

THE GRAND INQUEST OF THE COUNTY

BY H. ROB. KEEBLE

I PRESUME that country grand juries are about the same in all our Imperial States. I have no reason to doubt that the average one in New York or California is composed of about the same grade of morons that engage in snooping into their neighbor's affairs in Texas. I sing of the Texas grand jury for the reason that I spent four shameful years as a prosecuting attorney in that great State and can, therefore, write with some degree of authority. I trust that the celestial Recording Secretary has made note of the fact that when I offered my youthful talents to the electorate of my county I was long on youthful ideals and short on cash and clients. To my credit be it noted that I was possessed of no over-mastering desire to curb the local crime wave. The simple fact is that I had but recent sanction to practice before the courts, and clients were slow to avail themselves of my talents. My office rent and board bill were extremely regular—and the commonwealth, as a regular client, paid fair wages and conferred a certain prestige upon its lawyer. Thus I became a candidate.

I had been active in lodge circles and had achieved a county-wide reputation as a graveyard orator at Woodmen monument unveilings and was what is commonly known as a good mixer, having little else to do. Naturally and logically, I sought to cash in on these assets. I was aided in my ambition by the fact that my opponent in the election had the handicap of having served two efficient terms and was seeking a third, thereby violating the sacred democratic doctrine of rotation in office. So much by way of apology.

Running for public office in America, I believe, is the most debasing of human pursuits. To achieve a job dependent upon the pleasure of the voters requires servile fawning, supreme hypocrisy and the suppression of all the instincts of self-respect. But even more pernicious are the effects upon the soul of the unfortunate after he has been invested with his honors and emoluments. To take seriously the theory that one has acquired thereby a sacred mission to regulate the lives of one's fellow sinners—this will quickly warp and poison all the sweet reasonableness that should endow every honest man. After two terms, I also, like my predecessor, attempted to achieve a third, and was in turn unhorsed. For my liberation I now return my brief thanksgiving to whatever gods guided the sovereign voters on that day.

With the passing of the years I view with growing horror and honest remorse the degradations into which I was drawn by my work. To my credit again be it noted that I took no joy in it. From what I now recognize as an entirely mistaken sense of duty, I prosecuted with vigor several hundred of my fellow-beings, who in most instances differed from myself and his Honor upon the bench only in that they had been indiscreet as well as wicked. In no case, as I recall it, did my heart swell with pride in the thought that God and myself were collaborating and the Devil being put to confusion by our joint endeavors. When the time came to leave the office I did so as one discarding an unclean garment. Since then I have greatly enjoyed a modest practice on the other side of the docket. Always, indeed, I have rejoiced

more over securing the acquittal of one honest bootlegger than I ever did over the conviction of the ninety and nine whom I aided in their progress toward the penitentiary.

Distasteful to me as were the duties of actively prosecuting in open court, they did not compare with what I had to suffer in the grand jury room. It was there that I learned to what depths of unutterable meanness human nature can descend. Though I aided in the investigation of many deplorable and heinous crimes, I can recall none in which I could not perceive a very natural and very human motive, driving the offender into its commission. But I have never yet been able to understand the zealous and fiendish joy that so evidently surcharged the heart of the average grand juror as he went about digging into and exposing the lapses of his fellow-men, and the ill concealed satisfaction he obtained from bringing humiliation and sorrow to his friends and neighbors.

The grand jury was designed as a sort of judicial sieve through which all accusations should be carefully sifted, to the end that none should be presented unless they had sufficient evidence behind them to make out a *prima facie* case. This plan was based on justice and good sense. The faults found in it in practice are the faults inherent in all democratic schemes and institutions. In brief, it overlooks the fact that the average private citizen is just as tyrannical and malicious as the average justice of the peace, sheriff or constable. And so the protective purpose is utterly frustrated, and the grand jury becomes dangerous and a nuisance.

It is clothed by law with very unusual powers. It works behind closed doors and its proceedings are protected by an oath of secrecy. It is accountable to no one. Only the prosecuting attorney can be present while it works and even he is excluded when it deliberates on its findings. Lifted thus for a brief space from the harassed ranks of the rabbits and endowed with the fangs and hunting hunger of the hound, the average rustic, become a grand jury-

man, responds instantly to the metamorphosis. The mild-mannered village grocery clerk who yesterday shared with you a pint of contraband hooch, today becomes the wild-eyed ally of Volstead and Wheeler. The jovial town barber who confidentially tipped you off on the new milliner is now one in purpose with Anthony Comstock. And the briefness of his tenure in office serves to make him all the more eager to use his power to its cruel limit.

