

Arthur Train



*Yankee Lawyer:
the Autobiography
of Ephraim Tutt*

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INTRODUCTION

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Ephraim Tutt needs no introduction to the general public. I cannot, however, with any grace refuse his request to contribute a brief foreword to these reminiscences undertaken largely because of my own importunity. Indeed, I have for so many years played the part of Boswell to his Johnson, and availed myself so freely of the material with which he has supplied me for fictional purposes, that natural gratitude, if nothing else, requires my acquiescence.

Mr. Tutt, if left to himself, would have been the last person in the world to assume that anyone could possibly be interested in the facts of his private life, and, when I asserted the contrary, he protested that, as Sir John Selden said of equity, an autobiography is “a roguish thing” which almost unfailingly lowers its author in the public esteem. Too many old fools, he declared, had already filled thousands of printed pages with complaisant accounts of their ancestry and babyhood, followed by vapid glorification of their own supposed achievements, which had made their old age a laughing stock instead of a tranquil prelude to a deserved oblivion.

To this I replied that there were few living individuals as notable as himself about whom so little was in fact known, that if he were to leave any authoritative record, however meagre, concerning his life, he had better do so while he was still in full possession of his faculties, and that he owed it to himself to explain for the benefit both of his detractors and his friends why he had so often felt free to circumvent

the laws which he was sworn to uphold. I threatened moreover that, if he did not personally undertake the task, I should be seriously inclined to attempt it myself. This last did the trick. "May God forbid!" he exclaimed.

That is the sole reason, I believe, why so retiring and, I might add, so cagy an old fellow as my learned friend consented to put pen to paper; but when at last I had persuaded him to do so, I realized that Mr. Tutt's own account of himself must inevitably disappoint his admirers. While another might convincingly describe his learning, benignity and wit, his natural modesty would make it impossible for him to portray his own most x engaging personal characteristics. Thus any autobiography of Ephraim Tutt would savor of *Hamlet* with Hamlet left out. He could not even by implication suggest what a remarkable man he was, and hence he would naturally fail to measure up to his full stature in the public mind.

Yet this must be a defect common to all autobiographies. For it is, in fact, only those with whom we are familiar by reputation whose autobiographies we care to peruse. We do so not to discover them but to find out more about them. So I brushed my apprehension aside. Any picture which Mr. Tutt might paint of himself could not alter the impression built up through half a century.

Not inaptly described as a combination of Robin Hood, Abraham Lincoln, Puck and Uncle Sam, he was beloved by a multitude of his fellow countrymen who knew him as a homespun but distinguished member of the bar, erudite and resourceful, a terror alike to judges and professional opponents, generous, warm of heart, intolerant of sham and

of privilege, a doughty champion of the weak, with an impish humor which enabled him to laugh cases out of court and a fertility of invention that often turned what appeared almost certain defeat into victory. The reports of the celebrated trials in which he had taken part had been compiled into many volumes and were widely read. His ramshackly figure in his rusty frock coat and stove-pipe hat, the fringe of white hair overlapping his collar, his corrugated features with their long nose and jimber jaw, his faded but keen old eyes and quizzical glance were familiar in illustration and cartoon, while the antique flavor of his costume had long rendered him as conspicuous upon the streets of the metropolis as did Mark Twain's white Panama suit. Yet to us of his generation it was but the natural continuance of the regulation dress of every lawyer at the turn of the century; he was used to it and it merely did not occur to him to change. Few realize, perhaps, that for some time after the Civil War the members of the New York bar argued their cases in full dress suits and that forty years ago top hats and Prince Albert coats were habitually worn by attorneys in both the civil and criminal courts.

Mr. Tutt was a national character, too well established to warrant the fear that he would do himself harm; but, even if he did, he owed it to the world to disclose the circumstances and influences which had made him the sort of man he was and to explain what was behind his frankly acknowledged thesis that law is one thing and justice quite another. That he was fully aware of the danger to which he exposed himself is shown by the fact that he handed over this manuscript to his publisher with the comment: "If people

say that Tutt has gone and made a fool of himself, I shall reply in the words of St. Paul to the Corinthians: 'Let no man deceive himself. If any man among you seemeth to be wise in this world, let him become a fool that he may be wise.'"

