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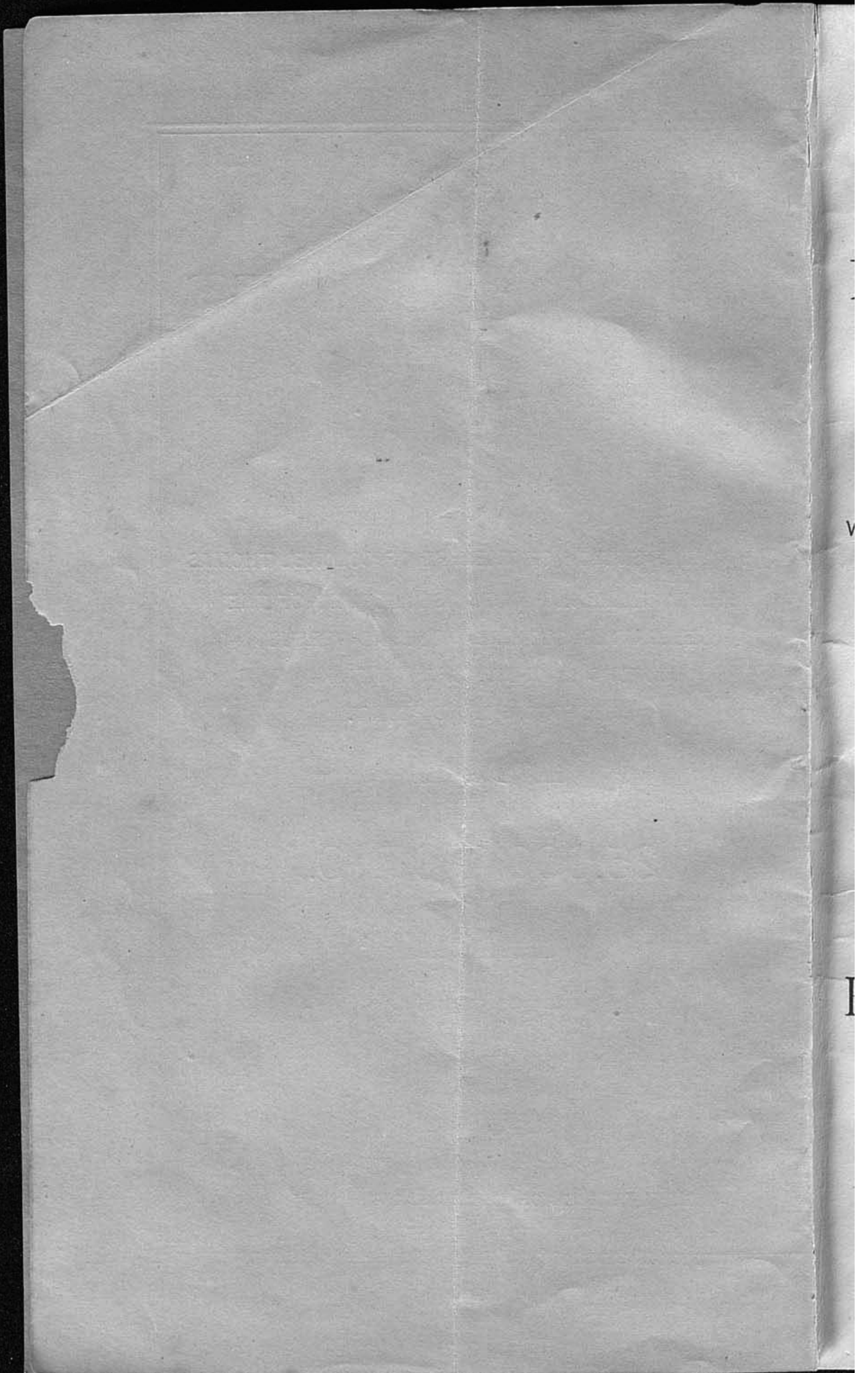
THE  
BUFORD-ELLIOTT  
TRAGEDY.

WITH A BRIEF SKETCH OF THE LIFE OF COLONEL THOMAS  
BUFORD, INCLUDING A CONCISE ACCOUNT OF THE  
CELEBRATED GUTHRIE - ROWLAND VERSUS  
BUFORD LAWSUIT, WRITTEN FROM  
A BUFORD STANDPOINT.

“25,000 FOR 0.”

HEAR NOW THE OTHER SIDE.

BY A MEMBER OF THE FRANKFORT BAR,  
AND FORMER JOURNALIST



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THE  
BUFORD-ELLIOTT TRAGEDY:

INCLUDING

A SKETCH OF BUFORD'S LIFE;  
CONCISE ACCOUNT OF THE GREAT GUTHRIE-ROWLAND vs. BU-  
FORD LAWSUIT; AND SOME REFERENCE TO THE PLEA  
OF INSANITY, AND THE INSANITY PREVALENT  
IN THE BUFORD FAMILY, Etc.

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DIVERSIFIED BY VARIOUS SKETCHES AND INCIDENTS.

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When, on the twenty-sixth day of March, 1879, one of the honored judges of our Court of Appeals, the supreme court of Kentucky, JOHN MILTON ELLIOTT, was shot down on the streets of the capital, apparently in cold blood, by a defeated litigant in that court, Col. THOMAS BUFORD—whose bloody deed seemed, at the first blush, to present all the characteristics of a deliberately planned assassination—a thrill of intense horror and indignation flashed through the entire State, extending over the Republic, and ultimately to the remotest borders of civilization, wherever the intelligence was borne on the wings of the telegraph and the newspaper press. This was natural, in view of "the divinity that doth hedge" a pure and upright judiciary in all free and enlightened countries, and it was natural, too, that in the city where the terrible deed was done, the indignation of men should mount to an almost uncontrollable pitch of intensity, and, for a time, threaten mob violence to the perpetrator of so unparalleled a deed of deadly violence. There is now, indeed, no doubt that the calling out of a company of the State guard—the McCreary Guards—on this exciting occasion, saved the State from a great disgrace, and the capital of Kentucky from one of those

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diabolical exhibitions of "Lynch law," no whit less atrocious than the crimes they are intended to avenge.

It is true that the bold, undisputed facts of the shooting of Judge Elliott by Colonel Buford, as related by eye witnesses, and passed from mouth to mouth and published in the public journals, were enough to arouse the bitterest and vindictive passions of the human heart, and especially throughout the ranks of that learned and influential profession of which Judge Elliott was a shining and most popular member; but they were not enough to satisfy the craving of the great public for a complete and authentic history of the case, including the antecedents of Buford and a fair account of the law suit which led to the position he occupied as a disappointed and utterly ruined litigant, and aroused within him that violent devil of insanity, never, from his earliest boyhood, entirely dormant within him, and which all who are acquainted with him and his family history well know it was his exceeding great misfortune to have honestly inherited. There is an instinctive, widely prevalent, popular desire, born of a love of truth, justice and fair play, to hear all that can be truthfully said on both sides of this awful, this astounding tragedy.

It is the purpose of this brief, but conscientiously prepared, memoir to supply this desideratum—one side having already been fully heard through the press and the bar of the State—and, for the honor of our common humanity, to show what we believe to be a truth clear as the noonday sun, and susceptible of "confirmation with proof as strong as Holy Writ," namely: that the perpetrator of so extraordinary a crime was not a responsible agent at the time he fired the fatal shot, but as crazy as any lunatic confined within the walls of any of our insane asylums, and, on the subject of his own and his dead sister's law suit, had been so for years. But, aside from the superabounding evidences of insanity at hand, to take any other view of this terrible, this unnatural crime, would be to underrate our boasted God-given, God-like humanity, and place civilized and enlightened men on a level with the fiercest wild beasts of the tropical jungles.

