

TEN TO TWO.

A STORY OF THE JURY ROOM. BY STEPHEN FISKE.

It was Baby's birthday, and we had arranged to have two or three people to dinner, Grandma and Grandpa, of course, included—and to hold a small and early reception afterward, so that the Baby might be duly exhibited without being kept from her beauty sleep. My wife had impressed upon me the necessity of not being late; and I left my office at five o'clock, in time to buy a few flowers to take home with me to decorate the table and the parlor. Among the friends invited was Judge Gedney, and it occurred to me, as a clever idea, to stop at his court-room for him and enjoy his company during my car ride up-town.

The dusky court-room was almost deserted, I could make out the Judge upon the bench, and spectators, like ghosts in the shadows. Business seemed to have come to a standstill, and I expected to hear the crier announce an immediate adjournment. Judge Gedney recognized me with a nod, and I took a seat to wait for him. Presently the clerk reported that the jury-panel was exhausted, and the Judge ordered him to recruit a jury from the persons who happened to be in the room—reporters, lawyers not engaged in the case, spectators, anybody who was eligible. There was a general movement toward the door; but a court officer closed it abruptly. A disinterested observer, I had a quiet laugh at the impatience of some of the people who were thus detained.

To my surprise and amusement, I heard my own name called out as one of the impromptu jury-men, and I rose, smilingly, and shook my head at Judge Gedney. He beckoned me to come to him, and leaning over the bench, said, in his genial manner: "Go into the box and help me out with this case. It is a very simple one and will not take ten minutes to try. Then I'll go home with you. You might as well wait for me here as anywhere else."

"All right, Judge," I replied, with my usual readiness to oblige, and was forthwith duly sworn and took my seat with the other eleven recruits. The case was, indeed, a very simple one, and a very funny one also. A mechanic had been employed to make a property moon for Steel Mackay's theatrical company. The moon was intended to rise, showing red, and contract, and become dead white as it climbed above the horizon. Instead of this artistic proceeding, the spectators of the first performance were treated to two moons, the revolving discs being worked wrongly and moving off in different directions when they should have contracted into a pale luminary. The moon-maker, who had been lectured by the jury upon moons in general, but was cut short by his own lawyer. The counsel summed up very briefly, and Judge Gedney charged us very sensibly and impartially.

"Gentlemen of the Jury," he said, "the plaintiff sues for compensation, under a written contract, for making a moon according to a certain design given him by the defendant. The contract is not denied. Neither is it denied that the defendant is that, at the first performance, the moon did not work properly. Whose fault was that? If you find that the moon was made according to the design then the defendant is not in the moon and the plaintiff is entitled to his pay for his work. To hold him responsible for the blunders of the designer or the stupidity of the property men, would be unjust. If, on the other hand, this moon was made out of green cheese, or in some other way not in accordance with the agreement, the plaintiff cannot recover, and his counsel must be a lunatic to press this suit. Gentlemen, you have heard the testimony of the plaintiff and the defendant, and have had an opportunity to surpass most astronomers by examining the moon at close quarters. The plain issue of fact the Court must leave to the jury; but I do not think it will take you long to discover the man in the moon."

It was just on the stroke of six o'clock when, as a matter of form, we retired to the jury-room, checking over Judge Gedney's charge. My dinner was to be at six. There was just time to agree upon a verdict and record it in due form, while the Judge prepared to accompany me home.

The jury-room was a small, bare, uncomfortable den, and, at first, nobody seemed to care to sit down in it, except an old merchant, with a querulous voice, who held his handkerchief up to his face, threw himself upon a chair and said: "Please settle this among yourselves, gentlemen, and count me with the majority. My face hurts, and I can't think about anything else."

With the majority? Was there a difference of opinion, then, about so easy a case? I had never been on a jury before, but our foreman appeared to be more experienced, and said, briskly, that the first thing to do was to take a vote for plaintiff or defendant. He tore up and passed around slips of paper, upon which we wrote our preference, and then collected them in his hat. The old merchant with the neuralgia would not touch the paper, and said, "Get your majority," he pleaded, "and then count me in."

Of course there was no doubt that the verdict would be unanimous, and some imp of mischief inspired me to vote for the defendant. It could do no harm. It would delay us only a moment, and would explain that it was one of my little jokes and change my ballot. No sooner thought than done. The foreman gravely took the pieces of paper out of the hat; examined them and announced the result: "Nine for the plaintiff."

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clearly—which is more doubtful—that, in closing my remarks I called for another and final ballot. But to my astonishment, the moment, moaning with neuralgia, protested. "I ain't so sure about this case as I was," said he, "and I'd like to hear the other side—ought—if anybody has anything to say."

The other side? What other side could there be? Besides, it was getting awfully close to my dinner hour. The keen, witty, lawyer-like man took the floor and proceeded to give his views of the evidence, and to reply to all my arguments, one after the other. He did it very cleverly; but I could see my way to refute him conclusively. No; there was no time for discussion. I would bite my lips and let the talk run dry. This maneuver succeeded. After the lawyer man had concluded, nobody else had anything else to say. Another ballot was taken.

Ten for the plaintiff; two for the defendant," said the foreman. The neuralgic merchant moaned that he had voted for the defendant this time, by mistake. I began to hate this man, and go over his sufferings. The eleven jurors were now talking at once, and after wasting five minutes upon him, ascertained that he had agreed with me before he spoke. The big man raised his window cautiously and commenced to pull up a string.

"I've been in this 'ere room afore," he said, looking around triumphantly, "and I know the ropes. This will make us comfortable and harmonious," and he landed in a bottle of whisky, which the landlord of the restaurant opposite had tied to the string. "Let's get up a game of pinocle," cried a jovial jurymen, taking a pack of cards from his pocket.

"But," I shouted, and then pictured to me the dinner-party waiting for me—the Baby waiting for me! My speech was cut short by a knock on the door. "You're green at this sort of thing," said the man with the bottle, "and I'll drink or two and you'll forget all your troubles."

"Gentlemen," said the court officer, putting his head in at the door, "Judge Gedney says that you can bring in a sealed verdict without sending for him. He's gone to a dinner party."

A dinner party—my dinner party? And here was I, the host, a prisoner, miles from my home, with a lot of stupid jurymen who stood ten to two upon the simplest case ever tried in a court! The thought was madness. I demanded another ballot. "O, don't bother!" cried the pinocle players. "But I did bother, and plead, and argue, and worry, until another ballot was taken for my exclusive preference. Gentlemen, of all instances of anonymous schemes."

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An accepted bank cheque payable to the order of the Minister of Public Works, equal to 50c per cent of the amount of tender must accompany each tender. This cheque will be forfeited if the party declines the contract, or to complete the work contracted for, and will be returned in case of non-acceptance of tender. The Department does not bind itself to accept the lowest or any tender.

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