December, and postmarked on the 18th, was received by me on the night of the 25th, at Jackson, Breathitt County. On the third page you proposed to accompany me to Jackson in the following words: "But if my own presence will be of any service to you, I will take pleasure in accompanying you to Breathitt court, if you conclude, on reconsideration, to hold it." You were advised that the Breathitt court would begin on the 17th, and I suppose your Adjutant-General had informed you that I had decided to go and hold court if I could do so. I told him on the morning of the eighth that I would go to Breathitt court. You must have believed that I would leave Irvine for Jackson as early as the morning of the 14th, and before you wrote your letter. Why did you make such a proposition to me at the time you did? I

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fear you will have a little trouble in making people believe that you made the offer in good faith.

On page 4 of your letter you say "I happen to know that Hon. Lucius P. Little is willing to hold the Breathitt Circuit Court for you, if you will hold the McLean Circuit Court for him." I thank Judge Little for his kind offer, and believe he made it in good faith, but why did you withhold the information from me until it was too late for me to confer with him. He lives in the western part of the State. You must have known that I had no time to make any arrangements with him. You must have known that the offer was futile, and that it could not be carried into effect. Can you make the public believe that you were acting in good faith?

In speaking of the application made to you on the 5th of December, you failed to make any reference to the papers filed with it. Why did you conceal from the public the fact that a majority of the attorneys who practice at the Breathitt Circuit Court ... and divers other prominent men, had requested you to send a guard, and gave it as their opinion that the court could not be held without a guard? I am at a loss to know why you sought to throw the whole responsibility upon me.

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That the public may know something about the condition of Breathitt County at the time, it is only necessary to say that between the first day of August and the fifth day of December, 1888, the following men were killed, to wit: Lewis Taulbee, James Shockey, David Barnett, and Isaac Combs, "Shooting Ike;" and the following men were shot and wounded, viz: Crain Flinchem, John Smith, Jeff Smith, Marion Lawson, Curtis Spicer, Luther Abner, John Campbell, Jack Barnett, Pearl Strong, Wm. Frances, and Breck Miller. There were also a large number of other felonies committed in the county, and all this, in addition to the old docket, which shows a large number of felony cases. Knowing their system of combining their strength to help one another, to prevent any one being punished by the law, I submit to you if it would not have been better if you had sent a guard there to encourage the good citizens to attend court. I held court there three weeks, and there was no outbreak, that is true, and it is also true that we got no verdicts in important cases. We tried four murder cases and had hung juries in each case. Except those required to be in attendance, the good citizens of the county were not there. Why were they absent? I think it was because they thought it unsafe to be there. For the same reason nearly all the attorneys who practice at that bar failed to attend the court.

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Theories look well on paper, but when you come to put them in practice they often fail to work well. What do murderers and outlaws care for theories. I hope you will not think I put it too strong when I say that your course has given comfort, if not aid, to those who are charged with crime. They feel that they are able to prevent the civil authorities from enforcing the law, and, in view of your letter, they feel that no help will be given the civil officers, and hence they will do as they please.

Judge W. H. Randall, Judge Robert Riddle, Judge Cole and Judge Jackson and other judges have thought it advisable to have a guard. Judge Finley failed to attend his courts in Letcher, Perry and Knott for several terms before his term of office expired. They, like myself, had better opportunities of knowing the real status of affairs in their counties than people who live far away, and do not understand the people.

It has been published in the newspapers of the State that a certain judge of the State held his courts in Breathitt County and had no trouble. That judge, previous to his election, had been employed as counsel for nearly every one charged with high crime in that county, and, as a consequence, did not have to try them. On the contrary, he was doing all he could to prevent their conviction and to prevent the laws being enforced upon them. He is yet the employed counsel of six persons charged with murder and other high crimes in that court. Of course, he had no trouble. Who can say, whether, if he had tried to bring them to justice, he would have gotten along so easily. As the papers pretty generally throughout the State have published your letter to me, I hope they will do me the favor to publish this, my answer.

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Hoping you will find it easy to answer the interrogations propounded to you in this letter, I remain,

Yours respectfully,
H. C. LILLY.

Governor Buckner's Reply.

COMMONWEALTH OF KENTUCKY.

EXECUTIVE OFFICE.

Feb. 8, 1889.

Hon. H. C. Lilly,
Judge Nineteenth Judicial District,
Irvine, Kentucky.

Dear Sir:—Your letter of the 4th inst. reached me yesterday. You seemed to impute want of good faith on my part in offering to attend you to the Breathitt Circuit Court. This charge on your part is based on the erroneous and gratuitous assumption that the Adjutant-General had doubtless informed me that it was your intention to hold the Breathitt Circuit Court on the regular day. The Adjutant-General informs me to-day that he did not himself know that it was your determination to hold the court, and that the remark you made to him on the subject left him in the belief that you had not reached a determination as to what you would do in the premises. You wrote me that you would not hold court in Knott or Letcher, and in your conversation with me gave me no ground to believe that you had concluded to hold the court in Breathitt.

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My conclusion was therefore logical and necessary that you would not hold the court.

Your assumption that I knew that you would hold it is therefore entirely erroneous, and the decision you reach in consequence of this assumption is fallacious.

You ask me a number of questions in your letter, but as you proceed to make replies to suit yourself, and to reach conclusions favorable to your own views, you spare me the necessity of giving them any response. I limit myself to stating what alone is relevant to this question, that having concluded that there was no necessity of sending troops at great expense to the State, I offered to accompany you so that, if my views should have proved erroneous, I would have been on the ground to have called to your aid such assistance as may have been needed.

As the session of court was to continue during three weeks, and as you could have taken your seat on the bench at any time during the term, there was ample time, after writing my letter, for you to have reconsidered your determination, if you had been at Irvine, where I supposed you were, and to which place I addressed my letter to you, and to have gone afterwards to Breathitt long before the term of court should have closed. So far from knowing that it was your purpose to hold court, I had not the slightest idea that you would do so, until I learned after the adjournment of the court that you had held it. I am gratified that you did so, for it was a demonstration that troops were not necessary for your protection.

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In like manner there would have been time for you to have made an interchange with Judge Little, by telegraphic correspondence, if such had been your desire.

You seem to charge that I have aided and abetted criminal classes by declining to place troops at your disposal in Breathitt County, and attribute to their absence the non-conviction of criminals. If their absence produced such a result in Breathitt County, their presence at your court in Perry County should have produced, according to your logic, a large number of convictions. But I am advised that the result was the same in both counties. We must, therefore, look for some other reason than the presence or absence of the military to account for such uniformity of results. I believe myself that the court is and ought to be, an important factor in the administration of justice, and that the presence or absence of the military should have no weight in its decisions, and ought not to influence its actions.

You ask why I throw "the whole responsibility" of making an application for troops upon you? It was because you were the judge who made the application; who demanded protection, and averred you would not hold court unless I sent guards along. There was no one else with whom the responsibility could be divided, and as you must have acted from your convictions of duty, I do not see why you should seek to avoid the responsibility, or desire me to place it where it does not belong.

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I have no criticisms to make in reference to other judges who have asked for troops, or in reference to Judge Finley, who, you say, failed to attend certain courts.

These were occurrences under former administrations, and were doubtless considered by the Executives of the time in the light of facts, which I do not pretend to know. Much less will I offer my comment upon the grave charges you insinuate against another judicial officer in connection with the Breathitt court. But I cannot refrain from expressing regret at what seems to be the manifestation of feeling on your part, which does not impress me as strictly judicial, but, notwithstanding this, I beg you to rest assured of my desire to support your authority in every way that the Executive can do, consistent with the public welfare. I have no objection to your giving the fullest publicity to your letter.