Another, and we may say, leading reason for the preparation and publication of this pamphlet, is to be found in the notorious fact that, since the startling tragedy of March 26, the newspaper press, that powerful engine of evil as well as of good, and for the propagation of falsehood as well as of truth, has been engaged in a stud-

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ied and long continued effort to heap obloquy upon the name and character of Thomas Buford. The newspapers within the State, as well as beyond its border throughout the Union, have acted as if many of them had been employed as attorneys with liberal fees, to aid the district attorney in the prosecution and conviction of the unfortunate lunatic, and have not scrupled not only to exaggerate the prisoner's maniacal errors and escapades, but have actually published fabrications out of the whole cloth in order to blacken reputation and life-history. Some of them, indeed, have gone so far as to proclaim that "a short shrift and a hempen cord" ought to have been his fate on the day Judge Elliott was slain, that mob law would be perfectly justifiable in his case. All of them *now* scout the idea as utterly inadmissible that he is insane, when no fact is more notorious, or better established, and was very generally admitted by these very newspapers the morning after the tragedy occurred.

## THE PULPIT ALSO,

contrary to that Christian charity and brotherhood which should prevail among all men, contrary to the cherished traditions and boasts of the Southern clergy "never to interfere in matters outside of religion," thundered its fiercest anathemas against the poor, unfortunate, God-afflicted lunatic, and clamored for his trial and execution by the extremest punishment known to the law, as speedily as might be humanly possible. The pastor of the Methodist Episcopal church in Frankfort, who officiated at the funeral ceremonial at the Christian church, in the absence of the regular pastor, preached a sermon over the dead body of Judge Elliott which startled and struck all who heard it as so savagely bitter and revengeful as to be entirely beyond the pale of that Christian spirit which can only truly civilize the world and bring about peace and good will among men. It fairly out-Heroded anything of the kind ever heard before in the South, or, perhaps, even in the North. In fact, this fanatical and sanguinary clergyman seemed eager to anticipate the zeal and offices of the public prosecutor and Commonwealth's attorney, in his efforts to forestall public opinion and have an "example" made, never stopping to inquire whether the slayer of Judge Elliott was in his right mind or not—never stopping to ask whether it was Buford himself that did the deed, or the devil of insanity, which most men knew lurked within him.

It is to correct the many falsehoods and foolish exaggerations indulged in by these reckless public journals, and to tell the plain,

unvarnished truth in reference to the errors and misfortunes, all proceeding from a congenitally diseased mind, of Thomas Buford that this little book has been prepared and given to the public. Our motto is: "Let the truth come out and justice be done, though the heavens fall." This unfortunate maniac, whom the world knows as Thomas Buford, is as much entitled to even-handed justice, administered according to the forms of law, as any other man living or dead. And, we haven't the slightest doubt that the disembodied spirit of the noble and generous John M. Elliott, now dwelling in its supernal abode of bliss beyond the stars, and now fully understanding the true and life-long mental condition of the man whose crazy hand dealt him the mortal blow, freely pardons his slayer, and, could he communicate with us, would say: "Send him to one of the asylums prepared for all such unfortunates. Forgive him, as I do, for he knew not what he did."

Of thirteen children borne to Colonel William Buford, Thomas Buford's father, by his wife, Frances Kirtley, twelve were reared to maturity, and of these twelve three were confined at one time as lunatics in the Woodford homestead—now Alexander's celebrated "Woodburn"—while it is affirmed by intimate friends and acquaintances of the family that at least half of the remainder were more or less insane. "Indeed," says one intelligent and observant kinsman of Thomas Buford, "I am positively certain from my own knowledge, that streaks of hereditary insanity have manifested themselves at times in every one of Col. William Buford's children, including even those generally regarded by the world as perfectly sane."

Nor was this hereditary insanity confined to the maternal side of the Buford household, as is supposed by some. It is a well known fact that Mrs. Henry Crutcher, of Glasgow, Ky., one of Colonel William Buford's sisters and Thomas Buford's aunt, although one of the most brilliant and richly endowed women of her time—a lady of whom the great Alexander Campbell, of Bethany, Virginia, said: "She is the most gifted woman I ever met"—was subject to occasional spells of mental derangement. Moreover, according to the testimony of one of his life-long neighbors and friends, Colonel William Buford himself, the honored and universally esteemed citizen, exhibited, a short time before his death, unmistakable signs of the same melancholy infirmity. Indeed, a very near relative of the family has been heard to remark recently that he had noted in himself, at certain periods, an irresistible tendency toward those excessively morbid feel-

ings and actions which lie on the very verge of insanity and unreason, and which he had also occasionally observed in an even more pronounced form in the language and conduct of Colonel William Buford in seasons of gloom and peril.

It will thus be seen that the unhappy slayer of Judge Elliott inherited a double tendency toward insanity—a fearful heritage!—which descended to him directly from both of his parents, and which modern science and research, as well as common observation and tradition, teach us is of all human qualities and infirmities the most likely to be transmitted from parents to children. Of this at once singularly afflicted and rarely gifted family, it is well known that Thomas Buford was, in his distracted moods, probably the most wayward and the most violent of all; and why steps were not taken long ago to cure him, or at least to mitigate his great malady—"the malady of a mind diseased"—is just one of those mysteries which are constantly cropping out in the developments and combinations of the present, to make us wonder at the blindness and blunders of the past.

During the progress of the Guthrie-Rowland *versus* Buford law suit, and more particularly toward its disastrous close, it was the common remark that Col. Buford talked very wildly about it, and many were heard to say, after listening to his long and vehement tirades on the subject, that he was more than half crazy about every thing, and especially in reference to that matter, and that they believed if the suit finally went against him—it was in the courts most of the time for ten years—he would be sure to do something desperate and unheard-of. In fact, in previous law suits, he had rarely failed to do something desperate, or, at least, eccentric—something characteristic of violent lunacy, particularly when he was, as he believed, unjustly defeated, or the probabilities seemed to point in that direction. In the brief sketch or memorandum of his life given further on, it will be seen that a striking illustration of this tendency to maniacal violence occurred in his rencontre with Mr. Ulysses Turner, of Versailles, opposing counsel in the case of the Versailles Commercial Bank *versus* Miss Mary Buford, as far back as 1858 or 1859.

#### Testimony of An Old Neighbor.

A well known and perfectly reliable citizen of Frankfort, who formerly resided in the neighborhood of Col. Wm. Buford's farm, in Woodford, bears testimony to the following facts as within his personal knowledge :

A young sister of Thomas Buford, when between the ages of 12 and 15 years, became so insane that she would occasionally make her escape from the paternal mansion in a perfectly nude condition, and run for miles along the public highway before she could be arrested and taken back home. The same afflicted young lady, when quite grown, would frequently come down stairs to the breakfast table with nothing but a sheet or blanket wrapped around her, and, approaching the table like some one swimming, would push the dishes aside and devour her meal lying prone upon the table.

Thomas Buford himself, when about thirteen or fourteen years old, would often in the winter season start to mill on a bag of corn, wearing a full suit of clothes adapted to the season, but before reaching the mill, only two or three miles distant, would divest himself of all but a single undergarment, and astonish the miller (who is our informant) by appearing before him in a costume better suited to the climate of Central Africa in midsummer than to the sharp temperature of a December or January day in Northern Kentucky.

#### The Tragic Fate of Sinclair Buford.

The sad case of the unfortunate Sinclair Buford, an elder brother of Thomas, is one that points still more strongly to the existence of hereditary insanity in the family. In a fit of violent lunacy, a few years before the war, he killed a trusty slave belonging to his father's estate—Col. Buford's trainer—and then, after being acquitted on the self-evident ground of insanity, actually gave his lawyer, who was no other than the celebrated Thomas F. Marshall, a severe beating with his cane, because in his defense of him Marshall had dwelt too strongly and too eloquently on his insane characteristics and demonstrations. Moreover, he conceived a grudge against Sheriff Carter, because, in the trial for killing the negro man, he had summoned men for jurors he (Buford) didn't like; and, not only beat the sheriff unmercifully with a hickory stick, but, it is said, made threats of further and heavier punishment.

