

THE PUBLIC DEFENDER

By F. A. MITCHEL

In a western community into which the people were introducing courts of law John Bradshaw, a man to whom every one looked up as a very wise man, suggested that together with a public prosecutor they have a public defender. Mike Conover replied to the suggestion.

"It seems to me," he said, "that it's hard enough to get at the truth with a prosecutor to muddle the jury. If we have a defender to throw up the same amount of dust who's going to see through it all?"

But Mike had no standing with the community beside Bradshaw, who was a large man with an impressive demeanor and seldom spoke, but when he did his words seemed to weigh a ton. The public defender was appointed, and the citizens congratulated themselves that justice thereafter would be provided for accused persons as well as for the state.

The first person to come before the court was Mike Conover himself. A robbery had been committed in the town involving the loss of a watch and about \$10 in currency. It had occurred about 12 o'clock at night. Joel Harkness had been walking home when some one came up behind him, put his arms around him, and a scuffle had ensued. The street was not lighted, and Harkness did not see his assailant, who soon released his hold. When Harkness arrived at home he found that he had been relieved of a gold watch and chain and the money which he had carried in his vest pocket. He reported the matter to the police, who advised him to say nothing about the matter for the present. They were engaged in ferreting out other criminalities, and it would aid them if the criminal supposed that Harkness had pocketed his loss without reporting it.

A few days after this Mary Doolan went to see Mrs. Conover, but, not finding her at home, sat down in the living room. Mike had very keen ears and, hearing a ticking, wondered where it came from. Making a search, she found a gold watch and chain in a bureau drawer.

Mike being a poor laborer, Mary knew that he could not afford any such timepiece and talked about her find to her neighbors. The incident reached the ears of the police. A search was made of Mike's home and the watch found. Harkness without hesitation identified it as his property. The bills he had lost were not found, but they could not have been identified if they had been found.

Mike was arrested, and the public

defender called upon him to hear what he had to say and prepare his defense. The lawyer was a young man full of the dignity of the law. He was ambitious to take a prominent part in politics and hoped to make capital for himself out of this his first case as public defender. Mike assured him that he was perfectly innocent. He had gone out to work very early one morning and came upon a gold watch and chain lying on the sidewalk. He picked them up and took them home after his day's work, showing them to his wife and asking her what to do about it. Bridget said that the owner of the watch had doubtless dropped it unawares and would advertise it in a loss notice tacked to a tree or in the town paper, which would be issued in a few days. He had better be on the lookout for such notice. But nothing appeared on the trees or in the paper, and Bridget told Mike when he went to work on the day of his arrest that she would try to find the owner.

The public defender listened to this statement with supreme contempt. In the first place he did not believe it, in the second he could not prove it, and in the third he proposed to show his ingenuity in getting his client off. He asked Mike how much money he had, and Mike said that Bridget was his banker and he believed she had something like \$200 in a stocking. The defender told him to bring it to him. "Mike," he said, "your story would never go down with a jury. We must prove an alibi." Mike didn't know what an alibi was, but he produced the \$200.

At the trial the prisoner was astonished to learn that on the night of the robbery he was in a town fifty miles distant and at midnight was drinking in the Alhambra saloon with several witnesses who swore to the statement. The defendant made a strong case, and the prosecutor was much troubled to disprove the alibi. He talked all day to gain time and during the night paid one of the defendant's witnesses \$10 to swear that he had been mistaken in the man. This broke down the statements of the other witnesses for the defense, and the facts were so conclusive against the prisoner that he was convicted without the jurors leaving their seats.

"Michael Conover, stand up," said the judge. "Have you anything to say why sentence should not be passed upon you?"

"I have," said a voice, and a man in clerical garb came forward and asked to be sworn. Then he said:

"Bridget Conover, the prisoner's wife, came to me recently to be confessed. She told me that her husband had found a watch and chain and asked me what he should do to find the owner."

Here was evidence that even the public prosecutor did not think of rebutting. Mike received a new trial and was acquitted by the jury that had convicted him and went forth a free man.

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