Respectfully yours,
S. B. BUCKNER.

The last feud in Breathitt County, during which the most horrible assassinations were committed, was the Hargis-Cockrell-Marcum-Callahan vendetta.

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The Hargises and the Cockrells claimed that the name is a misnomer—that no feud existed.

Capulet once said: "The Montagues are furnishing all the trouble and we are only innocents slaughtered."

Montague said: "The Capulets are making the war. We are only defending our lives and

property.”

An apt quotation, here.

A political race first engendered the bitterness which led to the murders narrated later on. In this race the Democratic candidates were elected, at least declared to have been elected. Their ticket was headed by James Hargis for county judge and Ed. Callahan for sheriff.

The fusion ticket, which was defeated *in toto*, contested the election, alleging fraud.

At that time one J. B. Marcum and O. H. Pollard were partners in the practice of the law. Marcum had accepted a fee for the contestants, the fusionists, and Pollard for the Democratic contestees.

Marcum and Hargis were said to have had a difficulty about a year prior to this contest, but the breach between them seemed to have been healed. Marcum had been attorney for the Hargises for a number of years.

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It appears that during the taking of depositions in the contest case the first open rupture occurred. What actually transpired has been told in conflicting stories. It seems that Marcum, Pollard, James Hargis and Ed. Callahan were in Marcum's law office. They differed in regard to some testimony of certain witnesses and nearly came to blows. Pistols were drawn by some of the men and Marcum ordered each and all from his office.

Police Judge Cardwell issued warrants. Marcum at once surrendered and paid his fine.

Hargis declared his refusal to appear before Judge Cardwell, whom he regarded as an enemy, and had so considered him for years. He therefore surrendered to Magistrate Edwards, a personal friend. A controversy arose as to Justice Edwards' jurisdiction in the matter. The dispute threatened to create still further trouble, to allay which Mr. Marcum moved the case against Judge Hargis to be dismissed, which was done.

Here starts the war. In making the arrest of Judge Hargis, the town marshal, Tom Cockrell, assisted by James Cockrell, his brother, were said to have drawn guns on Hargis and that only the intervention of Sheriff Callahan prevented the two from killing Hargis. This the Cockrells indignantly denied. They asserted that in making the arrest of Judge Hargis they had used no more force than was necessary. Hargis swore they would pay for their audacity in drawing a gun upon his person, and he made good his threats, that is, others did make it good for him.

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Numerous unsavory charges now began to be made first on one side and then the other. Marcum at one time charged Ed. Callahan with assassinating his, Marcum's, uncle, Capt. Bill Strong, who was shot from ambush in front of his home in either 1898 or 1899.

Callahan in turn charged Marcum's uncle, the deceased Capt. Bill Strong, with the assassination of Wilson Callahan, the father of Sheriff Callahan. Each faction charged the other with the murder of some one.

Shortly after this occurred a pistol duel between Tom Cockrell and Ben Hargis, in which the latter was shot and killed on the spot.

The two had met at a "blind tiger" saloon in Jackson and quarreled, with the result that both drew their pistols and fired upon each other. Before Hargis sank dying to the floor, he had succeeded in seriously wounding his antagonist.

The Hargises at once began an active prosecution of Cockrell and kept it up.

Dr. Cox had married a kinswoman of the Cockrell boys and had also become their guardian, both of them being under age. The Cockrells were also related to Marcum, who had volunteered in Tom Cockrell's defense for the killing of Ben Hargis. Marcum also was an intimate friend of Dr. Cox, who practised in Jackson and vicinity.

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Not long after the killing of Ben Hargis another brother of Judge Hargis met his death at the hands of a man charged by the Hargis clan as being a Cockrell man. John Hargis was the man slain; "Tige" was his nickname. He was killed by Jerry Cardwell.

Hargis had boarded the train at Jackson on his way to Beattyville. Cardwell was the train detective. It is claimed that Hargis had been drinking and became disorderly. The conductor in charge of the train asked Cardwell to preserve the peace. As soon as Cardwell entered the car Hargis sprang to his feet and drew his gun. Cardwell and he fired simultaneously. Cardwell was wounded, Hargis shot through the heart. The Hargis clan always claimed that the killing of John Hargis was the issue of a well-laid conspiracy with the Cockrells at the bottom of it. They attempted to connect them with the shooting, but nothing ever came of it.

Dr. Cox, guardian and kinsman of the Cockrell boys, and J. B. Marcum, their cousin, were intimate friends and frequently discussed the foreboding aspect the community was taking on. Rumors came to them frequently now that they were marked for assassination. At first neither Dr. Cox nor Marcum gave them much credence. Finally, about the first of April, 1901, Marcum went to Washington on business. While there, Dr. Cox was assassinated. Marcum was convinced that he, too, was marked for death.

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The proof in the case shows that Dr. Cox had left his home about eight o'clock one night to make a professional call. The conspirators had for many nights been watching his movements. He had almost reached the corner of the street diagonally across from the court house, and directly

opposite Judge Hargis' stable, when he was fired on and he fell dead, riddled with small shot. After he had fallen to the ground the assassins fired another volley into his body and easily escaped.

There was persistent rumor at the time of the killing that the shots had been fired from Hargis' stable, but witnesses were afraid to swear positively about anything. Indictments against parties for the murder were not returned until some time afterwards.

It has been told that Judge Hargis had been heard to laughingly say, after the fall of Dr. Cox, "Great Scot! didn't he bellow like a bull when that shot hit him?" [Pg 287]

While people in town entertained their own opinions as to the guilty parties, but refused to express them, the Cockrells openly charged Hargis with complicity and of having hired the assassins that committed the cowardly murder, and maintained, seemingly with good reasons, that Dr. Cox's only offence had been his friendly relation with the Cockrells and his interest in the defense of Tom Cockrell on the charge of the murder of Ben Hargis.

The next victim of the assassin's bullets was Jim Cockrell. He was murdered in 1912, in broad day, from the court house.

Jim had been active in collecting evidence for his brother in his coming trial for the Ben Hargis murder. Rumors had come to him that he would be killed if he did not desist. He continued, however, and ignored the warning.

By this time the Cockrells, Marcum and many other residents of the town kept closely within doors at night. No one traveled the streets without a lantern. This might have been some protection for absolute neutrals, but must have been only an increasing source of danger to those who had grounds to fear for their lives. Confinement at home was therefore the best and the only reasonably safe policy. [Pg 288]

Cockrell was shot at noon, July 28th, 1902, from the second floor of the court house.

He was standing on the opposite side of the "Temple of Justice," talking to friends, when the shots were fired that took his young life. He was not dead when taken from the street. He was hurriedly removed to a hospital at Lexington the same afternoon, where he died on the following morning. Cockrell was town marshal at the time of his death.

Curtis Jett was later on indicted for the murder, together with others, and convicted, but not until after the death of Marcum was it that these prosecutions were set on foot. Marcum had repeatedly declared before his death that he had ample evidence to prove that Jett and two others fired the shots that killed Cockrell, and that the assassins had remained concealed in the court house the remainder of the day and made their escape at nightfall.