On the trial, the same day, in the court-house at Versailles, for the assault on the sheriff, he held up the battered hickory stick, still red with Carter's blood, and shook the bloody end of it toward the sheriff in a half jocular, half menacing manner; whereupon that officer drew his revolver and fired four shots into the body of the poor lunatic as he sat in his chair, a prisoner at the bar of justice. Sinclair Buford then leaped out of the window of the court room,

and, running to the court-house fence, staggered against it and fell dead—a victim to his own violent hereditary lunacy, and a sheriff who did not understand his duty; for, unquestionably, it was the duty of that officer to have got out a writ *de lunatico inquirendo* for Buford, immediately after the trial for murder, and had him sent to an asylum. In this way a fearful tragedy, unique in the annals of courts of justice, might have been avoided, as, in the same way, another and equally startling tragedy might have been avoided at Frankfort on the 26th of March, 1879.

#### Further Incidents of Thomas Buford's Early Life.

When a little over 21 years of age, Thomas Buford became enamored of the beautiful and accomplished daughter of one of his father's neighbors, and, after a brief but vigorous courtship, asked the young lady to marry him. This proposition she politely but firmly declined. A second, and perhaps third, application for the fair one's hand met the same fate; when suddenly, one day, not long after the last rebuff, young Buford made his appearance in the presence of the young lady and her mother, and coolly drawing from his pistol-pocket a loaded revolver, cocked and handed it to the old lady, saying: "Here, Mrs. ———, take this gentle persuader, and hold it on Miss Mary until you bring her to terms!" The sensible matron, understanding her young neighbor's strange moods and idiosyncrasies, and their hereditary cause, better than he did himself, accepted the proffered weapon, as if to humor his mad whim, and laid it upon the table at her side, whereupon the at least temporarily demented suitor left the house as suddenly as he came, and was never heard to allude to the subject again.

Another intelligent citizen, of Franklin county, of unquestioned veracity, when quite a young man was employed as assistant manager on Col. Wm. Buford's farm, and bears the following testimony to the insane conduct of Thomas Buford when he had about reached the age of maturity. He says that young Buford at that time possessed the first Colt's revolver he ever saw; and that, when riding about the farm, he used to pull it out, and practice on his father's fine Berkshire pigs, sometimes killing as many as five or six of them at a bout.

These and other similar escapades led our informant to the belief that Thomas Buford was quite insane at times, even at that early day. Having met him occasionally, and heard of him frequently

since that time, it is his firm conviction that the slayer of Judge Elliott has been more or less insane all his life.

#### Later Demonstrations.

Long before the killing of Judge Elliott, we repeat, hundreds of people had been heard to testify to their belief in his partial or total insanity, especially on the subject of the law suit. In fact, such was the universal talk among his acquaintances. It was remarked by all that the law suit seemed to have taken possession of his whole being, to the exclusion of almost every other thought. Several young men of Frankfort and vicinity, who at different times went out on fishing or hunting excursions with him, have been heard to say that after being out with him awhile, his language and conduct would become so violent and crazy, they were actually afraid he would kill them, or do them some bodily harm, and they were glad enough to get back home with whole skins to their bodies. One of these young men, a citizen of Belle Point, became so alarmed by his frantic language and maniacal behavior, that he slipped away from him early in the day, and returned to town, rather than run the risk any longer.

In fine, it will be found upon examination that the mass of evidence going to show that Thomas Buford has been more or less violently insane all his life, and that he was all but a raving maniac at the time he committed the fearful act which laid Judge Elliott low, is perfectly overwhelming, and leaves no candid, unbiassed man the slightest room for doubt.

Proposing further on to give a history of the great Buford-Guthrie law suit, so often referred to, and, we may add, so incorrectly understood in many quarters—that history will be best introduced by a brief sketch of

#### THE LIFE OF THOMAS BUFORD.

Thomas Buford was born on the 18th day of September, 1824, in Woodford county, Ky., and is therefore nearly fifty-five years old. His father, Col. William Buford, was the son of Simon Buford, of Virginia, and at the age of twenty-one married Miss Frances W. Kirtley, aged fifteen, whose parents were also from Virginia. They were married in Barren county, Ky., and removed thence to Woodford county in 1805. Marrying thus early in life, and both being of the pioneer stock, this young couple reared to maturity twelve of the thirteen children born to them—seven boys and five

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El- girls—and of these, the subject of this sketch was next to the youngest.

of Col. Wm. Buford and his wife were, like most of the educated tal was rapidly accumulated a fine estate, were able to give their children every advantage of education and society obtainable in the State at all that interesting period. Indeed, says our informant, their shining ng, virtues, fidelity to marriage vows, affectionate attachment to friends, ven and chivalric justice to foes—their industry, uprightness, and moral- or ity—were mirrored in their children. Col. Buford spent his whole ing life in agricultural pursuits, giving particular attention to the raising of fine stock upon the splendid farm he had purchased from Mr. so Robert Alexander, which was then called "Free Hill."

At the age of eighteen Thomas was sent to Georgetown College, ack where he remained one year. When the Rev. Dr. L. W. Seeley, a professor of languages in that institution, resigned his chair, and nd proceeded to open a high school in Woodford county, quite a number ay, of the students, Thomas Buford among them, refused to abandon their old preceptor, to whom they were greatly attached, and follow- evi- ed him to his new field of labor as a teacher. Young Buford remain- io- ed with him until his education was sufficiently advanced for him to at undertake the study of law, to which profession his father wished is him to devote himself. However, about this time, Col. Buford be- the coming physically disabled by an accident, Thomas was to a great rie extent withdrawn from his studies in order to assist his father in un- attending to the business of the farm. Nevertheless, under the y a supervision of Dr. Seeley he read many law books, together with a good deal of standard literature, poetry, etc., visiting the Doctor's two or three times a week for the purpose.

24, Col. William Buford died on the 18th of September, 1848—Thomas ars being exactly twenty-four on that day—leaving, by his last will, his ion entire estate to his two sons, Henry and Thomas Buford (as execu- tors), with the exception of a few specified gifts. His partiality for liss Thomas, it is said, produced some ill feeling in the family. He di- 7ir- rected, after the settlement of his estate, that his executors and devi- sees, Henry and Thomas, should give certain portions to those of ved his children who had been left out of the will. The indebtedness of and the estate was large, and this caused him to concentrate it in the rity hands of the two executors, who had been associated closely with him five in his business affairs during the latter part of his life. The estate

was managed with success, and portions of it given to the brothers and sisters of the executors, according to the wishes of the testator, and his widow Mrs. Fanny Kirtley Buford, who survived him many years.

#### The Rencontre with the Illustrious O'Hara.

Many old citizens remember that when Col. Buford was still a young man, he got on his horse one morning and rode all the way to Louisville before night for the purpose of exacting personal satisfaction from one of the famous "four colonels," editors of the *Daily Times*, for some personal mention of himself in the columns of that paper, which he deemed unjust and insulting. Meeting Col. Theodore O'Hara, one of the famous "four," in a coffee-house, soon after his arrival, he promptly knocked him down, and it is said "punished" him considerably. The lamented soldier, poet and statesman, of world-wide fame, is now one of the most cherished names in the pantheon of Kentucky's dead heroes; and it is understood that, when the affair was over and he had had time to investigate all the circumstances, he declared that Buford acted exactly right on the occasion—just as he (O'Hara) should have felt like doing himself, had he been in Buford's place. Still, it must be admitted that it was a somewhat eccentric way of settling an "affair of honor," especially in one who it is known fully recognized the code; for, although never engaged, we believe, as one of the principals in a duel, yet he went out several times as "second" to others, whom he always insisted should "stand squarely up to the line of true chivalry on all the points." If he discovered, or thought he discovered the slightest tendency on the part of his principal to falter, or show the white feather, he would abandon him at once and denounce him bitterly for not better gauging his own pluck before agreeing to the cartel.

#### Rencontre of the Two Brothers.

When the estate was finally adjusted, according to the will, unpleasant feelings having arisen between the two joint heirs and executors, Henry and Thomas, they had a settlement and dissolution of partnership relations, and the former gave to the latter his note for \$6,000. Thomas gave up the home where he was born and had lived to man's estate, to his brother Henry, his mother and his sisters, to all of whom, through all of his troubles, he has ever shown the greatest attachment and affection; and transferred his residence to



another farm, where he carried on business on his own account. This was in 1854.

