

“ The Doctor’s Law Case ”

(1903)

Many newspapers around the turn of the twentieth century published serialized novels and short fiction to entertain readers. Weekly papers in small towns also carried them to fill space. These papers published reports of local events, the comings and goings of town folk, articles and editorials from other papers and, if the town was the county seat, detailed accounts of district court proceedings—still, chapters of romance novels were needed to fill a page and keep subscribers.

In 1903 the *Warren Sheaf* was one of two weekly newspapers in Warren, Minnesota, the seat of Marshall County (the other was the *Warren Register*). In its edition on Thursday, February 12, 1903, the *Sheaf* reprinted a short story titled “The Doctor’s Law Case” that appeared first in the *Chicago Daily News*. The following week, the *Sheaf’s* editor solved the familiar quandary of how to complete a page by reprinting the story a second time. It follows.

The *Sheaf* was not the only Minnesota newspaper to publish short legal fiction. In 1912 *The Virginia Enterprise* published many stories by Melville Davisson Post that starred Randolph Mason, a lawyer who acted in ethically dubious ways to correct “injustices.” Those stories can be found in the “Literature” category of the archives of the MLHP.

Fiction such as this entertained the readers of these newspapers but also fueled popular stereotypes of lawyers, judges and the court system. ▪

THE WARREN SHEAF

WARREN, MARSHALL COUNTY, MINNESOTA, THURSDAY, FEBRUARY 12, 1903. Page 5.

The Doctor's Law Case

Dr. Tolbert was a young physician who was possessed of little else besides his sheepskin and a determination to succeed in his chosen profession. Shortly after graduating he and a young legal friend, one Martin, took an office together in Chicago. They arranged to hold separate hours, each paying an equal share of the rent.

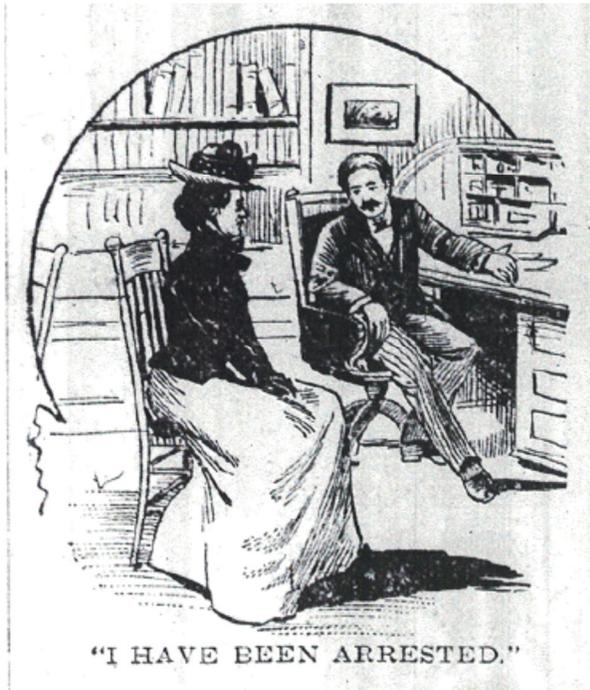
A small glass and frame partition divided the little rooms into two tiny apartments. The lettering on the glass portion of the outer door read: "John L. Martin, Law Office," and a small, neatly designed metal plate on the panel read: "Dr. G. H. Tolbert." The morning hours were set apart for the exclusive use for the attorney and his clients – a should there be any – and the afternoon was to be dedicated to the relief of the sick.

A few friends called and several letters and circulars were received during the first month. Financing the second month, however, was uphill work. The days seemed long, but the month was short and the agent of the building, although polite, was firmness itself. Patients were scarce and poor at that, and briefs were few and litigation scant, at least with the young lawyer. Time passed on, the doctor labored manfully among his few outdoor patients and, succeeded in keeping the rent paid, although it was not always strictly in advance. Times grew harder

and harder. Martin was all but discouraged and the agent had called twice with the persistent little bill. The doctor, however, bore up bravely under the trying circumstances.

At last one afternoon, as Tolbert was sitting alone reading a text book on therapeutics, for lack of other occupation, he was suddenly aroused by the opening of the outer office door. A moment later a plain, modest looking woman stepped in from the hallway. Her features wore a somewhat anxious look and under her right eye there was a dark contusion, while her upper lip and forehead bore several amber and abrasions.