Jett and Cockrell had been enemies for some time prior to the murder. The week before the two had fought a pistol duel in the Arlington Hotel's dining-room. Neither was wounded, friends interfered, and the affair ended without arrests being made. Curtis Jett was a deputy sheriff under Ed. Callahan. [Pg 289]

Capt. John Patrick, a fugitive "from injustice," as he put it, went to Lexington and there gave out a statement to the effect that he, one McIntosh and others had seen and recognized the Cockrell murderers. Patrick then left the country, but offered to return and testify if sufficient protection was afforded him. He did return and testified in the succeeding trials, although he dodged the officers sent after him for some time.

McIntosh was taken before the grand jury, but refused to testify. He was remanded to jail for contempt of court and remained there for four days. When finally he made up his mind to talk, he testified that he knew nothing whatever of the matter.

In the meantime, Jim Cockrell's brother Tom had secured a change of venue to Wolfe County, to be tried there for the murder of Ben Hargis. The trial was to take place at Campton. Cockrell was taken there under an armed guard of twelve men. He was himself given a gun for defence.

When the trial was about to begin Judge Hargis refused to have anything further to do with the prosecution of the case, alleging that the transfer to Campton was but a scheme to assassinate him on the road thither. [Pg 290]

In the meantime Marcum had become a voluntary prisoner at his home. Clients that wished to see or consult him went to his house to do so. He appeared on the streets of the town but few times.

His fears were laughed at by some; the Hargis faction, including Callahan, pronounced him a coward. His end proved the correctness of his judgment and how well founded had been his fears.

The story of plots and conspiracies against his life, his many marvelous escapes from assassination, were graphically told by himself but a short time before his death. The interview occurred in Lexington on November 14th. He told the same story to the writer with whom he had been on intimate terms of friendship.

The story told to the Lexington reporters and given out in the press was as follows:—

"I will begin my story with last March (1902) when persistent rumors had it that Doctor Cox and I were slated to be assassinated.

"Dr. Cox and I discussed these rumors frequently and I finally came to the conclusion that they were groundless. I went to Washington and stayed a month. While I was there Dr. Cox was assassinated.

"I was attorney for Mose Feltner. On the night of March 30th he came to my home in Jackson, and stated that he had entered into an agreement with certain parties (naming them) to kill me and that his accomplices were to be three men whom he also named.

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"He said that their plan was to entice me to the office that night when they would kill me. He said he had been provided with a shotgun and \$35. to get me. He displayed the gun which was a new one, had never been shot, and also exhibited to me the money. I know he did not previously have the money.

"A few mornings later Feltner took me to the woods near by and showed me four Winchester rifles concealed there, and stated that he and three companions had been leaving them there in the day time and carrying them about at night to kill me with.

"Of course he did not intend to kill me, but by pretending that he would assassinate me certain persons, he said, would guarantee him his acquittal in the coming trial for the killing of Jesse Fields.

"He continually led them on in this belief to secure his own protection and immunity in the Fields murder case against him. At the same time he continually warned me of the various plans perfected to kill me.

"On the following morning after Feltner first warned me of my danger, I sent my wife and little boy by way of a deep ravine two hundred yards from my house in good rifle range. This was the only place where assassins could conceal themselves and kill me at my house, for by this time I had ceased visiting my office, and their only chance was to kill me at my house. It was early in the morning when my wife and little boy arrived at the ravine. They saw four men carrying guns run away. My son recognized two of them, but did not recognize the other two, one of the latter, Feltner told me afterwards was himself.

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"Finally, I decided to leave Jackson. In the early evening I went to the Arlington Hotel with my wife and made arrangements to be rowed across the river to the tunnel early the next morning and board the train unobserved. Later in the day Feltner came to my room and stated that the party I had seen had told them that I was preparing to leave town, and that thereupon certain high officials of the county placed four men at the depot, two men at the tunnel and two men at the railway station to kill me.

"I took his word and did not attempt to leave town. I sent the next morning for my wife and baby, and carried the baby in my arms to my office, and at noon from there to my home.

"I was later informed by Feltner that a party was waiting in the upper rooms of a store to kill me. He wanted to shoot me with a rifle, but others insisted that he use a shotgun, saying that Doctor Cox had been killed with a shotgun. After I passed by they asked the man with the shotgun why he didn't shoot, and he answered that with a shotgun he would have killed the baby, but if they had let him have his way and he had been given a rifle, he would have shot me through the head without endangering the baby.

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"The night previous to my decision to leave Jackson my sister came to me and warned me that another plan had been formulated to kill me. Her informant was Mose Feltner, who was engaged until at a late hour in discussing the best plan. When this meeting had adjourned it was then too late to come to my house. So he went to my sister's house in his sock feet and told her.

"I was awakened at daybreak Sunday morning, June 15th, by a messenger who had ridden eighteen miles that night to bring me a note from a friend who was also a friend of my enemies and who was in their counsels. The note stated that two men would come to town the following Tuesday morning; that court would adjourn at noon and that an attempt would then be made to assassinate me in the afternoon. I knew the men had been out of town but was inclined to disbelieve their statement because I had not heard that court would adjourn on Tuesday, in fact, I had every reason to believe that it would not adjourn until Saturday. I asked every member of the bar in regard to this and their unanimous opinion was that court would not adjourn until Friday evening or Saturday morning. This also was the opinion of the circuit court clerk.

"Tuesday morning I sent my friends ahead and slipped out to Day Brothers' store near the court house, they having reported that the coast was clear. Then I found out that the men selected to kill me had sure enough arrived in town.

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"I returned home at ten o'clock, for it was then getting too close to my funeral time, if reports I had were true. *Court adjourned just as the clock struck twelve on Tuesday.*

"I do not mean to cast any reflections upon the judge. You can explain it to suit

yourself. But I assure you I kept to my room that day.

"On another occasion I slipped away to visit my sister's house. On the way I met a sympathizer of those whose enmity I had incurred. I decided not to return and sent my two sisters and wife ahead. They passed a ravine on the way and there saw two men with guns. Later, after they had turned out their lights, they observed one man take his station in front of my house, and the others, all heavily armed and dressed as women, below my window in an adjoining garden.

"Last Sunday morning a messenger came to my house at daylight. He had been sent by a neutral party who did not want me killed. He told me that two men had arrived the night before and were to have taken a front room in a house near by and from there ambush me. The next morning I observed the window raised about four inches and the curtain drawn, in which position the curtain and the window have remained since. The men occupy rooms in that house and I suppose the front rooms. I have not been even on the porch since I received that message."

Marcum at one time had succeeded in escaping from Jackson. He remained away for some time. But when the leading officials of the county laughed at the idea that he would be in the least danger if he returned, he believed them. Lured by the reports that he would not be molested, and having considerable interests at stake, he returned home and went to his death. [Pg 295]

Both Judge Hargis and Callahan gave out statements to the press to the effect that Marcum would be as safe at Jackson as anywhere. In the light of what occurred, this statement may have been true. The statements were ambiguous, susceptible of various constructions. He may have been as safe at Jackson as elsewhere, for it is quite possible that assassins were at his heels wherever he went.

On Monday morning a messenger from a distant part of the county rode hot haste to Jackson to warn him of renewed attempts upon his life. The messenger did not reach him in time. When he found him the bloody work had been accomplished—Marcum was dead.

The story of the assassination is horrible and pathetic. As has been said, despite all warnings Marcum had begun to feel safe again and resumed his interrupted law practice. He had business at the court house in connection with the reopening of the contest cases.