A few years later Henry Buford sold one-half of his landed estate to R. A. Alexander, including the old Buford homestead where the family had lived for so many years. So soon as Thomas heard of this he went to his mother's and firmly refused to sell his portion of the land to Mr. Alexander, an English nobleman of large fortune. Mrs. Buford's dower was then allotted to her, and all business matters between the two brothers, Henry and Thomas, settled amicably for the time being—all except the note for \$6,000. Out of that note grew a law suit and much trouble, resulting finally in the unfortunate rencontre between the brothers on the streets of Versailles, the county seat of Woodford. Previous to this, there had been one award by Judge George Robertson, as referee, in favor of Henry for \$200 or \$300, which, however, it appears Thomas convinced the referee, was predicated upon a mistake; but, upon the judge's application to Henry and his lawyer for a return of the award for amendment, it was refused. Thereupon Thomas pressed the suit on the note in the Circuit court, which set aside the Robertson award, and then the whole case was again referred for arbitration to Hon. Matt. C. Johnson, who rendered a decision for nearly the full amount of the note.

This second award was sustained by the court, and the rencontre followed soon after. Thomas Buford being in Versailles, upon the street, Henry commenced firing upon him. One ball from Henry's pistol struck Thomas in the right arm. Thomas did not offer to return or to resist the fire of his brother in any way, but retired behind a boxed-up shade tree on the sidewalk, "which," Thomas is reported to have said, "received several of the balls without a murmur." Then, the interference of friends stopped the firing. Some years later, the long estranged brothers renewed friendly and fraternal relations, which have since been uninterrupted.

#### The Disastrous Pork Speculation.

After this affair, Thomas Buford directed his whole attention to his own business affairs, in an energetic effort to accumulate sufficient means to prevent the homestead of his parents from falling into alien hands. His business operations and labors were crowned with success, until about the fall and winter of 1857-58, when, unfortunately as it turned out, he engaged in an extensive pork speculation

at Louisville and Cincinnati. His calculations were based upon a short hog crop that year, consequent upon a short crop of corn, and the sale of stock hogs during the summer season. All his purchases were made with skill and success; and there was a time, during the winter of 1858, when the market was paying from twenty to thirty thousand dollars over and above the amount invested. Of course, at this moment he intended to sell out at a splendid profit, but was prevented by H. A. Dumesnil & Co., his merchants at Louisville. He was induced by the flattering representations of that house to let them control the business. Moneys were paid by parties to that house for Buford, which Dumesnil said were reinvested.

Then came the suit of Dumesnil & Co. *versus* Thomas Buford, &c. The best account and statement of this transaction that can be made, it is said, may be found in the depositions of Dumesnil himself and his clerk, filed in the record of the case in the Woodford Circuit court. From these documents, it appears that Dumesnil swore that his partner in New York had swindled his partner in New Orleans, and disobeyed instructions; that he (Dumesnil) sold Buford's pork at one price and reported sales at another and lower price; that Dumesnil got \$19.50 per bbl for the pork, and yet wanted to settle with Buford at \$16! that he obtained \$7,500 more for one lot of 1,000 bbls. than he wanted to pay over to Buford—and much more of the same sort, all going to show the same treacherous line of conduct on the part of Dumesnil & Co. toward their client (Buford).

Meanwhile, the Bufords had sold their landed estate to R. A. Alexander, and the slaves and personal property to Adam Harper, with the view of thus making themselves as invulnerable as possible to the onslaught of Dumesnil and his allies—a step they evidently had a perfect right to take, under the circumstances just related. After years of litigation the case was referred to the late Jacob Swigert, of Frankfort, who refused to report anything as due from Thomas Buford to Dumesnil & Co. Then, to use the language of Col. Thomas Buford himself, “the case was taken away from Mr. Swigert and given to another referee, who gave Dumesnil & Co. all they claimed, in direct violation of the law and the evidence contained in the record.” Once again started, the case was carried through all the courts. After Dumesnil & Co. took the benefit of the bankrupt act, Buford immediately followed suit, in order, as he said, “to protect himself against one of the most formidable combinations that ever sought the destruction of a single man.”

### Rencontre with Mr. Ulysses Turner.

Subsequently, the unjust claims held by Dumesnil & Co. against Thomas Buford fell into the hands of the Versailles Commercial Bank, which brought suit on them and obtained judgment for a large amount. After obtaining judgment, the officers of the bank never applied to Buford for payment or any kind of settlement, but suffered the judgment to lie dormant until the son-in-law of the cashier returned from Missouri a bankrupt and began the practice of law at Versailles, when suit was brought against his sister, Miss Mary Buford, to subject her property to its payment. Deposition after deposition was taken, which, however, availed them nothing. The rencontre between Colonel Thomas Buford and Mr. Ulysses Turner, counsel for the bank, of which so much misrepresentation has been published recently by the correspondents of the sensational press, occurred at Versailles during the pending of this suit of the bank against his sister Mary, and not during the progress of the suit of Dumesnil & Co. against himself, as those correspondents and many editors have represented. Referring to this affair in an interview some time ago, Colonel Buford made substantially the following suggestive statement:

"I knocked Ulysses Turner, the lawyer of the bank, down, but on his refusing to fight, *I picked him up in order to reinstate him as he was.* I was fined \$2,000 for this breach of the peace by the Commonwealth, the case having been tried during my absence, and one of the jurors who assessed the fine being the brother-in-law of my own and sister's counsel, Thomas P. Porter, who was in favor of making the fine \$5,000. Upon going to Versailles soon after this, I was told by the sheriff, a very worthy man, that he was ordered to take me to jail unless I paid the fine. I replied that I was at his service. While in jail the aforesaid T. P. Porter came to the door with the jailer to see me. I could see that his countenance fairly beamed with delight at seeing me in jail. Marmont, the traitor, would have envied him his victory on that occasion. However, I had been in prison but a few hours when the jailer, Mr. Smith, carried me to his house, where I remained in custody a week or ten days. The kind and tender treatment of the jailer's family is remembered by me to this day with emotions of gratitude. During my confinement I sent for Porter, my sister's lawyer, who told me that the bank case had been submitted. Then and there I saw portrayed in that dark and gloomy coun-

tenance treason not to be misunderstood. I got up at 9 o'clock at night and went with Mr. Smith to examine the papers in the law suit, and found an amended petition filed, *unanswered*. I at once obtained permission from the judge to appear in court, and when I did so and asked that the submission of my sister's case be set aside until I could get a lawyer for her, *Tom Porter ran out of the court house*. The submission was set aside and I employed Mr. Charles Eginton, who prevented the case against my sister from becoming a robbery; for it is clear that if Turner and Porter had succeeded in plundering Mary Buford, neither the bank nor Dumesnil would have got any of the money."

George 1854

### The Thomas-Buford Shooting Affray.

This singular and much misrepresented shooting scrape occurred on the fair grounds, at Lexington, in September, 18—, between a man by the name of Thomas and Colonel Thomas Buford. The latter gentleman, we learn, affirms solemnly that there was no just or even plausible reason for the fight on the part of Thomas, who was a perfect stranger to him, and who appeared to be hunting for an impromptu duel, solely for the "glory" of the thing, and very foolishly extemporized one with him there, in the midst of the throngs usually present at the Lexington fairs. Colonel Buford avoided an encounter with this run-a-mucker until no alternative was left him, and then, like the brave and chivalrous man he has ever shown himself to be, when not completely metamorphosed by that hereditary insanity, which has at last brought him into the greatest trouble of his life, he stood up and defended himself in the coolest and most knightly manner. An intelligent eye witness, a brave, true man who furnished him with his second pistol in that brisk little fusilade, says emphatically that the fight was forced on Buford, and that he never saw a cooler or braver man, or one less inclined to take any undue advantage of a foeman, than he showed himself to be on that lively occasion. Neither of the principals was hurt in this affair; but, as frequently happens in such rencontres, one of the flying balls struck some one in the crowd, inflicting a severe but not fatal wound.