In any event let me take this opportunity to state that of all the men I have known in my forty years at the bar Ephraim Tutt is the wisest, the kindest, the most eloquent and most astute. His friendship is my most valued possession, and I can well afford to overlook the probability that he by no means holds me in the same high esteem as I do him. A true liberal and humanitarian, he is a legal Don Quixote who has the courage of his illusions and follows the dictates of his heart even where his head says there is no way, a fiery advocate of the poor or those unjustly accused—well described by the Psalmist: "The words of his mouth were smoother than butter, but war was in his heart; his words were softer than oil, yet were they drawn swords."

ARTHUR TRAIN.

New York, July, 1943.

I ***A VERMONT BOYHOOD***

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I am a natural rebel. Old Doctor Quinby of Cavendish used to say that I kicked myself into the world, and no doubt I shall kick myself out of it. I rebelled as a child against my father's Calvinistic theology and the severity of his paternal discipline, against the artificial social distinctions of my college days, later against the influence of politics upon the courts, and always against privilege, despotism, and the perversion of the law to selfish ends. I have always felt that there was something fundamentally wrong with the scheme of things and have sympathized both with its victims and with those who sought, even if unwisely, to improve it.

I was born—whatever may be alleged to the contrary—on July 4, 1869, in the hamlet of Leeds, in Plymouth township, on the border between the counties of Rutland and Windsor, in the State of Vermont. To paraphrase William Butler, doubtless God could have made a more beautiful country, but doubtless God never did. From the hill behind our barn you could look over half the world—from Mount Ascutney, close over your left shoulder, all around the semi-circle, past Mount Tom, Old Notch, Mount Ambrose and Blueberry Hill,—to Mount Killington looming over the Rutland Valley. It was a region of forest-clad hills, narrow valleys and rushing streams which in spring became foaming torrents. The farms were small and isolated, connected with the settlements by dirt roads often impassable in winter. Even in my boyhood there were only twelve hundred inhabitants

scattered over the twenty-two thousand acres of Plymouth township, and today there are not a quarter of that number.

The village was little more than a crossroads, with half a dozen houses, a smithy, a wheelwright's shop and a tiny post office in the rear of Ezra Higgins' corner grocery store, which was the center of social activity, especially at mail time. On Saturday nights the men gathered there to talk politics. Most of them, including my father, had fought in the War Between the States, 2 then only just over—but you would never have known it from anything they said. Long strings of dried apples and corn for popping hung from the ceiling, and one shelf was lined with patent medicines, some of which had been household remedies for over a century: Beton's True and Genuine British Oil, Daffy's Elixir Salutis, Hooper's Fennel Pills, Golden's Spirits of Scurvy Grass, Oil of Earthworms, and Emulsion of Dried Rattlesnake.

The "post office" was in fact merely a pigeon-holed partition, with a small window through which Ezra grudgingly handed out the mail. He was a desiccated, goat-bearded veteran of the Mexican War, who had been appointed postmaster by President James K. Polk in 1849 and, never having been removed, was the most important person in our town. If you wanted to locate anyone you just went down to the store and asked Ezra where he was, for the old boy kept a sharp eye out for passers-by and there was nothing he did not know.

I was an only child and terrified of my father, a stern heavily bearded man with a red beak of a nose, who was always talking about the Sin of Adam and the Fires of Hell. At first I vaguely confused him with the Deity, partly I

suppose on account of his whiskers but primarily because he seemed to me to possess all knowledge and wisdom. A lesser reason was that he frequently referred to God as “the fountain of all Justice,” he himself having once been a justice of the peace. He was of Scotch descent and had been baptized Enoch because the latter was said in the Bible to have “walked with God,” but I have a strong impression that by the time I came along he had left God pretty well behind. A just man according to his lights, he probably regarded himself as a model of parental affection. I even recall being once taken into his lap and feeling the pressure of his large, hard belly, but he would take me out to the woodshed and tan my small bottom for singularly slight offenses—in order, no doubt, to familiarize me with what I might expect in the Hereafter. But pounding a boy on one end in order to stimulate faith, hope and charity in the other does not appeal to me as a technique calculated to encourage a belief in the justice of either God or man.