At eight o'clock Monday morning, May 4th, 1903, he proceeded to the court house with affidavits for filing. From the clerk's office he walked to the front door of the court house, and, facing the street, engaged in conversation with his friend, Capt. B. J. Ewen. [Pg 296]

The corridors stretching out at his back were full of men. Marcum was leaning on Ewen's shoulder. The two men had been conversing for possibly three minutes, when, at 8.30 A. M., a shot rang out in the rear of the corridor. Marcum staggered and as he sank to the floor another shot fired. The first shot entered his back and the ball came out through the breast. The next shot passed through the top of his head and was doubtlessly aimed as he reeled.

Just before the shots were fired, one Tom White passed Marcum at the door and gazed into his face in a manner calculated to draw Marcum's attention. As White had passed, Marcum turned to Ewen and said: "That's a bad man and I am afraid of him."

The body of Marcum lay where it had fallen for at least fifteen minutes before any of his friends dared approach it.

Marcum's wife, on hearing of the murder of her husband, rushed to the court house, knelt by the side of the body and in the blood and brains that had spattered the floor, drenched her handkerchief. What sort of a vow she made then may be imagined. We shall draw the curtain over the scene of sorrow and grief at the home of the murdered man. He left a wife and five children. [Pg 297]

Marcum had been a practising lawyer for seventeen years. He was, at the time of his death, a trustee of the Kentucky State College, a United States Commissioner, and represented the Lexington & Eastern Railway Company as well as other large corporations in a legal capacity.

THE REIGN OF TERROR.

Immediately after the assassination of Marcum, and for a long time afterwards, conditions at Jackson were terrible.

There was consternation among all who had in the least degree incurred the enmity of the tyrants who now controlled both county and town. Judge Hargis appeared in the newspapers with a lengthy accusation against the dead man Marcum, practically declaring that the assassination was a good deed and deserved.

Many relatives of Marcum, the Cockrells and their sympathizers, left town and sought refuge elsewhere.

No one dared travel the streets of Jackson at night who was not sure of the protection of those who held it in their grasp. Churches were deserted; for many months no services were held. [Pg 298]

It was with the utmost difficulty that any person could be brought to even speak of the matter in

any way. Everybody was suspicious of everybody else.

In the meantime the murderers were still at large. No earnest effort had been made by the "authorities" to apprehend them. It would not have been difficult to have done so, for it was an open secret as to who they were. The difficulty lay in getting witnesses to talk. Some of these left town and placed themselves beyond the jurisdiction of the court, and absolutely refused to return unless protected by troops.

B. J. Ewen, who was with Marcum at the time of the murder, had at first declared that he did not know who the assassins were. Judge Hargis and Sheriff Callahan admitted that they saw the slayer in the court house corridor but had failed to recognize him. Then, like a thunderbolt from a clear sky, came the announcement that Capt. Ewen had decided to tell the facts as he knew them, even at the risk of his life. He did so, charging Jett with the actual shooting of Marcum, and Tom White as an accessory.

The Hargis faction laughed at this declaration, hinted broadly at perjury, pointing to the fact that Capt. Ewen had already stated he did not know the assassins, and that therefore his declaration was not entitled to belief. [Pg 299]

Ewen explained his change of attitude in the matter by saying that, at first, he had decided to keep his knowledge to himself, for his own protection, but that since then he had come to the conclusion that it was the duty of a citizen, who respected the law, to tell what he knew, even if he risked his life in doing so. He told the story, time and again, without a tremor,—outwardly at least.

Jett was arrested at Winchester without a struggle and taken to Jackson. The Governor at once forwarded troops to the ill-fated town and martial law continued there for several months.

The presence of the troops somewhat reassured the citizens. Many of those who had departed returned. The grand jury assembled and jointly indicted Curtis Jett and Tom White, who had also been arrested.

Many exciting events took place during the presence of the troops at Jackson, but order was gradually restored and people took heart. Services at the churches were resumed, after months of suspension.

In the midst of one of the trials Capt. Ewen, who lived in camp with the troops, not daring to return to his own fireside, saw his house, his home, the fruit of many years of labor and saving, go up in flames. [Pg 300]

It was not accident. It was the reward for his fidelity to good citizenship and his willingness to tell the truth.

Ewen also declared that bribery had been attempted by certain parties. Later on the matter was aired in the courts, but nothing ever came of it. Ewen removed from Jackson after the trials.

No one acquainted with the situation in Breathitt at that time doubted for a moment that Jett and White were but the tools of men higher up. It is not our province to make charges based upon mere rumor, but this may be said without fear of contradiction—that the testimony brought out at the various trials which followed established utter corruption on the part of those whose duty it was to see to it that the guilty parties were brought to justice.

These "officers" stood idly by, permitted men to be shot down while calmly watching the proceedings, and made no attempt whatever to arrest them. When outside pressure and extraneous influence and help at last forced investigations and the criminals were apprehended and brought to the bar of justice, these "officers" visited the murderers in jail, supplied them with delicate food, money and counsel, consulted witnesses, hunted up persons willing to serve as defense witnesses for a consideration, drilled them, tutored them, and through intimidation and threats of death forced men to commit the crime of perjury to save the necks of the assassins. [Pg 301]

Let us cite an example: A young man of previously good repute, a school teacher, was indicted in the Harrison Circuit Court at Cynthiana, where the trials of Jett and White occurred, for having sworn falsely as a witness for the defendants. He was found guilty as charged. When the judge pronounced sentence, the convicted man broke down completely and admitted his guilt, but pleaded in extenuation of his crime that high officials of Breathitt County, enemies of Marcum and Cockrell, had coerced him into becoming a witness for the defense and had drilled him for hours so he would make no blunders in the prepared testimony.

His story had the true ring about it. So pathetic was the story told by the young man, that both judge and State's attorney instantly released the man on his own recognizance, although he asked to be sent to the penitentiary, where he might be reasonably safe from assassination. [Pg 302]

Let us see where the County Judge Hargis, and Sheriff Callahan were at the time of the Marcum assassination. Let us examine their actions; they speak louder than words. The reader may draw his own conclusions and arrive at them without assistance.

Both the county judge, Hargis, and Sheriff Callahan hated Marcum and had been his sworn enemies for a long time. The statements of Feltner made by him to Marcum from time to time implicated both these officials as the chief conspirators, although Mr. Marcum at the time he gave out his statement to the press, refrained from quoting their names. He had, however, done

so to the writer on several occasions.

At the time of Marcum's assassination Judge James Hargis and Sheriff Callahan were seated comfortably in front of the Hargis store. (Probably the seats had been reserved in advance so as to be certain of not missing any scene or act of the tragedy.)

They had an unobstructed view of the court house door, were bound to have seen what occurred there, yet continued to sit unmoved, and never made the least effort to locate or ascertain the assassins. They appeared not in the least disturbed, certainly exhibited no surprise. Why should they? The conclusion is irresistible—but we shall let the reader draw it.

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Capt. Ewen testified that he was standing at the side of Marcum when he was killed. Marcum was leaning heavily upon his shoulder. Just before the shots were fired Tom White passed by the two men, turned and gazed into Marcum's face. Marcum said "that's a bad man, and I'm afraid of him." The next moment the shots were fired.

As White passed Marcum the latter turned his back to the rear of the corridor and the witness Ewen turned with him. This put his face to the rear of Marcum and he recognized Curtis Jett and saw him standing there with a pistol in each hand.