### Adventure With a Railroad Train—"Stand and Deliver!"

Since the foregoing was penned, the following characteristic incident in the life of Colonel Thomas Buford has been furnished by a well known citizen of Frankfort :

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While still a young man, living on the old homestead, now Alexander's "Woodburn," near Spring Station, it is related by one of his former neighbors that one of his (Thomas Buford's) fine milch cows was killed by a passenger train of the Louisville & Lexington railroad. The next day, when the same train was to pass, he took his stand on the track, with a double-barrelled shotgun loaded for action. So soon as the train came in sight he began to wave his red pocket handkerchief, to arrest the attention of the engineer and make him stop the train. On came the train at full speed, Buford still maintaining his position in the center of the track, the engineer supposing, of course, that he would get scared and jump off so soon as the train began to approach dangerously near. But, to his great surprise, Buford didn't scare or jump off worth a cent, but still stood on the track and continued to wave his bandana and flourish his gun, until at last the engineer, seeing that a crazy man was about to be run over and cut into mince-meat, whistled "down breaks" and brought the train to a sudden standstill.

Then Buford made known the "danger" that had caused him to signal and stop the train. Still holding his gun cocked on the engineer and conductor, who came out to see what was the matter, he told them they must instantly pay him the full price of \$60 for the fine cow they had run over and killed the day before; that a law suit was not to his taste, and to fork over at once or he would shoot. The startled train officers said they didn't have any money—certainly not enough to meet his demand; but if he would get on the train and go with them down to headquarters at Louisville, they would see that he was paid. Buford was too cunning a "crazy man" to be inveigled into a surrender of that sort, and, curtly refusing, proceeded to press his demand so vigorously, and with the fire of an insane passion blazing in his eyes, that one of the passengers, seeing there was imminent danger of a homicide, pulled out the \$60, and, handing it to Buford, said he would look to the railroad company for reimbursement; and so relieved the engineer and conductor from *durance vile*, and the train went rejoicing on its way.

This was probably the first, last and only time in this or any other country that a railroad train, filled with passengers and officers, was ever successfully ordered to "stand and deliver!" by a single man, armed only with a double-barrelled shotgun; and the reader will be apt to say that Thomas Buford was the only man outside of a lunatic asylum who would have dared to do it on this occasion.

## A BRIEF HISTORY OF THE GREAT LAW SUIT.

As the public has had so many different accounts of the great Guthrie-Rowland *versus* Buford law suit recently, all of them written, apparently, by partisans of the Guthrie-Rowland side, it is but just and appropriate at this stage of our memoir, as it certainly ought to be interesting and instructive, to hear an account of the same transaction from the other side, with views of the same taken from the Bufords' standpoint. "*Audi alteram partem.*"

We desire to say here at the outset of this brief history, that we have as high a respect, as profound a reverence for the Court of Appeals, Kentucky's court of the last resort, as any man living. That august tribunal represents the supreme, enthroned majesty of all the people of this broad Commonwealth, and should be honored and revered as their ever pure and unpolluted fountain of justice and equity. But, we can not, at the same time, be unmindful of the fact, that the constituent members of that court, like all human characters, however perfect in integrity, however honest of intention, are liable to err in their judgments; and, after a full and deliberate investigation, we are constrained to take our stand with those prominent members of the bar who believe that in this Guthrie-Rowland *versus* Buford case they *did* err, and, while perhaps sticking too close to the technicalities of law and precedent, *did* violate the eternal principles of justice and fair play between man and man, in refusing to grant any compensation or relief whatever to Thomas Buford and his sister, for the large sum of money—over \$20,000—they had paid for the land, while at the same time giving the land back intact to the vendors, who, at the time of the sale and for many years afterward, were unable to make a valid title.

For example, in their last decision, delivered by Judge Cofer, while referring to and virtually admitting the extreme "hardships" of their decision as it would affect Buford, they proceeded to declare that the "hardships" of that decision would be equally great on the other side, if given in favor of Buford; and would involve the lives and fortunes of a widow and several helpless children—the main reason for saddling all the hardship on Buford seeming to be that he was a *middle-aged man*, while his antagonists in the suit were a woman and her young children. Now, just here it would occur to the common mind not too much burdened with written laws and musty precedents, that a more just and equitable solution of the

question ought to have suggested itself to the court, as it does to most outsiders, in the propriety of an equal division of the "hardships" of the decision between the two sets of litigants. Had this been done—and some of the best lawyers and jurists in Kentucky think that even this would have fallen far short of full justice to Buford—there can hardly be a doubt that the demon of insanity would never have been aroused to murderous activity in the brain of Thomas Buford, and Judge Elliott would be to-day among the living.

But to the law suit.

In our efforts to ascertain the facts, and get at the true inwardness and outwardness of the litigation, which, beginning in 1869, was not ended until ten years had passed away, and finally led to the violent death of one of the judges of the Court of Appeals at the hands of the defeated litigant, we were met by many obstacles and difficulties even at the very threshold. For example, Messrs. Hord & Trabue, Buford's lawyers, refused to be interviewed on that subject. We found, however, from investigation and from information gathered from indisputable sources, that the following are some of the leading facts in the history of the case—facts, too, that should be constantly borne in mind in order to arrive at a proper understanding of this celebrated but much misrepresented and greatly misunderstood law suit.

#### Points to be Constantly Borne in Mind.

1. We found that the legal contest was a very earnest one on both sides, and particularly so in the Court of Appeals, in which Mr. C. M. Harwood, of Shelbyville, and Capt. W. P. Thorne, of Henry county, represented and made the argument for Guthrie, the appellee, on the first hearing; and Judge L. Hord, of Frankfort, acted as counsel for the appellants, Mary F. Buford's administrator, Thomas Buford, &c. On the last hearing (a rehearing having been granted, after the first adverse decision to the appellant had been rendered by Judge Elliott), Mr. Harwood again represented Guthrie, and Judge Hord and Mr. Ed. F. Trabue, of Louisville, represented the Bufords. It will not be out of place to mention at this point, that Mr. Trabue's argument at this hearing was regarded as a very able one by the bar and the public generally, and many who heard it freely expressed the opinion that his client, Buford, would gain his case. Buford himself seemed never to have the least doubt of his final success, believing that he had not only "the law and the testi-

mony," but all "the moral equities" on his side; and, when any other result was suggested, or even hinted at in his presence, it seemed to unhinge utterly a mind never at any time well geared, and he would give utterance to his maddened feelings in language of insane violence; for the sum involved—about \$25,000—was not only a large one, but outside of it he possessed not one cent in the world.

#### Defects of Title.

2. We also found that one of the causes of complaint by Buford—that of defective title to the land—was substantially as follows, and a very important feature it is, too, in the consideration of the case: Thomas Smith, of Henry county, a very wealthy man, died, leaving to his granddaughter, Miss Lizzie Rowland, a large fund to be invested for her benefit by his executors, and the principal not to be disposed of by her until she arrived at the age of twenty-six (26) years. George J. Rowland, her father, was one of the executors, he having married two of the daughters of Thomas Smith, the first wife having died before Smith, leaving Lizzie an only child. The second wife's name was Harriet. In pursuance of the will of Thomas Smith, George Rowland invested about \$34,000 in a tract of land for the benefit of his daughter, taking the deed to himself as guardian and trustee of Lizzie Rowland. When Lizzie Rowland arrived at the age of only *twenty-one (21) years and two months*, George Rowland, executor of Smith, and father of Lizzie, and her guardian, made a trade with her, or caused her to sign a deed conveying 180 acres of the tract of land to himself, and 400 acres to her step-mother and aunt, Harriet Rowland; and the title thus acquired, or supposed to be acquired, in violation of the will of Thomas Smith, was the title passed to Miss Mary F. Buford when the land referred to in the great law suit was purchased by her with her own and her brother Thomas' money in 1867. Moreover, behind and back of this illegal purchase by George Rowland, there was also an outstanding unconveyed dower interest attaching to the land attempted or pretended to be conveyed to the Bufords. And, to cap the climax of all these defects of title, the deed itself was never properly acknowledged, or legally certified for record, as is fully shown in the very able briefs of Judge Hord and Mr. Ed. Trabue.