“I have been arrested for an assault,” said his caller. “Last Monday morning my clean clothes were hanging in the yard and the woman



next door brought out a dirty old carpet and began to beat it. I called to her to stop and she jeered at me. Then I climbed over the fence and grabbed her. I pulled the carpet off the line and then holding it down at my feet, I tried to get the stick away from her. But she hit me in the face with it. Then I dropped the carpet and one at her and I can tell you that I gave her a good drubbing.

Then she had me arrested. My case comes up to-morrow morning in the justice court.”

“The doctor was pale with emotion. Here was a client, not a patient. Like a flash he remembered that the lettering on the door read “Law Office.” How was this woman to know what particular hours the lawyer

kept? However, the case might help pay the rent. So, with an effort, he informed the woman that the assault was perfectly justifiable and that her case would be attended to at once. The retainer fee would be \$10, with \$15 additional after the trial. The money was paid at once and the client departed.

Tolbert hurried away to find his legal colleague and inform him of their unexpected good fortune. Arriving at Martin's rooms, he related all with breathless haste.

Thoughtfully the advocate listened and then said:

"She has no defense at all. She will be fined and it will serve her right."

"But," explained the medical side of the firm, "she is our client, and I promised to defend her. She has paid a retaining fee and – and we need the money."

"Now see here, Tolbert," said Martin, "a good doctor is usually a poor lawyer. I can tell you there is no defense for this woman. It is a plain case of assault with a fine and costs coming against defendant. I don't care to have anything to do with it, and if you insist on such nonsense you can go and defend her yourself. Any one can practice before a police magistrate."

Tolbert was stunned for a moment. How could Martin refuse this source of income, small as it was, with the rent overdue. Suddenly an idea struck him. "She doesn't know that I am a doctor," he thought; "the plaintiff doesn't know, the justice doesn't know and probably doesn't care. Why can't I be a lawyer for just once?"

Nine o'clock sharp the next morning found him in the justice court ready to do or die in the attempt to establish his client's innocence and save the reputation of the firm.

The case was called, the kindly old justice, who knew more about leather than law, was surprised to find both sides ready, with no continuance asked for. The prosecuting attorney called the witnesses for the state, had them sworn and then told the complaining witness to take the stand. The victim of the alleged assault glared at the justice and then sat down in the chair, with her hands folded over a huge umbrella, which she rolled to and fro on her lap. She was large, dark and heavy, with thick lips and a prominent jaw. She was an unprepossessing woman from almost any point of view, but her right eye was especially disconcerting. When fixed upon anyone in a steady glare it was something awful. She pointed it at the justice and never removed it from his face once during the course of the trial. It made him nervous; he could not avoid it. While giving her testimony in a long, deep tone she kept that evil eye fixed on the justice till his soul was filled with dread.

Tolbert took his cue in a moment and after a very brief cross-examination he dismissed her from the stand much to the relief of the justice.

When Tolbert called the defendant, with great care he went over the circumstances of the case, bringing out that the complaining witness not only had threatened to annihilate the defendant but had struck her over the head and face with a large stick with great force and violence and that to save her life she, the defendant, had done only what was necessary and under the circumstances.

The prosecuting attorney in his speech said it was a perfectly clear case of assault and that the defendant should be fined according to law. Tolbert arose, however, and addressing the justice for all the dignity he could assume, explained that there was a difference between law and justice and that a person guilty according to the strict letter of the former was sometimes perfectly innocent from the latter point of view. "I will assure my legal friend on the other side of the case of the case," he said, "that while I have no thought of censure for him because as prosecuting attorney he is simply doing his duty in trying to secure conviction, yet the law arises above and beyond any fixed custom and in tender mercies for the welfare of all the people, tempers its findings with justice. Your honor, who is experienced in the shortcomings of human nature, knows well when and how to interpret the law as laid down in the statutes. If a person under an evil influence be led to commit a crime can he be held accountable for it? No. Is not intent the gist of the crime! Ah, your honor well knows, that if my client was lured on irresistibly to strike another person she should not be held responsible. Why, that other woman's fretful glare might make even your honor forget himself. I would not have blamed the defendant if she had used a clothes pole or a baseball bat under the circumstances."

"No, nor an ax!" exclaimed the justice. "The defendant is discharged."

Two hours later Tolbert explained to Martin as he paid the rent that his success as a lawyer had been entirely due to the prosecuting witness's glass eye. – Chicago Daily News. ▪

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