Marcum having fallen to the floor, Capt. Ewen stepped out of doors to save his own life. The position of Jett and of his gun made Ewen believe that he would be shot next. A few moments later Jett appeared at the side door of the court house, looked out, then walked calmly down the steps and mingled with the crowd.

Tom White, so the testimony of other witnesses shows, was standing in front of Day Brothers' store just before the murder. An acquaintance invited him to take a drink. He refused, saying he had not time, that he was looking for a man. He caught sight of Curtis Jett, motioned to him, and the two entered the side door of the court house. White then passed on through the corridor to the front door, and in the manner detailed attracted Marcum's attention, while Jett took his position behind him. White immediately turned to the side of the front door to escape the bullets he knew would be coming.

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After the murder Jett and White came immediately together again at or near the jail and walked down the street unmolested.

Tom White had come to Jackson several days before the murder, ostensibly to secure work, but only one man was introduced to prove that he made any sort of attempt to obtain employment. Jett and White were seen together before the shooting and immediately afterwards.

It was the contention of the Commonwealth that the defendants had been hired to do the murder. One need only read the statement of Marcum to see with what hellish coolness and deliberation these plots had been arranged.

The defense was precluded, of course, under the circumstances, from relying upon the plea of self-defense, so it proceeded at once to hatch up an alibi. This, however, proved so transparent a fabrication that the jury ignored it altogether and promptly returned a verdict of guilty against both of the accused. The sentence was for confinement in the penitentiary for life. But for the persistency of one juror, who refused to join in a death verdict, they would have been hanged, perhaps.

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Curtis Jett was a sworn officer of the county at the time of the murder of Marcum, *a deputy under Sheriff Callahan*. He was proven guilty also of the assassination of Cockrell by shooting him from the court house, the temple of justice, prostituted and turned over to the service of murderers by those in control of it.

Jett's record previous to these assassinations was bad. Twice he had been accused of rape, had repeatedly been confined in jail on various other charges, for shooting at persons with intent to kill, for malicious shooting and wounding and had been indicted for the ruin of a young girl. He was a moral degenerate. His very appearance proclaimed to the physiognomist the cruel, heartless nature of the man. His chin was short and receding, the cheek bones prominent, hair bristly red, eyes deep set and countenance scowling and bad.

Jett had been for a time confined in the Louisville jail until his trial at Cynthiana. While in prison he had given the jail officials no end of trouble on account of his violent disposition toward the other prisoners. One and all feared him.

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After his removal to the penitentiary he pursued similar tactics for a time, but there they broke him. He is still confined and is now said to have become a model prisoner. It is said he intends to preach after his release,—it must be remembered that a life sentence in Kentucky does *not* mean confinement for life.

Judge Hargis and Callahan were in due time arraigned for various murders in connection with the feud. Although Curtis Jett, John Abner, John Smith and Mose Feltner (who figures so prominently in the Marcum statement), confessed in one way or another that the accused were the leaders in the assassinations of Dr. Cox, Cockrell and Marcum, the chief conspirators, for whose benefit the murders were done and who had furnished the sinews of war—money and ammunition—they were acquitted.

The widow of James B. Marcum, regardless of the verdicts of acquittal rendered in the various

murder trials of Hargis and Callahan, brought suit in the civil courts and secured a judgment against them for several thousand dollars for having been the instigators of the murder of her husband. The judgment was paid without appeal.

RETRIBUTION.

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"He that sheddeth man's blood, by man shall his blood be shed." This threat was fulfilled to the letter in the cases of both Judge Hargis and Sheriff Callahan. Both men died with their boots on.

Judge Hargis was shot and killed at his store in Jackson in the winter of 1908 *by his own son*, Beach Hargis. The young man was indicted for murder February 18th, 1908, tried and found guilty. He escaped the death penalty, and received a life sentence, but is already at large, having been paroled 1916.

The judgment of the court was appealed from and strenuous efforts were made by the widow of the slain man to secure a new trial and save her son from conviction for the murder of her husband. Hers was indeed a pathetic situation. Mrs. Hargis employed the best counsel obtainable. Senator William O. Bradley, a lawyer of national fame, argued the case exhaustively before the Court of Appeals. The judgment of the lower court was affirmed.

The case was one of widespread interest. The facts and circumstances attending the murder appear at length and are commented upon in an opinion of the Court of Appeals, written by Judge Hobson, and reported in 135 Kentucky Reports.

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Judge Hobson, in his statement of the case, says:—

"The proof for the Commonwealth on the trial showed in brief these facts:—

"On the night before the homicide Beach Hargis had gone to his father's store and asked one of the clerks for a pistol. The clerk declined to give him a pistol out of the stock, but told him that his father's pistol was there in a drawer of his desk and he could take that. The defendant secured the pistol, but said nothing to his father, although he was then in the store. The next morning between nine and ten o'clock the defendant was sitting in the barber shop. His face was swollen. He told the barber that his father had hit him in the mouth and hurt him there. A man who looked like his father passed. He raised up in the chair, threw his hand back and said: 'I thought that was the old man.' About an hour later he drank a bottle of Brown's Bitters, and said to a bystander: 'Did you hear about the old man mashing my mouth?' and added that it was hard to take. Some two hours later he appeared at a drug store kept by his brother-in-law, Dr. Hogg, drew his pistol, and was waving it about, pointing it in the direction of a bystander and his brother-in-law. From this drug store, after a few minutes, he went to his father's store. It was a double storeroom. His father was in one room and he entered the other and took a seat in a chair not far from the front door. While he was sitting there in a chair, a man in the other room asked his father where Beach was. His father pointed him out to the man and said: 'There he sits. I have done all I can for him and I cannot go about him or have anything to do with him.' A few minutes later his father said to another man who was in the room: 'I don't know what to do with Beach. He has got to be a perfect vagabond, and he is destroying my business, and if Dr. Hogg let's him stay there he will ruin his business.' After saying this to the man the father walked in the direction of where the defendant was sitting. There were a number of persons in the store. As his father approached, the defendant got out of his chair and walked around behind a spool case that was setting on the end of the counter. No words were spoken. The first sound that anybody heard was the report of a pistol. His father was then about three feet from him. A struggle ensued between them, during which the pistol was shot four times more, all five of the shots taking effect in the father. Persons in the store ran up, and when they got to them the father had the son down and had the pistol, which he handed to one of them, saying: 'He has shot me all to pieces.' The father died in a few minutes.

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"The proof for the son was in substance that the father came up to him, struck him in the face, and began choking him. When he felt his eyes bulging out, he drew his pistol and shot him, and his father continuing to choke him, he fired the other four shots in the struggle; the last two being fired from the floor. The proof for the defendant also showed that the father was drinking. Taking all the evidence, we think it reasonably clear that the father was unarmed and that he was shot by the son while he was approaching him, and before he had touched him. Two witnesses who were on the outside of the store, were looking through the windows, and their testimony, as well as the testimony of persons in the store, confirms this conclusion. We think it also reasonably clear that the son was maudlin drunk, and but for this the unfortunate homicide would not have occurred. He showed that he was under the impression that his father had left the store, and that he went there to meet an uncle, but expecting no difficulty. He also showed that about a week before his father had beat him unmercifully with a ramrod, that previous to this he had whipped him with a rope, and on the last occasion had struck him in the mouth with his fist, and got upon him on the floor and churned his head against the floor; that he had taken his pistol from him, and had threatened to shoot him with it and had been prevented from doing this by the interference of bystanders, and that he had then declared he would kill him. There was

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also evidence that the son had said that the old man had beaten him up, but that he would never get the chance to do it again. Also that he had declared when his father had taken the pistol from him when drunk, that every time he got drunk and was having a good time, they had to do something to him, and that he aimed to kill his father and certain other persons whom he named.