### Defects of Title Running Through all the Deeds.

3. Another and still more astounding defect of title than any yet mentioned, we found to be as follows: That the deed of date 1859, from Nuttall, the commissioner of the Henry Circuit court, to N. J. Smith, and the one from N. J. Smith to George Rowland as guardian of his daughter Lizzie, same date, described and conveyed by courses and distances an entirely different tract of land from the one sold to Miss Mary Buford by Rowland—the beginning corner of the two tracts being the same! Thus, not one foot of the land pretended to be conveyed to the Bufords was contained in the two deeds just mentioned. Five and a half years after the pretended conveyance by Rowland and wife to Miss Buford, in December, 1867, the widow of Rowland made a confirmatory deed to Miss Buford, in the spring of 1873, she having in the meantime obtained deeds from N. J. Smith and wife, and from Lizzie Smith (formerly Lizzie Rowland) and her husband; but these three latter deeds referred for boundary to the deeds of Nuttall and N. J. Smith, neither of which covered one foot of the land pretended to be conveyed as aforesaid! *Hence, even after the confirmatory deeds, the title passed to the Bufords was no better than it was at the beginning!*

How the learned judges of the Court of Appeals could have overlooked, or ignored utterly, as they seem to have done, this startling, decisive and perfectly unanswerable point in favor of Buford's cause, passeth all understanding. Those judges, however, it must be remembered, have a perfect multitude of causes constantly before them, all pressing for immediate decision, and it is but reasonable to suppose—judges being but human, after all—that they may sometimes overlook or fail to give due weight to the leading and controlling points in a case, whether of law or of fact. At any rate, something of the kind seems to have happened in this case.

4. Moreover, another ground for a rescission of the contract, and a return of the Bufords' money, is to be found in the fact that the land, between the date of the first sale, in December, 1867, and the pretended deeds of confirmation of title in March and April, 1873, had depreciated in value from \$80 to less than \$40 per acre; and even admitting that the confirmatory deeds made the title perfect (which was impossible), the loss thus sustained was a sufficient ground for rescission of the contract, the Bufords not being at all at fault in the premises. When suit was brought upon the first note for

\$6,250, in 1869, against Miss Mary Buford, she answered, denying title, and contended then for a perfect title or a rescission. In less than ninety days thereafter, Rowland went to Missouri to get his daughter to make title, she having by this time become 26 years of age, as required by her grandfather's will; but soon afterward returned and reported that his daughter declined to make title—that is, she refused to confirm the title pretended to be conveyed before she was of proper age. Whereupon Buford's counsel contended, and most justly, as any candid person must readily admit, that the alternative prayed for—a rescission of the contract and return of the money—then became absolute, and should have been granted. [For the most important of these facts we are indebted to the printed briefs of Judge Hord and Ed. Trabue, Esq., filed in the record of the case in the Court of Appeals; and they are nowhere successfully controverted either in the briefs of opposing counsel, or in the two several opinions delivered by that tribunal.]

Bearing these points in mind as we go along, a proper understanding of the law suit, its progress and bearings, and the singularly one-sided character of the judicial opinions pronounced upon it, in the lower courts as well as in the court of last resort, will be far more readily arrived at by the unprejudiced, fair-minded reader.

As we have seen, the pretended sale of the tract of land in Henry county, by George Rowland to Mary F. Buford, by which so many thousands of dollars were obtained from the latter without a consideration, occurred in December, 1867. After his disastrous transactions with the pork merchants, Thomas Buford proposed to his sister, Miss Mary F. Buford, that he would make her some money if she would pay for a couple of fine blooded colts. To this she readily assented, and accordingly Thomas bought two colts at one of R. A. Alexander's annual "Woodburn" sales, costing in the aggregate only \$425, but both of which proved eminently successful on the turf. Buford trained and handled them himself, and with them won victory after victory on various courses, finally selling them at Saratoga, New York, for \$10,000. In this way, the means in the hands of Miss Buford were increased to about \$20,000. She and her brother Thomas (together with Miss Wallace) continued to reside with their mother, Mrs. William Buford, on the dower part of the estate until about the year 1865, when Mrs. Buford died in the eightieth year of her age. The place was then surrendered to R. A. Alexander. After this, Thomas Buford and his sister traveled about, or resided

with their friends for a year or two, until the Henry county place was traded for, of which, however, they did not take possession until some time in February, 1868.

This Henry county land had been advertised for sale in the public journals of the country, by George J. Rowland, as his individual property. When Buford went to examine it, he inquired of several prominent citizens, of high standing, at New Castle, as to the title, and they all said that Rowland would make a good title, if he sold it. Miss Mary Buford purchased the 420 acres for \$32,500—that is, for \$20,000 cash, or its equivalent, and gave her two notes of \$6,250 each for the residue, the first due and payable February 1, 1869, and the second February 1, 1870. George J. Rowland, who passed an individual title, gave the money and notes to James Guthrie for a farm adjoining the one sold to Miss Buford. When the first note fell due February 1, 1869, James Guthrie applied to Thomas Buford, requesting him to see to its payment. Buford answered that his sister would ask for time. Guthrie replied that he could not wait a single day, giving as a reason that there was no title to the land conveyed by Rowland and wife to Miss Buford, and that he (Guthrie) had retained a lien upon the land sold by him to Rowland to secure the payment of the amount of the Buford notes.

It is a singular and noteworthy fact in the history of this celebrated case, that this was the first intimation that Miss Buford and her brother had ever received of the defects in the title to the land purchased from Rowland. Buford immediately communicated the statements of Guthrie to Rowland, who then promised Guthrie to take no advantage of the delay if he would grant time to Miss Buford, and that he (Rowland) would at once go to Missouri and get a good title from his daughter. Shortly afterward, he did go to Missouri, but returned with the statement that the true owners of the property, Lizzie Smith (formerly Rowland), and her husband, refused to make title unless they first got the money for it.

It may not be uninteresting or wanting in suggestiveness to mention in this connection that, while George J. Rowland, at the time of these transactions, was a bankrupt *merchant*, James Guthrie was a rich and successful *merchant*, having formerly carried on business in Louisville. Remembering his disastrous dealings with the *pork merchants* several years before, Thomas Buford was heard to declare about this time that he was “apprehensive that he had fallen into the hands of the ‘Arabs’ a second time”—an apprehension which events speedily turned into prophecy, in his mind.

### Beginning of the Great Law Suit.

Then, the great law suit began. In June 1869, an action was instituted by James Guthrie on the equity side of the docket of the Henry Circuit court, against Mary F. Buford, to obtain payment of the first note due February 1, 1869, for \$6,250, by an enforcement of his lien and the sale of the land upon which it had been retained. An answer and cross petition were prepared for the defendant, Miss Buford, by a lawyer of New Castle perfectly acquainted with all the facts, the defects of title, sale of the property, etc., demanding title or a return of the money and notes fraudulently obtained. A demurrer was then entered by the plaintiff, Guthrie, which was sustained by the court and judgment given in favor of Guthrie—the court thus refusing to give title or to respect Mary F. Buford's right to legal protection from a fraudulent transaction of the most barefaced character. The land was sold, and Miss Buford bought it. Her brother and agent, Thomas Buford, endeavored to raise the money upon it by mortgage, but found it impossible, in consequence of the defective title. His lawyer attempted to obtain title after judgment for Guthrie had been rendered, but failed. Then, Miss Buford relinquished further effort in this behalf, and Guthrie bought the land for the \$6,250.

On the 2d day of March, 1870, suit was brought on the second note for \$6,250 a few days after it fell due. Upon this note, Mr. J. N. Webb, Miss Buford's lawyer, confessed judgment, which was rendered for plaintiff at the next ensuing April term, with the agreement that execution should be stayed for the period of twelve months. Then the land was again sold without the knowledge of Thomas Buford (Miss Buford's agent), and James Guthrie purchased it for the amount of this second note alone. The court confirmed the sale of the entire farm for \$6,250, and made Guthrie a deed to it, accompanied by a writ of possession to take effect 25th of December, 1871.