We had no meeting house at Leeds, and although there was a First Congregational Church at Washington my father refused to go there, declaring the minister to be a doctrinal backslider 3 and a “radical.” In this he was perfectly consistent, although there was no one else in the neighborhood who shared the extremities of his beliefs. He knew the Old Testament almost by heart and on Sunday evenings he would expound its finer points to my mother and myself as we sat around the lamp under the wax flowers in the front parlor which was otherwise never opened. He was also the sole Democrat in the town, and I often listened of a Saturday night down at the post office

while, surrounded by a carping circle, he defended single-handed the political theories of Thomas Jefferson and the religious doctrines of Jonathan Edwards. It in no way bothered him that he should not be able to convince Methodists and Republicans—who to him were but froward heathen, not of the elect.

Only since beginning these reminiscences have I come to appreciate the extraordinary persistence of Calvinism in some parts of rural New England. The Connecticut Valley was of course a hotbed of it and it crept over the hills to the remoter hamlets where, long after it had burned itself out below, it continued to smoulder. My father may well have been the only survivor of the old-fashioned type in that part of the country. Later I became less inclined to accept anything on mere faith, and while, up to a certain point I managed to swallow his theology, I choked on infant damnation and—to mix the metaphor—once cracked, my early concept of his infallibility crumbled to dust. I was unable to comprehend why I had to be punished for something I had not done. Neither did I understand the phrase I so often heard that one should be glad to “die for the Glory of God.” I did not want to die for any reason whatsoever. I wanted to live and to have as much fun as possible; I saw no reason for supposing that such was not the intention of my creator; and I wanted other people to be happy too.

It struck me that my father, and all others like him, were deceiving themselves by imagining that they could fathom the purposes of the Infinite Mind; that at best they were indulging in a sort of mental chess in which they pitted their

hearts and common sense against their metaphysical ingenuity. Life is too short for that sort of thing. I never cared about “chasing the tail of the Cosmos.” The only reason I took philosophy at Harvard was because of my admiration for William James. How could you help listening to a college professor who denied that this could be the best of all possible worlds so long as there was “a single cockroach suffering from the pangs of unrequited love”?

On the other hand I was devoted to my mother. She had been born within “the pale” of the city of Dublin, and her parents, who were Protestant-Irish, had brought her with them as a child in arms when they had come to America in 1849, the third year of the Great Blight. She was a tall, handsome, impulsive woman, with no logic at all and a great sense of humor of which my father was entirely devoid. She would tell me stories about the “little people,” dancing by moonlight in their fairy rings, and of a tiny, well-worn, but perfectly cobbled shoe her own mother had once found no bigger than the palm of your hand; and she used to say—rather pointedly as I later thought—that, if you were going to believe in fairies at all, it was well to choose good ones. She lavished affection on me, and while she had great respect for my father, did not hesitate, if he seemed arbitrary, to rally hotly to my defense, and sometimes even to invent stratagems to circumvent my detection and punishment for trifling peccadillos.

Her tenderness with dumb animals was touching and I have known her to sit up all night holding the head of a sick calf or foal in her lap. How she managed to do all that she did and still remain spotlessly clean and cheerful always

amazed me. More often than not it was she alone who took care of the house, cooked, swept, made the butter, put up the preserves, fed the chickens, and, spinning her own yarn, knitted our stockings and mittens. Save for a little jacket for which she bartered with an itinerant huckster she made all my clothes until I was sixteen, and I remember vividly the pride I took in my first pair of britches which she cut from an old pair of window curtains. She herself wore calico or woolen, having but one silk dress which had come down to her from her mother. This she donned only on special occasions, such as weddings, funerals or the time when we drove over to Windsor in 1874, to be photographed by Mr. Samuel Wilson. I shall never forget my awe at what seemed the elegance of what he called his "studio" or the agony I suffered from the iron brace he affixed to the back of my head.

We lived a rigorous, healthy life of laborious routine. Once the winter wood supply had been laid in we broke a road through the snow to the sugar lot, tapped the maple trees, set the buckets, lugged the sap to the vat which was propped up by 5 rocks over a big log fire, and finally carried the sirup to the house for sugaring off. Sometimes on a still night, although well over half a century has passed, I fancy I can hear the "drip-drip" of the sap as it fell into the tin pails. Later on the fences had to be repaired, the cattle turned out to pasture, the spring planting done; then came the sheep-shearing, getting in the hay, harvesting and threshing the grain, cutting and husking the corn, digging the potatoes, picking the apples, dressing the poultry before Thanksgiving, butchering the hogs and salting down the

meat. Like other boys it was my job to fill the wood box, take the cattle to and from pasture, drop seed potatoes, and drive the mowing machine, horse-rake and oxen.