II

The panel from which a grand jury is chosen in most American States is picked by commissioners who are themselves appointed by the district judge. The judge is elected by the people and usually gains his office by political bargaining and trickery. Legal learning and judicial temperament are qualifications rarely considered by the voters or by the petty political leaders who sway their suffrages. Thus the average district judge throughout the United States is a typical product of democracy—a blatant demagogue and a mean-minded pusher whose selfish little soul becomes only the more shriveled and arbitrary when he mounts the bench.

He may, perhaps, furiously upbraid and deliver to retribution any litigant who directly offers him a bribe, because he is crafty enough to realize that his chances of getting away with it are remote. But he is none the less vicious, for he is a constant mountebank, and shapes his every act and utterance to the particular madness that happens to possess *hoi polloi*. It was the district judges of Texas who within recent history turned over a large portion of that State to the government of the Ku Klux Klan. Once the organization had put on a few night-shirt parades and received the public endorsement of the rev. evangelical clergy, the judges, with a few notable exceptions, hastened to kiss the hem of the Imperial Wizard's gown, and to prostitute all of their official powers to the spread of his empire.

Much has been said and written about the extra-judicial courts established and operated by the Klan in the woods and river bottoms of the South. They were very picturesque, and no doubt helped to dazzle and enchant the nitwits for whom the Klan was created. But as a means of administering its conception of justice they were entirely unnecessary, for the high priests of the visible government were all too ready, willing and able to degrade their offices to the Klan's uses, and to turn over all the established machinery of the courts at the command of its unseen powers.

It is well-authenticated history that in Klan dominated districts the judges appointed only jury commissioners from the inner circles of the order, and that the commissioners in turn summoned for grand jurors only the most intense zealots of the Flaming Cross. Thus was the mantle of protection thrown over true believers and the All-Seeing Eye given an official microscope wherewith to seek out the lapses of its enemies. Do you wonder that at an early stage the coffers of the Imperial Treasury were swelled with the initiation fees of all the more astute bootleggers and pimps? The resulting reign of anarchy, working through the legal and duly constituted machinery of justice, was the logical result of our highly defective judicial system. The outrages perpetrated in the name of justice were many and hideous. Yet they were only the natural and typical results of the grand jury system as it works in the country districts in normal times.

In the more congested centers the grand jury is in almost continuous session and the public becomes inured to its presence, but in the backwoods it convenes only two or three times a year. From the day that bailiffs go forth to summon the panel, the sense of excitement and apprehension grows throughout the countryside. To the major felons, of course, such as murderers, burglars and hi-jackers, the solemn convocation means little, save the hastening of their cases to an issue. The facts in such matters are ferreted out by the officials

before the grand jury meets, and only sufficient evidence is submitted to it to warrant a formal indictment. It is to the ordinary citizen, who lacks the imagination and moral courage to kill his wife, hold up a train or break into the First National Bank, that the convocation brings a sense of high apprehension.

All too well he knows his danger. For is not the grand inquisition composed of men of like passions unto himself? Most assuredly it is, and as he has done in the past and will do again when he gets his day, so will they now diligently inquire into all rumors and gossip as to the secret poker games in the back of Deacon Brown's drug-store, and as to the origin, transportation and specific throats of destiny of all vinous, spirituous and malt liquors that have enlivened the county since the last session. But most particularly, avidly and unrelentingly will they search out the juicy details of those indoor and outdoor sports which may be roughly classified as amorous activities outside the code. It is the certain prospect of these impertinent and voluptuous inquiries that breaks the rest of many a good Baptist and hastens the temporary hegira of those who know too much.

On the appointed day the panel assembles in the court-room and twelve good men and true are sworn in. A foreman is appointed and the dirty work begins. However, before they retire to the star chamber they must listen to the charge of the court. Here is where the rustic Dogberry shines. It is his best opportunity to make campaign thunder. The statutes order simply that he shall charge the grand jury upon the law and direct its attention to the particular violations to be inquired into. But always he seizes upon the occasion to deliver an unctuous sermon, deprecating every moral wickedness and excoriating in particular all bootleggers, adulterers and violators of the Sunday closing law. Frequently he puts himself formally on record as believing in the Bible from cover to cover, and so aligns himself

firmly with the defenders of the old-time religion and the single standard of morality. Jazz, gin and midnight petting parties are exposed in all their hideousness and the newly inducted jurors are sicked on to the forces of hell with all the fiery exhortations of a Methodist revivalist. Thus the grand inquest enters upon its crusade filled with the Holy Ghost, and incidentally full of the conviction that his Honor should be kept in office as a militant defender of the faith of the fathers, and an uncompromising scourge of the world, the flesh and the devil.