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"The defendant offered to prove by his grandmother and others that his father had taught him to carry a weapon, encouraged him to drink whiskey, and had caused him to associate with disreputable men, thus rearing him in a manner calculated to bring about the result which followed."

The lower court refused to permit this testimony and the Court of Appeals affirmed the ruling in this as in practically all other respects.

To the opinion of the court Judges Barker and Nunn dissented. Certain excerpts of Judge Barker's opinion are of prime importance here and corroborate what has been said concerning Judge Hargis in even stronger language than we have employed.

This opinion says (in part):—

"James Hargis is shown in this record to have been a savage, cruel man; that he had a high, vindictive temper, and allowed neither fear, nor remorse, nor pity to come between him and the objects of his passionate resentment.... James Hargis was a man of violence and of blood. He had established in the county of Breathitt a reign of terror under the influence of which the law was paralyzed and its ministers overrun. He is pictured as a man of gigantic frame, savage temper and indomitable courage. He had surrounded himself with armed mercenaries, whose minds he inflamed with drink, and who seemed to be willing to do his bidding even to the point of assassinating his enemies without fear of the consequences of their crimes and without remorse or pity for the result.

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"He had not only broken down the law and terrorized its officers, but he had made the temple of justice itself the rendezvous for assassins who, sheltered behind walls, reddened its portals with the blood of its votaries. *He literally ingrafted upon the civilization of the twentieth century the savagery of the fifth, and introduced into a community of law and order the merciless ferocity of the middle ages.*"

ED. CALLAHAN GOES UNDER.

The other leader of the Hargis faction, Ed. Callahan, died as violently as did the victims which he has been accused of sending to their deaths.

The assassination took place Saturday, May 4th, 1912, in the middle of the forenoon, at Crocketsville, a village some twenty miles from Jackson.

Some two years before a similar attempt had miscarried, although Callahan was then seriously wounded.

It has already been stated that Mose Feltner, John Smith and others had in their confessions implicated Ed. Callahan and Judge Hargis in various murders. After the confession John Smith had been released from custody on the murder charges against him, and he became the bitter, unrelenting enemy of Callahan and Hargis. John Smith was accused with several others of shooting and wounding Callahan from ambush. Callahan escaped death then by a narrow margin. From that time on he felt that his end was near. He had been heard to say on several occasions that his enemies would eventually get him, and they did.

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After this attempt on his life he fortified his home and yard with a palisade. It was so arranged that he could pass from the store to his home under the protection of this stockade. But just two years later even these precautions failed to save him. He was shot from an ambush across the narrow valley while in his store. He stood practically on the same spot when killed as he had been standing two years and one day previous when he was shot from the same place and seriously wounded.

After the murder the Commonwealth found much difficulty in ferreting out the murderers, or to secure proof which would convict them in a court of law. Rumor readily pointed out the guilty men, but the State could not rest its case on rumor alone. It must have competent evidence.

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In the difficult task of securing it the Commonwealth was ably assisted by a daughter of the murdered man. She, in fact, had taken the initiative in the matter, rode fearlessly and untiringly night and day making inquiries, listening, watching, employing spies to assist her, until at last a number of men were arrested and held in the toils of the law.

The men indicted were "Fletch" Deaton, Dan Deaton, James Deaton, Dock Smith, Elisha Smith, Asberry McIntosh, Andrew Johnson, Abe Johnson, Billy Johnson, Abe's son, Willie Johnson, John's son, "Red Tom" Davidson, John Clear and Tom Deaton, Bill's son.

The story of the conspiracy which resulted in Callahan's final removal from earthly activities, is a long one. It reads like a dime novel. The setting of the story is dramatic. The court's opinion traces almost step by step the various movements of the conspirators.

There are about seven principal places that figure in this tragedy (quoting in substance the opinion): The home of Ed. Callahan on Long's Creek, about one mile from the Middle Fork of the Kentucky River; Abe Johnson's residence on the same river, about three or four miles above the mouth of Long's Creek; the town of Buckhorn on the Middle Fork River, about two miles above Abe Johnson's home; the home of John E. Deaton, at the mouth of Caney on the North Fork of the Kentucky River; James Deaton's home on Caney Creek, about two miles above its mouth, and the town of Jackson, the county seat of Breathitt County, located further down the North Fork, are the principal places referred to.

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Fletch Deaton resided in Jackson; Callahan conducted a general store next to his residence on Long's Creek, twenty miles from Jackson.

Two years and one day before the killing of Callahan he had been shot and dangerously wounded by unknown persons concealed on the hillside directly across the creek from the store.

The palisade built after that extended from his residence to the rear of his store so that he could pass from one to the other without being seen from the mountain across the creek.

The murder occurred on Saturday, May 4th, 1912, about the middle of the forenoon. On the Sunday before he went from his home in a gasoline boat in company with Clifton Gross, his son-in-law, to Athol, a railroad station on the Middle Fork of the Kentucky River, and thence on the following Monday he went to Jackson, which was the home of Fletch Deaton and of his codefendants, Red Tom Davidson and Govan Smith. Callahan was seen on the streets of Jackson on that day by several people. He left Jackson on the train at 2.20 P. M. for Louisville to buy a spring stock of goods for his store. His presence in Jackson, as well as his departure for Louisville and the purposes of his visit, were well known in Jackson. Several of the defendants who lived on the Middle Fork, had gone down the stream on timber rafts and on their return by way of Jackson saw Callahan at the railroad station at Beattyville Junction on his way to Louisville. It was Callahan's habit to ship his goods to Elkatawa, on the Lexington & Eastern Railroad, where he would place them on freight boats and take them up the river to the mouth of Long's Creek, thence on wagons to his home. He usually accompanied the goods in person.

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Several years ago Fletch Deaton's brother, James Deaton, was killed at the mouth of Long's Creek in a fight, and Ed. Callahan and several other persons were jointly indicted for that killing, but with his usual luck escaped punishment for he was acquitted. Fletch Deaton aided in the prosecution of Callahan, and bad blood had existed between them since that time.

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Furthermore, shortly before the killing of Callahan in May, 1912, John Davidson, a nephew of Fletch Deaton, and a brother of "Red Tom" Davidson, and Levi Johnson were killed at Buckhorn, in Perry County. Four men were jointly indicted for these murders. Fletch Deaton and several of the others indicted with him for murdering Callahan assisted and took an active part in the prosecution of the men charged with the murder of Davidson and Johnson. Callahan was accused by them of complicity in those murders and of aiding the defendants to escape punishment. Fletch Deaton had been heard to say on various occasions that it would be impossible to secure the conviction of the slayers of Davidson and Johnson so long as Callahan was alive, and that he must be killed before those cases came up for trial.

Again it developed in the proof that Jase Deaton, Fletch Deaton's nephew, and Red Tom Davidson, also accused of killing Callahan, were tried in the Bourbon Circuit Court on the charge of killing John Abner in the town of Jackson several years before, and that Callahan had been active in the prosecution against them, employing counsel and supplying money.

It further appears that Jase Deaton referred to above had been killed at the home of Anse White, some while before the killing of Callahan, by Anse White. White was tried for this killing in the Montgomery Circuit Court and also acquitted. This acquittal had been attributed to the activity in behalf of White on the part of Ed. Callahan.