Most of the farms stood beside brooks and had front yards planted with maples, mountain ash and plum, with heavy banks of lilacs against the houses and barns. Ours consisted of a hundred acres of which forty were under cultivation, and until I was old enough to really work my father had only a half-witted boy named Silas to help him. Silas was paid fifty cents a week and did whatever he was told unquestioningly. He slept with me in the attic and I called him "The Human Stove." In winter, having no intellectual interests, he went to bed after supper. An hour or so later I would creep shivering up the stairs, peel off my clothes, pull on my nightshirt, and order: "Roll over, Silas, and give me your warm place!" I always felt a little mean about it, although the bed belonged equally to both of us and Silas usually had ensconced himself in the middle.

The children of the neighborhood managed to have a pretty good time. We swam in the creek, coasted and skated, shot rabbits and squirrels, while our elders hunted deer and set traps for the bears of which there were considerable numbers. We had husking and spelling bees, apple-paring bees, singing schools and straw rides. Occasionally there was a circus in Rutland, Woodstock or Windsor, also the County Fair, and regular celebrations on the Fourth of July, Thanksgiving and Christmas. The schoolhouse was built of field-stone, cut from a nearby quarry and split into rough slabs. The pupils were of all ages and the schoolmistress was often a bright girl of fifteen or

even less. We used the New American Reader & Speller, Hale's Geography & History of Vermont, Anderson's United States History, French's Arithmetic, Greenleaf's Algebra, Conant's Parsing & Drill Book, 6 and "Spencerian Writing." Rather curiously we did not have McGuffey's Readers.

Rose Bartlett, the minister's daughter at Cavendish, a lovely girl of seventeen, very bright and capable, was mistress my last year. Even at thirteen I was much taller than she was, and in spite of our relationship of teacher and pupil I fell violently in love for the first time. Regarding her as a superior being, I did my best to conceal my feelings. My disillusionment may be imagined when one day she eloped with a peripatetic French-Canadian horse-trader. I never heard of her again.

My father read only the Bible and the daily *Rutland Herald*, but I found in the attic some old books, a pile of ancient almanacs and odd copies of *The Century* and *The New England Magazine*, and my most vivid recollection is the sweet scent of dried timber as I lay up there under the cobwebs eagerly perusing *Sanford and Merton*, Dr. Samuel Johnson's *Rasselas*, Rollin's *Ancient History*, and Chambers' *Miscellany of Useful and Entertaining Facts*.

I had a few friends of widely differing ages. One of them was Calvin Coolidge, son of John Coolidge, who kept the store over at what was known as The Notch. He was three years younger than myself,—a shy, frail, towheaded boy, with a narrow, fair face. We went fishing together regularly. Cal was extremely neat and methodical, always turning up on Saturday afternoons precisely at the hour agreed upon, even when he had to walk the five miles between our

homes. I used to hire him to dig the worms, paying him in pins,—the current wampum of the period among us children—one pin for every three worms, and since my mother was fairly liberal and assumed that I needed the pins to hold my clothes together, I never had to bother about bait. Sixty worms go a long way, and twenty pins was a lot of money to Cal, who when he had accumulated enough traded them for “suckers” or licorice sticks with his father. Once, after he had become President of the United States, I read of an incident that brought back vividly our early financial relationship. He had been asked to plant a tree in honor of something-or-other. Surrounded by the general staff and the entire diplomatic corps, he perfunctorily turned over the sod with a golden trowel and stood back bored, while the seedling was imbedded. All looked towards the President, including the massed bands of the Army and Navy, 7 waiting until he should make his speech of dedication. Nothing happened: Cal just stood there in stony silence. At length, when the situation had become awkward, Chief justice Taft stepped to his side and whispered.

“Please say a few words, Mr. President!”

Cal puckered his mouth. Looking down his nose at the upturned earth he remarked solemnly:

“That’s a good angleworm!”