III

Once it has been organized, the matters to be investigated are docketed, and subpoenas are sent forth for the witnesses. Spurred with a freshly aroused sense of duty, the members rack their memories for rumors and suspicions and so lay the proper moral foundation for digging into their neighbor's affairs. Woe betide the unlucky brother who hath been indiscreet or overfrank within the recollection of the jurors! Past friendship shall avail him nothing, for hath not the anointed solemnly sworn that he will leave unrepresented no one for love, fear, favor, affection or hope of reward?

Within a few hours the corridors are crowded with witnesses awaiting their turn under the rack and thumb-screw. Their number is augmented by a host of volunteers whose hearts swell with abhorrence of those who serve not the Lord. Prominent among this class are usually several indignant matrons seeking discipline for husbands who have been too rough with them or too tender with less permanent connections. Also among the more eager volunteers are usually several Shylocks who wish to invoke the swindling laws to aid them in collecting unbankable debts. These are they who lift their hands protesting that they care nothing for the loss of the money but that it is "the principle of the thing" that has aroused their wrath. This class is given but short shift.

The grand jury knows, by searching its own soul, that if any law has really been violated, the complaining witness will compound the crime by settling outside of court before the case can be brought to trial.

A more willing ear is given to the ladies in distress. While their troubles are also usually settled extra-judicially, chivalry demands for them a hearing, and besides, their stories are usually highly salacious, and certain data may be mentally noted which it may pay to check up when the juror turns to private life. These dames, like the Shylocks, are inspired by the very human motive of self-protection and are therefore entitled to a due allowance of charity for their apparent malignancy.

But most conspicuous among the volunteers are those who have come forward inspired solely and singly by undiluted malice—and envy. John Doe, in his young manhood, shared his weekly wage joyously with the frailest ladies of the neighborhood. His chief glory then was his utter disregard of the laws fixing the so-called age of consent. But once, on a week-end visit to a nearby village, a far-seeing Jezebel took advantage of his muddled condition and flung the matrimonial noose over his head. Being strong-minded and with her eyes steadfastly fixed upon the goal, she came back home with John, and entered intelligently and advisedly upon the task of settling him down and achieving their joint respectability. Since then his style has been exceedingly cramped. Cut off in his new rôle from tasting forbidden fruits, his eye and that of his highly sophisticated spouse have become doubly sharp to detect others not so restricted. They have reason to believe, and do believe, that the traveling salesman who leases the back rooms of a house adjoining their own does not rest uncomforted on Saturday nights. So John awaits unsolicited in the hallway of the court-house, ready and eager to tell it all. He is a fair sample of those who stand and knock at the gates. For his benefit and those of his persuasion I sometimes long to recapture

my lost faith in a superheated hereafter.

During my tenure of office there dwelt in an outlying settlement an old deacon whose diabolical custom it was to carry always with him a memorandum book in which he made daily note of all the moral lapses, real or fancied, that came under his observation. When the grand jury convened he laid aside all other duties and hastened to town to lay before the body his data. Once, by sitting up half the night and risking his life in a blizzard, he was able to present "eyeball" testimony against fifteen of his neighbors' boys who had engaged in a prolonged session of penny ante. When they were duly indicted for gaming, a misdemeanor, and had paid their fines, he was profoundly disappointed. He had cherished the joyful delusion that playing poker was a felony and would be punished by at least two years in the State penitentiary! One of the few joyful thrills of my experience as a prosecutor came a short time later, when I helped to convict this Christian man of looting the treasury of his Baracca class of its fund to buy German marks.

As to what goes on behind the closed doors of the rural grand jury I may not enlighten you with authentic details, lest I be subjected to the pains and penalties visited upon those who divulge state secrets. Suffice it to say that far happier is the lot of a rat loosed in a ring of terriers than that of an unwilling witness in a county grand jury room. Here the established rules of evidence have no standing whatever. Even the common principles of good sportsmanship and fair play are unrecognized and may be invoked in vain. Every kind of pressure is brought to bear on the witness.