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The proof on the trial of Fletch Deaton and of Andrew Johnson showed that Callahan came to his death at the hands of three men, who had concealed themselves on the mountainside across the creek from Callahan's store. One of the witnesses for the prosecution testified that he recognized Dock Smith and Andrew Johnson as two of the assassins, that he saw a third, but failed to recognize him. Dock Smith himself testified that the third man was James Deaton of Caney Creek, a son of Fletch Deaton.

All the trials of the men accused of the murder of Callahan were held at Winchester, Clark County. In each of the cases, with the exception of the one against Red Tom Davidson, the defense relied upon alibis, claiming that they were in Jackson on the day of the killing.

Dock Smith and Govan at the critical moment, realizing their situation, made a full and voluntary confession of all they knew regarding the murder of Callahan.

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As heretofore stated, Callahan was shot on Saturday forenoon. On the preceding Wednesday, about two o'clock P. M., Dock Smith met Andrew Johnson on the Middle Fork just below the mouth of Gay's Creek. Johnson there told Dock Smith that James Deaton wanted Dock and Andrew Johnson to help kill Callahan, and for Dock to go to Deaton's house that night. Smith says that Johnson asked him if he had a gun, and he told Johnson that his gun was at his father's; that Johnson then told him he would go back home to Granville Johnson's, and would meet Smith there that night; that Smith went to his father's, got his gun, ate his supper, and then went to the mouth of Orville's branch and there met Andrew Johnson, Willie Johnson, Tom Deaton and Billie

Johnson. From that point Smith and Andrew Johnson proceeded to the house of James Deaton on Caney Creek, which they reached late in the night, finding James and Dan Deaton there. That night the four discussed the proposed killing of Callahan. James Deaton told his confederates that on the next morning he would go to his father's at Jackson, and learn from him, Fletch Deaton, what definite plans had been made about the killing of Callahan, and would get "Red Tom" Davidson's Savage rifle. The next morning, Thursday, James Deaton and Dan Deaton left James Deaton's house and went down Caney Creek towards John E. Deaton's, Dock Smith and Andrew Johnson remaining at James Deaton's.

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Late on Thursday evening James Deaton came home from Jackson riding "Red Tom" Davidson's mule, and brought along a gun which he said belonged to Red Tom. After supper Smith, Johnson and James Deaton left the latter's residence, Dock Smith riding and carrying the gun, Johnson and Deaton on foot. They proceeded to the home of John E. Deaton, where they met Bob Deaton, another of the accused. Here Bob joined them in the expedition. The four then went to Abe Johnson's, on the Middle Fork, about three miles above the mouth of Long's Creek, arriving there after midnight on Friday morning.

Friday was spent around Abe Johnson's. At noon they sent for Dan Deaton, whom they had left at the home of James Deaton on the morning of Thursday. Dan responded, and all of them again discussed plans for the murder of Callahan. James Deaton told Abe Johnson and Billy Johnson that his father, Fletch Deaton, wanted them to come to Jackson on the train Saturday morning, so they could be there as witnesses to prove the alibi, and that Willie Johnson was to come with them. It was arranged that Dock Smith, Andrew Johnson, Bob Deaton and Dan Deaton were to go down to the Grand Sire Rock on the Middle Fork, below the mouth of Long's Creek, to watch for Callahan and Anse White, who were expected to come up on Callahan's boats on that day. This arrangement was carried out.

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Before starting, however, they procured two quarts of whiskey, and drank about half of it before they left Abe Johnson's, about two o'clock on Saturday morning. Abe Johnson, Billie Johnson and Willie Johnson went to Jackson; and the other five men, Dock Smith, Andrew Johnson, James Deaton, Dan Deaton and Bob Deaton, went toward Long's Creek. All had guns. Before leaving Abe Johnson's they procured a bucket of provisions, and went by the home of Granville Johnson, where they procured another bucket of provisions. There they boarded Granville Johnson's boat and started down the river, but the boat began to leak, and being too small to carry them all, they procured another boat. At the mouth of Long's Creek the boats were abandoned. From there they went to the home of Willie Deaton, son of James Deaton, to inquire whether Callahan had returned home, and were told that Callahan had left the boats and gone home the evening before. After borrowing a gun from Willie Deaton, Dan and Bob Deaton went to the Grand Sire Rock for the purpose of watching for Callahan's boats and to kill Anse White, who had remained in charge of them.

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In the meantime Dock Smith, Andrew Johnson and James Deaton went to the hillside across the creek from Callahan's store, arriving there shortly before daylight on Saturday morning. They placed themselves at a point where they could see the front of Callahan's store. Two of them prepared forks about 18 inches long, which they drove in the ground to use as rests in shooting, one of them piling up some rocks upon which to rest his weapon. They watched for Callahan until between nine and ten o'clock, without catching sight of him.

The front of Callahan's store contained a glass window, and they could see the outline or form of a man passing behind the window on the inside of the store. Concluding that the shadow thus cast must be that of Callahan, they fired six shots through the window, three of them taking effect and mortally wounding him. Then the assassins became panic-stricken and left the places of concealment hurriedly, going through the backwoods to the home of Abe Johnson, where they got their dinner.

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After dinner "Trigger Eye" Deaton carried them across the Middle Fork River, and from there to John E. Deaton's home, where they arrived shortly after dark. By devious routes the three assassins reached Jackson and the home of Fletch Deaton shortly before daylight Sunday morning. There they found a number of the men present who were to serve as witnesses to establish an alibi for the slayers.

The alibi was, however completely broken down by witnesses for the Commonwealth, with the result that a number of the conspirators are now doing time in the State penitentiary. This closes the chapter on the Hargis-Cockrell-Marcum-Callahan feud, one of blood, terrorization, Dark Age savagery in the twentieth century; in the very midst of our country which prides itself upon a civilization superior to that of other countries.

But for the blunder the despots committed in slaying Marcum, whose prominence and the peculiarly atrocious circumstances of his murder at last forced a thorough airing of conditions, they might have gone on unmolested, continued the record of assassination, and have added many more pages of blood to the county's history.

The prosecution of the slayers of Marcum, Dr. Cox, James Cockrell, Judge Hargis and Ed. Callahan was prompt and energetic. It shows a return of a more healthy public sentiment. Yet, murders are entirely too frequent in Breathitt, and in Kentucky at large, for that matter.

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Breathitt has been termed "the plague spot of the Commonwealth." It cannot wipe out the past; what has been done is done. But it may yet redeem itself by making such horrors as we have

depicted here, impossible in the future.

There is a fine citizenship in the county. It has suffered much, and deserves sympathy along with censure. It is up to the good people to see that peace and order return and is maintained henceforth and forever. We trust they will never more submit to unbridled crime and anarchy. It is up to them to prove themselves American citizens by exerting true patriotism at home.

CONCLUSION.

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It would be erroneous to conclude that the history of Kentucky's famous, or notorious feuds is completed here. The material at hand has, unfortunately, not been exhausted by any means.

While the Hatfields and McCoys fought to the death in Pike County, Kentucky, and along the borders of West Virginia, a bloody drama was being enacted in Rowan County. While the French-Eversole war raged in Perry County, many other counties suffered similarly during identically the same period. The eighties were a decade of blood, for during those years Harlan was in the clutches of murderers and anarchy reigned supreme. Letcher, Bell and Knott passed through like bloody experiences. In Clay County feudal wars raged for years and never disappeared completely until the close of the last century. The list of counties drenched with the blood of their citizens might yet be extended. To describe all the feuds in detail would, however, prove repetitive, even monotonous, and be only cumulative. To lengthen the list of assassinations could serve no beneficent purpose.