One of my father’s close friends was a small, weazened man named Elliott Smith with a face like a decayed crab apple, who besides being sheriff of Cavendish was also an undertaker. He owned a “stereoscope” which he had brought back as a souvenir from the Philadelphia World’s Fair of 1876. It consisted of a wooden frame into which at

one end you slipped two small photographs mounted side by side and looked at them through a miniature pair of horse-blinders from the other. I have not seen one of these contraptions for a long time. By studying Elliott's "stereoscopic views" of the "Fair" we managed to get a pretty comprehensive idea of what it had been like. This autobiography of mine must function in similar fashion. I shall put in a selected series of my experiences and from them the reader will have to reconstruct the rest of my life as best he can—*ex pede Herculem*. One such stands out particularly since it bore on my idea of justice.

My father had given me twenty-five cents for a birthday present and under his supervision I invested it in what it had long been my ambition to possess—a single-bladed jack-knife with a handle of some cheap reddish wood. I carried it home in ecstasy and, having nothing better to do, started to play mumbletypeg. At the very first cast the blade broke off short!

Terrified at the thought of what my father would say, I conceived a diabolical plan. He was in the field, my mother in the shed where she did the washing. Upstairs in the attic beneath a floor plank was the hoard I had amassed, penny by penny, during preceding months. It amounted to exactly fourteen cents. Stealthily I sneaked up there and retrieved it. I needed most desperately eleven more cents. On the pretext that I wanted to buy some fish hooks I chivied five cents out of my mother. Nineteen cents! It was the utmost conceivable limit of my financial resources.

Dinner would be at noon, it was already twenty-five minutes past eleven o'clock, and it was three quarters of a

mile to the crossroads. Fifteen minutes later I burst panting into Ezra Higgins' store, obsessed by the awful possibility that there might have been a rush on pocket-knives and that he would have no more like mine. I must also persuade him to finance the sale. Luckily the grocery-post office was empty save for Ezra himself, who, from behind the pigeonholes, peered through the delivery window.

"What you want, Eph?" he asked in a cracked voice.

"You remember the knife you sold father and me this morning?"

"Yep. A quarter, weren't it?"

"I thought mebbe, if I bought another just like it, you'd make me an allowance of six cents," I said. "That would be a discount of only three cents on each one."

He studied me, trying to size up how much I wanted it.

"Couldn't do it," he said. "I'd be losin' money."

"I've only got nineteen cents. I can't get any more."

"Then you couldn't ha' bought it anyways," he remarked. "But I've got another variety for twenty."

"It's got to be exactly like the other."

"Tell ye what I'll do," he drawled. "I'll give ye a discount of one cent and trust ye fer the other five. How's that?"

"All right!" I said. "Here's the nineteen cents. I promise to pay you the rest by Christmas."

I laid the collection of coins on the counter and he counted them.

"Are you sure you've got another just like the one I bought?"

"I hev unless the rats has et it," he chuckled, putting his arm under the glass.

The two knives were exactly alike! I felt unutterable relief.

"Thanks, Mr. Higgins!" I shouted, seizing it and bolting through the door towards the farm.

I had acted not an instant too soon. As I reached the picket fence my father, in the company of Elliott Smith and John Coolidge, came around the barn.

"Show Mr. Smith and Mr. Coolidge what a nice knife I gave you for your birthday," he directed.

"That's a fine knife!" said Mr. Smith. "You must be kind of 9 stuck up to have a knife like that!"

"Reckon it cost some money!" said Mr. Coolidge.

"It cost a whole quarter!" I boasted.

"I swan!" ejaculated the father of the future president. "I never had a knife like that at your age. Your father's pretty good to you!" Then they crossed to the stable and I was left alone with my conscience.

Today it seems incredible that so slight a deviation from technical honesty should have overwhelmed me with such a sense of sin. After all, I was merely a victim of bad luck and had used only my own hard-earned money to restore the *status quo*. My father, had he known the truth, would have had nothing to kick about. Yet I was scared out of my wits. It was, somehow, as if I was trying to cheat God, but the way I feel about God now I don't believe he'd have cared. On the contrary, I think he would have taken a rather sympathetic view of the whole affair.

I passed a miserable afternoon, did my chores quickly and sneaked off to bed. But I could not sleep. I lay stiffly, congealed by what I called a "life and death feeling," and

after suffering the tortures of hell for two hours I called to my mother and confessed my crime.

“Oh, what shall I do?” I choked.

“You must tell your father everything in the morning before he gets up,” she admonished me.