### Miss Buford's Stock Poisoned.

During the pendency of these suits Miss Buford's fine stock on the place was poisoned; and then her brother, at her request, sold everything on the farm likely to be foully dealt with. The sheriff of the county went to the house while Miss Buford was sick, in the absence of her brother, and took away her personal property to pay

the taxes on the farm, while Guthrie held a deed for it—thus officially acting in direct violation of the statutory laws of Kentucky. Nevertheless, Col. Buford, on learning the facts, went after the property and brought it back to the farm.

In the meantime this cruel, unjust and before unheard-of treatment of the courts had destroyed Miss Buford's peace, and shattered her frame and her physical health. Everything possible was done by her devoted brother, and other attached relatives and friends, to rally her spirits and her hopes of ultimate justice and to restore her health. She did rally and recover for a while.

On the third day of October, 1870, Thomas Buford, acting as her agent, repaired to the clerk's office of the Court of Appeals, and with much difficulty got out a writ of *supersedeas* in the case, the clerk requiring a bond of \$15,000, which was given, and the papers ordered to that court, on appeal; Mr. Charles Eginton, of Covington, acting as his counsel on the occasion. The Court of Appeals reversed both of the judgments above mentioned, but the judgment of reversal was not rendered until 1873. The judgments of the lower court were reversed on the ground that the land had been sold subject to the payment of a future note, and waived all other questions. But it was contended, and justly, by the appellant, Miss Buford, that the land had been sold out and out to Guthrie, and that the question decided was not before the court. Indeed, the record shows that the answer and cross petition of Mary F. Buford stand unanswered and confessed, and that the appellate court had no legal right to pass upon a question not before it, but was legally bound to render a decision upon the appellant's petition.

Up to this time no legal or equitable title had passed to Mary F. Buford. The case was sent back to the lower court, and Mr. Charles Eginton filed the second cross-petition of Miss Buford, charging George J. Rowland and James Guthrie with gross fraud and deception, and stating that his client had begged and implored in vain for title, which was still denied her. The court ordered Smith and his wife (formerly Lizzie Rowland) to answer; but they refused, and this petition remained unanswered until after the death of Mary F. Buford, which event occurred on the 3d of November, 1873. All who knew Miss Buford bear testimony of her noble character. A lady of the highest order of cultivation and refinement, she met death with a calm and placid courage

### Suit Revived in 1874.

After the lapse of some considerable time—that is to say, on the 8th of April, 1874—James Guthrie, together with Mrs. Harriet Rowland, widow of George J. Rowland, and Smith and wife, of Missouri, came forward to revive the suit against Thomas Buford as administrator of Mary F. Buford. Buford consented to the revivor, and all the papers were sent to Oldham Circuit court on a change of venue. The venue was changed from Henry to Oldham upon the ground that Judge Drane had been of counsel in the case, and no other attorney of the bar could be procured to preside. An application was made by Guthrie's counsel to have a receiver appointed for Miss Buford's estate, on the ground that the administrator was wasting it; but this the court refused.

About this time, Buford's lawyer, Charles Eginton, started the proposition that Buford and the other parties to the suit should agree to a sale of the land and leave the money in the possession of the court until the suit was finally disposed of. A special term of the court was called to carry out this plan; but in the meantime Buford came to the conclusion that to carry it out would result in giving his sister's estate to Guthrie, and therefore went to Frankfort and employed Messrs. Hord & Trabue, the distinguished attorneys of that city, to act as his counsel. These gentlemen appeared at the special term of the Oldham Circuit court and filed a paper denying the jurisdiction of the court, which the judge decided accordingly, and sent the case back to Henry county.

Court after court was called to revive the suit for Guthrie. Mrs. Ann O. Wallace, the principal devisee under the will of Mary F. Buford, was also brought before the court in the revived suit, but pleaded the statute of limitations against the revivor as to herself. The record shows that the revivor as to Mrs. Wallace was not attempted until more than *one year from the time it could first have been made* had elapsed. Nevertheless, in spite of her opposition, the court ignored the plea, and granted the revivor directly in the teeth of the statute! Judge Hord filed the answer and cross-petition of Mrs. Wallace, and Thomas Buford as the administrator of Mary F. Buford. The answers of Guthrie, Mrs. Harriett Rowland, and Smith and wife, were not refiled. They had been filed when a consented revivor against the administrator was made, but were never filed again. That is to say, they were filed only when no suit was pending. Therefore, Guthrie and his co-plaintiffs really had no suit. The only suits pending

were the two that Mary F. Buford had instituted before her death, and the one that her representatives brought. Judge Hord took evidence and filed Thomas W. Smith's will, which makes the property Rowland attempted to sell Mary Buford a trust legacy, and Rowland trustee of his daughter, Lizzie, the grandchild of said Thomas W. Smith.

The court appointed a receiver and ordered the land to be rented; but Buford, the administrator, and Mrs. Allen, the principal devisee, opposed this arrangement so effectually that no one was willing to rent, and the consequence was that the order could not be carried out. An examination of the pleadings at this juncture, will show a singular if not unprecedented condition of things. Those pleadings show that Guthrie, really having no suit pending, and the Bufords three, the court refused to give Mary F. Buford's representatives the confessed judgment to which they were clearly entitled—in plainer words, refused to award them what Guthrie and Mrs. Rowland said they owed.

#### Buford Shot by Ditto, the Sheriff.

The difficulty which occurred at New Castle between Thomas Buford and the sheriff of Henry county, Mr. Ditto, is still fresh in the recollection of the public, and needs not be dwelt on here. It is sufficient to say that Ditto shot Buford for refusing to pay the taxes on the place, when it was notorious that the legal title to it was in other parties. The shot took effect in Buford's left hand, which at the moment was laid upon his heart; and, after passing through his hand, lodged in his vest without doing further damage—his life being thus saved by the fortunate circumstance that his hand happened at the instant of Ditto's fire to be lying in the right place to act as a shield to a vital organ. Under all the circumstances of the affair, Col. Buford, being wholly unarmed, refused to have any personal difficulty with the sheriff.

After the case had been returned from Oldham to Henry county, Guthrie's counsel expressed the wish to settle this remarkable law suit and pay what he owed; but Webb and Masterson, the representatives of Smith and wife, of Missouri, the real owners of the property, began the suit over again with a view to get the money Mary F. Buford had paid for their property. It is claimed that the court perfected the title (or caused it to be perfected), and made Miss Buford's representatives take it. But that court can have no legal right to

perfect what has never been commenced. Buford's lawyer (Judge L. Hord) shows conclusively in his argument in the case that no such title as Rowland passed, or pretended to pass, to Mary F. Buford ever existed in the maker of the deed, or others, in consequence of the various and multiplied defects of title heretofore mentioned. Mr. E. F. Trabue's argument on the same points was equally clear and unanswerable.

### The First Adverse Decision of the Court of Appeals.

Toward the close of the year 1876, the issues having all been made up in the revived suit, the case was removed to the Fayette Circuit court for the same reason that it had been taken to Oldham. At the February term, 1877, of that court, a judgment was rendered in favor of Guthrie for the amount due on the two notes of \$6,250 each, and the land ordered to be sold to satisfy the judgment. From this decision the administrator of Mary F. Buford and her devisee, Mrs. Wallace, appealed to the Court of Appeals. That court, after due deliberation, hearing of arguments on both sides, etc., delivered an opinion adverse to the appellants. This first adverse opinion was delivered by the mouth of Judge John M. Elliott.

In the light of all the facts that have been stated—facts which no one controverts—this opinion is a most remarkable one, and contains statements which seem to be utterly irreconcilable with the well known history of the case. It says "the property was trust property," to which all are agreed; but then it also says that "Mrs. Rowland paid for it," that "the title was made at Mary F. Buford's request," that "the transaction was not one of fraud or fraudulent intent," and other similar statements, which, it will be seen, are utterly inconsistent with the undisputed facts of the case as given in the record, and as are now generally known to the public, and especially to the people of Henry county, where the property is situated, and who it is understood have sympathized with the Bufords, so far as the law suit is concerned, through all their troubles.