Some years ago we published an edition of Kentucky's Famous Feuds and Tragedies. We closed the volume in the belief that feuds had ended once and for all times. But the worst period in all the bloody history of Breathitt was since then.

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At the time of the publication of the first edition (from which some writers have quoted freely without giving us credit), we were charged with defaming the State, although it was admitted that the truth had been faithfully portrayed. It was not our intention then to malign the State, nor is it now.

We have simply compiled from facts a history of past events. Of what use is any history but to record past events that future generations might take lessons therefrom and be guided thereby?

Ignorance of true conditions does not, and never did bring about correction of evils.

The crusade against commercialized vice, the liquor traffic and other body and soul destroying evils can succeed only through full and complete publicity.

This history furnishes a study for the psychologist as well as for the criminologist. We cannot study crime and its manifold phases or point out remedies by studying the lives of saints. To find the original causes of social and political diseases we must go where these have existed or still exist. It would be silly to attempt to prove the result of the drink habit by the lives of teetotalers.

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There are those who would be overcautious, who believe in the policy enunciated by the proverb: "Never mention a rope in the home of a man that has been hanged." Had this principle at all times been adhered to, reforms would have been few. People will not rise to battle against evils until they are first made acquainted with the fact that the evils exist. It was due to the publicity given by the newspapers of conditions in Breathitt County that a thorough clean-up was inaugurated there.

If it be proper and right to publish nothing of a criminal or degrading nature, then we must of necessity put the ban upon the Bible.

What was the crucifixion of Jesus Christ but a bloody tragedy. The Bible gives us a detailed account of the awful, cruel, lawless conspiracy to do murder upon an innocent being. Judas prepared the ambush, as it were. He had the decency to go and hang himself, although he had nothing to fear from the authorities who had hired him to betray the Master.

The story of David and Absalom is the bloody history of a family feud on a large scale.

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The murder of Abel by his brother Cain is taught the children at Sunday school, not for the purpose of entertaining them with bloodshed, or to encourage them to go and do likewise, but to make crime odious.

The history of the Moabites and other races and tribes is one long chapter of outrages. Crimes of unnamable character are recited at length in the Holy Book.

The history of the reformation is one of blood and crime. To exclude secular or sacred history because they narrate crimes and bloodshed and horrors, would mean the withdrawal of the greatest weapons with which modern progress fights its battles in shaping the minds of men.

We may gain invaluable lessons from this history if it be read with that intention. It is an appeal to people everywhere to be true to their citizenship. That Kentucky has furnished suitable material with which to illustrate and demonstrate the results of a weak, unpatriotic, disloyal citizenship, is not the fault of the historian. The facts were at hand, they were apt, and were

used.

Just now there is a nation-wide appeal made for a true Americanism. The fact that the appeal is being made, seems to us an acknowledgment that true Americanism has deteriorated and needs ingrafting anew.

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We join in this appeal, and shall add that had true Americanism prevailed in the feud-cursed sections of Kentucky, this bloody history could never have been written—there would have been a total absence of material for one.

What is true Americanism? It is not place of birth. It is nothing more, but nothing less, than undivided loyalty to country.

What is loyalty? When is a citizen loyal to his country? Waving his country's flag and cheering it on a Fourth of July is but an outward demonstration of loyalty. A citizen is never loyal until he becomes and is faithful to the law; when he upholds and assists others in upholding the lawful authorities unswervingly. That is loyalty. There is no other definition for the word. So the citizen who refuses to obey the law himself in the first place, and makes no efforts to assist others in its enforcement, is not loyal to his country. When he has ceased to be loyal he becomes disloyal, and disloyalty is treason.

The true American, therefore, is loyal and has the courage to prove that loyalty whenever occasion arises.

One need not put on a uniform and fight battles against a foreign enemy to prove his patriotism. The patriot—the truly loyal citizen serves his country well by exercising that loyalty at home.

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Good citizenship carries with it more than the simple right to vote. That right has obligations attached to it. The chief obligation is loyalty.

The moment loyalty weakens, a wedge of social and political corruption enters; once that wedge is driven deeper government must totter and fall, and anarchy steps in its place.

During the Civil War hundreds of thousands of Americans gave up their lives “that the nation might live.” The nation is an aggregation of States, the State a union of communities, and communities are formed by families.

To preserve a nation healthy that it may live, the States must also be so. But a State cannot be so if portions of it are diseased with social and political corruption. When a sore spot appears it ought to be cauterized at once without waiting for it to develop into an eating, destroying cancer.

The spirit of loyalty must be revived and kept alive in the minds and hearts of all citizens. Only through it can the evil impulses of the criminally inclined be controlled.

The citizen who is loyal should always reflect, when he begins to lose courage, that the good citizens are in the majority, and that the vicious element is almost universally cowardly. The criminal has the fear of the law although he defies it for a time.

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We have narrated at great length the stealthy preparations made by the murderers of Callahan. The cool and apparently deliberate manner with which their plans were executed would lead one to believe that they feared no law.

Yet we have seen how a moment after the crime had been committed and its perpetrators realized that they were murderers in fact, they “stampeded,” the proof shows; they trembled with fear, though no one was on their tracks then. Their hearts turned to water. What did they fear? Punishment.

The bloody dictators of Breathitt County had abrogated the law, as they believed, yet feared the law they pretended to despise. This is clearly established by the methods with which they killed off their enemies. They resorted to secret assassination in each case because it would make discovery and punishment difficult, if not impossible. Each assassination had been shrewdly and carefully planned. Notwithstanding their temporary power and supremacy they lived in constant fear and dread, believing that punishment would and must sooner or later overtake them. This belief was strengthened by the fate of other criminals elsewhere.

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If, then, the criminal fears the arm of the law, it requires very simple reasoning to come to the conclusion that the criminally inclined can, by the sure guaranty of swift, condign punishment be intimidated and forced into abstaining from following that inclination, and be so put in fear that he will think twice before he gives his atavistic tendencies free rein.

This history was written to teach a moral. The remedies suggested here for lawlessness and contempt for the law, may be applied with equal benefit where mob spirit is rampant. The mobist, to coin a phrase, that starts out to do murder upon a defenceless prisoner, is on a par with the bushwhacker—even inferior to him in courage. For mobs are courageous only through mass numbers; or when under strong and aggressive leadership. Mobs have been known to slink away ignominiously when confronted by one or two loyal citizens.

Disloyalty has been at the bottom of all great social disturbances.

Let the spirit of true Americanism, which is loyalty to country, return and with it will come the courage to uphold the law at whatever cost. Then and not till then is our flag the true symbol of American liberty; then and not till then will the phrase “American citizen” cease to be a banality,

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as it now is with many, and become what it is intended to be, a badge of honor, the most precious a man can wear on this earth.

FOOTNOTES:

- [1] Collin's "History of Kentucky."
- [2] Roosevelt's "Winning of the West."
- [3] "Rowan County Feud," [Chapter 2](#).
- [4] Documents (Ky.) 1888.
- [5] Records Pike Circuit Court, Commonwealth versus Val Hatfield, etc., opinion of Court of Appeals, No. 9, 1889.
- [6] These reports corroborate my own investigation and statements in every particular.—Author.

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