So at the first suggestion of dawn I arose and, standing in the icy air beside his bed, said timidly, “Father, may I get in?”

He made a place for me beside him. It was nice and warm in there and for a moment I hesitated; then I took a quick gulp and poured out the whole shocking story. For several seconds he said nothing; then, “Get out of bed, you wicked boy!” he ordered harshly, and I crept back to my cold cot. At breakfast he pronounced my sentence.

“After your chores, you go down and tell Mr. Higgins what a naughty boy you’ve been and ask him to take back that knife.”

The store was full of neighbors getting their mail and exchanging items of news when I dragged myself to the crossroads. The idea of going in there and making a public confession of my sin dismayed me, but I gritted my teeth and, with my eyes blurred with tears, marched in.

“Oh, Mr. Higgins!” I wailed at the top of my voice. “I’ve been an awful naughty boy. I broke the knife father gave me and tried to cheat him into thinking I hadn’t by buying that other one from you. Won’t you please take it back?”

Everyone turned and looked at me curiously.

“Reckon, I kin take it back fer you if you ain’t dirtied it,” chirped Ezra.

“It’s exactly like it was,” I assured him.

He examined it carefully, replaced it in its box and amid utter silence counted out nineteen cents.

“There you be,” he said.

Grabbing up the money I ran for home. As I dashed breathless up the road I saw to my astonishment a group standing at our gate evidently awaiting my return. There were my father, my mother, Mr. Smith and Mr. Coolidge. As I drew near I perceived that they were all smiling, and Mother ran forward and clasped me in her arms.

Then a strange thing happened. Elliott Smith took from his pocket a brand new knife just like the other two and handed it to me.

“You’re a pretty good feller, Eph,” he said. “Every boy needs a knife.”

Just why this apparently superficial occurrence should have so impressed me is not entirely clear. I had sinned—there was no doubt as to that—and, as I very well knew, the wages of sin were death. I expected to be taken out into the woodshed and given a hiding. Yet, because my dereliction was small, the punishment would undoubtedly have embittered me. My father, representing the law, would have carried it out from a sense of duty. “Spare the rod, and spoil the child.” Instead, my mother had persuaded these grim men to reward and praise my readiness to acknowledge my fault and to make what amends I could. It was in fact law tempered with mercy and understanding.

Another episode less complicated in its implications had a lasting effect upon me. One autumn, when I was about nine years old, Elliott Smith took me deer hunting to a small pond about four miles away. He’d brought along the heavy

rifle with octagonal barrel which he had used in the Civil War. It was just before sunrise and we had not waited long before we heard the thump of a bounding animal followed by a splash and the sound of wading. A magnificent buck was feeding among the lily pads. 11 Totally unsuspecting of our presence he moved nearer and nearer, nipping at the reeds and snorting the water from his nostrils until he could not have been more than fifty feet away. Suddenly there was an explosion that completely deafened me. Elliott sprang up and with a yell started towards the pond. The buck was thrashing around in the water, but it managed to struggle to its feet and gain the shore, where it stood halfway up the beach, its knees buckling and the lowered head swaying from side to side. The bullet had perforated its lungs so that every few seconds the hot breath jetted out of its side like steam.

Elliott casually placed the muzzle of his rifle almost against the animal's forehead, pulled the trigger and the body pitched sprawling onto the bloody sand. I never have forgotten the look of savage triumph on his small pinched face, and I have never wanted to kill any warm-blooded animal since.

When I was fourteen years old I was sent to the Black River Academy at Ludlow of which John Coolidge was one of the trustees. It was co-educational and about equivalent to a modern high school. I was impressed that my father thought enough of me to spend the \$150 per year which my board and tuition cost. I well remember the arrival of Cal Coolidge in the late winter of 1886, when his father drove him the twelve miles from The Notch over to Ludlow in an

open cutter with the temperature at thirty degrees below zero. They had with them two small handbags containing Cal's belongings, as well as a calf which John Coolidge was going to ship to the Boston market. I encountered them in front of Mrs. Parker's house where Cal was to board. As John dropped him he said, "Well, Calvin, if you study hard and are a good boy, maybe some time you'll go to Boston, too; but the calf will get there first."