I have seen weak-minded women and frightened children brow-beaten and terrorized for hours by the persistent nagging of the twelve good men and true. I have heard a hoary-headed foreman, whose own lechery had been limited only by his opportunities, assume the unctuous tones of

a tearful father as he pleaded with some bucolic young Sybarite to center on some victim as the "author of her shame." I have seen terrified little boys reduced to hysteria by awful threats of life-long imprisonment. I have heard wives and daughters fervently preached at and prayed with in an effort to inveigle them into betraying their husbands or fathers. Time after time, I have known a grand jury to hale before it, ostensibly on another matter, one against whom it contemplated an indictment, and trick him into furnishing the evidence against himself. The reports of the appellate courts of all the States are filled with cases reversed on that ground, but in most instances the wrong is seldom righted. If the accused later complains, the grand jury can usually be depended on to swear as a body that he was properly warned before giving the damaging testimony.

When all possible indictments have been returned and the last pile of muck has been thoroughly raked, the grand jury makes a perfunctory examination of the courthouse and jail and prepares its report to the court. This is written by the county attorney and is filled with pious platitudes. It generally ends with a solemn adjuration to parents to keep a closer eye on their night-riding boys and girls, and furnishes the inspiration for red-hot sermons from the local pastors on the following Sabbath. So at last the doors of the star chamber are closed and the high inquisitors depart for their dunghills. Within a few hours the lid at the corner drug-store tilts at its old liberal angle, various light-hearted ladies, whose names do not appear upon the register, resume their interrupted residence at the local hotel, and the sounds of the rolling dice and the shuffling pasteboard are once more heard in the land. The community draws a long sigh of relief. A strained expression leaves the countenances of peasant and burgher as the joyful tidings are spread abroad. The grand jury has adjourned.

ROWDY DAYS ON NEWSPAPER ROW

BY WALT McDOUGALL

WHEN I joined the *World* staff, Newspaper Row seemed little altered from the street that I had known in my earliest days. It began with the *Herald* Building at Fulton street and ended with the home of the *Sun* at Beekman. It had been my playground in infancy, as it had been my mother's. The restaurant of her uncle, Ned Windust, opened in 1824, stood until the '70's at 3 Park Row, with the house entrance on Ann street. Barnum's Museum stood at the opposite corner, a four-storied structure; between each pair of windows was an oval painting of some zoölogical marvel. I remember harboring a conviction that my father had painted all these. Having free entry for some unknown reason—probably an intimacy with the doorkeeper, or perhaps with P. T. Barnum himself, for it is said that he often handed me a big copper penny—I spent hours among the wonders in the museum and laid the foundation of an abiding respect for humbug. I was upstairs in the Windust house when the museum burned, and when our windows on Ann street began to crack from the intense heat I carried Aunt Sarah's parrot, a deadly foe, down to the street. A Bowery tough, a type of the period, tried to take the bird from me, but Inspector Walling, a mild-eyed, bearded terror of criminals, rescued it.

From the Windust house, which was exactly opposite my paternal grandfather's furniture factory, upon the site of which the Astor House was later built, my father, a Park Place artist of considerable note, beguiled my seventeen-year-old mother into eloping with him to Hunting-

ton, Long Island, where they were married by his brother James, who was for some sixty-odd years the pastor of the old Presbyterian Church there. In Windust's eating-house Dickens, Washington Irving, George Arnold, Poe (my father painted his portrait in the '40's; it was reproduced in *Scribner's* in 1910), John McCullough, Forrest, Keane, Macready, Booth, Kemble, Henry Clay, Wheatley, Wallack, Placide, A. T. Stewart, Fitz Greene Halleck, John Brougham, Fenimore Cooper, Greeley, Raymond, Fisk, Daniel Drew, Vanderbilt, and other notables lunched and dined, and the poets of the time exchanged their hard-earned honoraria for the best of sound old port and Madeira. I recall distinctly that the whole house was heavy with the pungent aroma of turtle soup at all hours. Charles Delmonico was the head waiter for years. He went into business for himself, I believe, when Windust retired to a great lonely house at Oak Neck, overlooking Oyster Bay. The restaurant and the rooms upstairs were filled with theatrical souvenirs.

When prosperity settled upon the *World* Joseph Pulitzer bought the Windust building. In excavating beneath the sidewalk there was found a bricked-up vault containing two barrels of port. This treasure was claimed by the contractor who was tearing down the building, by the builder of the projected Clark Building and by Mr. Pulitzer. Finally the prize was divided among them. It turned out that the wine was some seventy-five years old. When I told J. P. the history of the old building he gave me a quart of it. Although I have since tasted port aged 112 years and