There were about a hundred and twenty pupils, few of whom expected to go to college, but I did so well in Latin and Greek that Mr. Pickard, the principal, urged my father to send me. On Saturday afternoons, unless there happened to be someone driving down to Plymouth or Leeds, I used to walk home for the week end, getting up before light on Monday morning in order to reach Ludlow in time for my eight o'clock recitation. I had a natural disposition towards argument, which I doubtless inherited from my father, and my monthly reports while usually carrying a commendatory endorsement were apt to conclude with some such admonition as, "This boy is inclined to argue too much. Unless he brings this trait under better control it is bound to stand in his way."

It amuses me to realize that even at such an early period in my life, and while I was still under the firm rule of my father, I developed so much independence. Perhaps it was because of it, or perhaps I inherited it with my New England blood. "Resistance to something was the law of New England nature," says Henry Adams; "the boy looked out on the world with the instinct of resistance." This may partially

explain why I have always been on the side of the opposition.

My father expected me to come back after graduation to work on the farm as I had continued to do during the vacations, and I might have done so, had it not been for the sudden death of my mother in my junior year. It was my first great shock. As I look up at her kind, familiar face in its oval frame above the desk in my library it seems incredible that she should have died over half a century ago.

During my final academic term my father married again—this time a hearty, capable woman ten years older than my mother had been. I did not blame him—a farmer needs a wife. It placed, nevertheless, a further barrier between us, for I could not endure the thought of living at home permanently with my mother's place taken by another.

I graduated first in my class at Black River and had no difficulty in passing my entrance examinations for Harvard, but my father, resenting my refusal to continue to work the farm with him, took no further interest in my education. He declined to advance me the money with which to go to college; our relations became strained, and I left Leeds in the autumn never to return during his lifetime.

For a while we exchanged perfunctory letters, but gradually gave it up. A short notice in the *Rutland Herald*, marked in ink and mailed to me by my stepmother, who could easily have wired me, was my belated notification of his death. Forty years passed before I visited Leeds again. The only traces I could find of our farm were some unfamiliar pastures thick with birch and alder, a small cavity

overgrown with pink fireweed where the house had stood,
and a towering lilac bush near by.

II

“FAIR (ENOUGH) HARVARD”

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I do not know why I wanted so much to go to college. It may well have been because the people held in highest respect in our community were those who had the most education. Also they were usually the most financially secure. My natural inclination towards argument predisposed me towards the law; most of the political figures of the day were lawyers; and the fame of Daniel Webster still hung over Dartmouth College at Hanover less than fifty miles away. I had listened to a few court trials in Windsor and could imagine the fun of being in a good legal joust. Yet I felt no irresistible “call” to the bar and would no doubt have gone as soon into medicine or teaching.

What I thought of myself at that time is hard for me to recall. I was too close to this boy who used to be me to know what he was like. Now looking back at him through the small end of Time’s telescope I realize that the gawky, eighteen-year-old lad, in his high-water trousers, Congress shoes with elastic sides purchased at Ezra Higgins’ grocery, his bob-sleeved jacket and hand-made straw hat must have been a first-class specimen of what was then known as a “Hey, Rube!” He was, however, a good-natured, well-meaning fellow with a prankish humor, who instinctively looked at the funny side of things. He was all ready for a jolt and he got it.

I arrived in Cambridge with eight dollars in my pocket, travelling out from Boston in the Warren Avenue Bridge

horse-car and carrying the green worsted carpet bag upon which my mother had worked the initials "E.T." over a stag's head in yellow.

I had just sat down with it between my feet when I noticed opposite me a tall, dandified, unhealthy looking youth, who was observing me with interest. Catching my eye he addressed me in a loud nasal drawl which instantly attracted the attention of the rest of the passengers:

"How's crops?"

"Firstrate!" I replied politely. "We put in twenty tons of 14 hay."

"We-el, by gosh!" he ejaculated. "Excuse me, but I see you've got some straw in your hair!"

Innocently I put my hand to my head, an involuntary gesture that produced a roar of laughter from the group beside him.

"Are you trying to be funny?" I flared.

"Not at all, young-fellow-me-lad!" he returned blandly. "I was merely trying to be helpful. May I inquire your name?"

"Tutt," I said.

My answer was followed by a further explosion of merriment.

"Tut, tut!—Tutt!" he intoned, and they all began to stamp their feet and chant in unison "Tut, tut!—Tutt! Tut, tut!—Tutt!"

"Go after him, Wilbur," urged one of them. "Tweak his nose!"

At this the other passengers showed signs of nervousness, and one of them, an elderly woman, appealed to the conductor in behalf of order. Suddenly the one

addressed leaned forward and jerked my tie from my waistcoat, while another knocked my hat over my eyes. I jumped to my feet just as the conductor threw himself between us.

“Here you!” he cried, ignoring my adversaries. “I’ve had enough disturbance. Get out of here!”

“I haven’t done anything,” I protested. “These fellows have been trying to pick a fight with me.”

By this time the driver had stopped the car. The conductor grabbed my arm and had dragged me nearly to the step when, swinging my carpet bag with all my might, I caught him a crack on the head that toppled him over the back fender. Coincidentally I found myself in the arms of a policeman.

“I’ve got you, you young devil!” he roared. “Come along to the station.”

The conductor dusted himself off.

“Want me as a witness, Mike?” he asked.

“No, Tim. I saw him hit you!” replied the officer.

The bell jangled, the horses threw themselves against the harness straps, and the car jerked forward.

“Tut, tut!—Tutt! Tut, tut!—Tutt!” came from the open window.

The cop marched me to the Cambridge Square precinct house 15 where I was booked under a charge of assault and, being unable to furnish bail, was held for trial before the magistrate next morning. About six o’clock in the afternoon I was astounded to hear my name called, an officer unlocked my cell, and I was led outside to the desk. Awaiting me there was a small, antique gentleman in a silk hat and blue

cape-coat. His round parchment face, wrinkled like a walnut, was surmounted by a yellow wig, while his cavernous eyes gave him the appearance of a wise old owl. Beside him, in a black bombazine dress and small black bonnet, stood the little old lady who had protested to the conductor.

“That is the young man!” she said.

“I am Mr. Caleb Tuckerman,” the Owl informed me. “I am here to bail you out at the request of my client, Miss Abegail Pidgeon.—But mind you, you must be here in court promptly, tomorrow morning at half past eight.”

I stammered my surprised thanks.

“Have you had your supper?” inquired Miss Pidgeon.

“No, ma’am,” I replied.

“You poor boy! Come right home with me!” she said. “Perhaps you had better join us, Mr. Tuckerman, if you are going to defend him.”

So the three of us walked to Miss Pidgeon’s residence, a big yellow house on a side street about half a mile from the college, where I recounted my adventure while my hostess stuffed me with hot tea and toast, Mr. Tuckerman taking careful notes meanwhile.

That night I slept in a chamber, with bathroom adjoining, more magnificent than anything I had ever imagined. The bed was covered by a patchwork quilt rivalling Joseph’s coat of many colors, there were hook rugs depicting St. Bernard dogs and ships, a marble topped bureau and a chandelier—although I did not then know it to be so called—with four separate jets of gas, which Miss Abegail carefully turned off after I had retired.

“Good night, Ephraim,” she said. “Sleep well. You are momentarily the victim of injustice, but the right will triumph. Tomorrow we shall defeat the Philistines.”

“I don’t know why you should be so kind to me!” I said gratefully.

“Pshaw!” she answered with a self-conscious sniff. “I’m only 16 living up to my principles. If I see an ox or an ass fallen into a pit I make it my business to pull it out!”

Next morning, when my case was called before the magistrate, Mr. Tuckerman, laden with law books, was already on hand, and never have I heard such a torrent of erudition as poured from his lips. He pointed out that, so far from my being personally in any way at fault, the street car company, having accepted my fare, was legally bound to protect me from annoyance other than “strikes, riots or acts of God,” and in arbitrarily ejecting me from the car, had made itself liable for breach of contract and false arrest to the extent of thousands of dollars damages, costs and counsel fees, actions for which would be duly instituted.

Nor was that all! The Municipality of Cambridge and the County of Middlesex, as well as Mike, the officer, and his friend Tim, the conductor, were particeps in a criminal assault. In support of his contentions he cited cases from the English Year Books and Massachusetts reports, as well as those of the United States Supreme Court, referred to various esoteric doctrines—including the obligations of carriers, the right of self-defense, *lex naturae*, the privilege of communication with counsel (it seemed I had been held “*incommunicado*”), and the special tenderness of the law towards infants. It had never occurred to me, being over