The popular heart generally beats on the right side; at any rate, it nearly always takes the side of the oppressed and wronged against the oppressor and wrong doer—the weak against the strong—the fleeced against the fleecer. All reports concur in the statement that the masses of the people in Henry county, where these transactions occurred and where they are fully understood in all their bearings and ramifications, are clearly and pronouncedly on the side of



Buford in reference to the right and wrong of this famous case. As an evidence of it, when the change of venue from Franklin to some other county, in his trial for the killing of Judge Elliott, was under discussion at Frankfort in May last, it is understood that Buford himself and his counsel were decidedly in favor of removing the trial to Henry in preference to any other county.

### The Sheriff and His Army Held at Bay by One Man.

During the pendency of the last appeal to the supreme court of the State, in the fall of 1877, a strange spectacle was witnessed in Henry county, at the place so long in litigation between Guthrie and Rowland on one side, and the Bufords on the other—a spectacle wherein the whole “power of the county,” or so much of it as the sheriff could muster, was successfully resisted by a single man, to-wit., Thomas Buford. After the judgment in the Fayette Circuit court at Lexington was rendered in February, 1877, and before the affirmation thereof by the Court of Appeals, that is to say, some time in the autumn of that year, a writ of possession in favor of Guthrie and Mrs. Rowland was placed in the hands of the sheriff, Mr. Ricketts, who, knowing the insanely desperate character of the man with whom he had to deal, summoned a *posse* of about sixty men to assist him in its execution. With this large force, he repaired to the residence of Buford and Mrs. Wallace, but was met at the front gate with the stern command, thundered by Buford from a window of the barricaded house:

*“Advance no further! I know your business, and shall resist it to the death! I have plenty of arms and ammunition, and will shoot the first man that puts his foot inside that gate. You may kill me finally, but I will surely kill a good many of you before that can happen.”*

The sheriff and his men knew that he was in earnest, and would do what he said; so, after hesitating and consulting, they called a “parley” as in regular war, hoping to be able to persuade Buford to yield to the supreme mandate of the law without a fight. But in the parley Buford out-talked them all. He went over the whole ground of the suit; his greivous wrongs—wrongs to the dead as well as to the living; and wound up the conference more fiercely resolved than ever to stand to his guns and “hold the fort” as long as he could fire a gun. Buford had a perfect arsenal of Spencer rifles, double-barreled shot guns, and revolvers for close quarters, all loaded and ready for action. After lingering outside the gate the best part of

the day without daring to enter, except on Buford's permission, the sheriff and his men, toward nightfall, retired to their homes in good order, without accomplishing anything. That night, the startling incident was telegraphed by the Associated Press to the daily papers all over the country, and the next morning it was published under sensational headlines—all the editors in their comments declaring that no one but a lunatic, a raging madman, would brave the majesty of the law as Buford had done.

The next day the sheriff returned with a still larger force, but had no more success in his effort to take possession of the place than on the previous day. At dinner time Buford courteously proffered them the hospitalities of his table, provided they would pledge their honor not to take advantage of his liberality by any attempt to execute the writ; and his proposition was promptly accepted. A first rate dinner was prepared for them, to which they did ample justice; but, so soon as their appetites were appeased, the "holder of the fort" made them clear out according to promise—that is, they returned to their position outside the gate. And, this sort of thing went on for two or three days, when, finally, Gen. Abe Buford, of Woodford—Col. Buford's distinguished brother—made his appearance on the scene, and, acting upon the suggestions of Judge Hord and Mr. Harwood, counsel on each side, effected a compromise between the opposing "powers." By this compromise it was stipulated and agreed that the sheriff should hold up the writ of possession until the case was finally decided in the Court of Appeals; then, if that decision went against him, Col. Buford promised to yield possession peaceably and without firing a gun; but, if it went in his favor, then of course he would continue to hold possession until he got his money back. So the affair ended. The sheriff drew off his forces, and the "little speck of war in Henry" blew over and vanished below the horizon forever.

This startling, but characteristic incident, which attracted the attention of the whole country at the time, shows what a single, desperately determined man can do in defense of his home and fireside—"his altars and his fires." It shows, too, that the good people of Henry county must have deeply sympathized with Buford in his wrongs and misfortunes; for, had it been otherwise, that large *posse comitatus* of high-spirited citizens, led by the sheriff, would have been more enterprising and determined in their efforts to execute the writ of possession.

After the unique, and, to the appellants, disastrous opinion rendered by Judge Elliott, Mr. Ed. F. Trabue, a young lawyer of very superior abilities, formerly of Frankfort but now of Louisville, presented a brief of the case to the court and asked for a rehearing, which was granted. It is understood that at this time, under the influence of Mr. Trabue's argument, some of the members of the court intimated to Col. Buford—such at least was his impression—that judgment would be given him for the moneys due Mary F. Buford's estate—moneys received for land sold her which the party selling knew at the time they had no legal or equitable right to convey. It was also the opinion of several prominent lawyers of the first ability in the State, after hearing Mr. Trabue argue the case, that the decision could not possibly be adverse to his clients.

#### Proposals for Compromise Rejected.

Moreover, several propositions were made to give Buford the farm, or a portion of the money, with others of like character, but he peremptorily declined them all. Referring to these propositions some weeks afterward, he used the following characteristically insane language: "I refused to come to disgraceful terms with my sister's robbers and assassins. The grave could not weaken or sever my duty, my love, my devotion. I knew that her angelic spirit was watching over me, and preparing a home in the mansions of the Father and the Son for me."

But the re-hearing availed nothing. The splendid argument of Mr. Trabue, like the equally able one of his predecessor in the case, Judge Hord, the long array of stubborn facts and no less stubborn precedents so skilfully marshaled before the court—all, all went for naught, and the second and final irreversible decision of that august tribunal, like the first, was adverse to Buford. Judge Cofer delivered the opinion of the court on the 22d day of March, 1879. It fell upon Buford's ears like the trump which will announce the crack of doom.

#### CONCLUSION.

Any one can easily understand from the foregoing perfectly truthful narrative what must have been the effect of such a protracted case of warmly contested litigation on a mind constituted, or rather hereditarily and chronically disorganized, like that of Thomas Buford. As we have before said, all that he and his beloved sister possessed

in the world had been invested in that 420-acre tract of land with a defective title—a circumstance well known in the neighborhood at the time of the purchase, but was not then made known to the purchasers, who were perfect strangers in that part of the country; and the vendors, availing themselves of the ensuing "hard times" and shrinkage of values to repossess themselves of the whole tract, in satisfaction of a judgment and execution for the last two votes of only \$6,250 each, while at the same time holding on to the \$22,500 paid by the Bufords, thus taking away from the devisees of Mary F. Buford, and especially from Thomas Buford, their only means of support in the evening of his days, now considerably advanced. For this, in brief, is a true statement of the whole case. To the common understanding, unenlightened, or we should better say, unwarped by the absurdities of legal lore, this may be good law, but certainly it does not look like justice or equity. Buford looked upon it and called it, when the first adverse decision was rendered, "downright robbery." Whether this was said in a lucid interval or not, there were many who, being acquainted with the peculiar hardship of the case, were disposed, at the time, to cover the remark with the mantle of charity, while many others indorsed it as fully warranted by the facts.

#### A Maniac Shoots Judge Elliott.

Up to the very last moment, however, Buford had hoped and believed, as he had the right to do, that the court of last resort in his native State would do him the justice to order the repayment to him and his sister's devisees of the \$22,500—his and their all—which had been taken from them by parties for a house and land to which they could not or would not, at that time, nor for many years afterward—if, indeed, they ever could—make any valid title; and when the final, cruel disappointment came, the blow was crushing, desperate, murderous. It overthrew his chronically jangled reason utterly, and from that time forward until the terrible tragedy of March 26, which fell upon the community like a double-shotted clap of thunder out of a clear sky, he was a wholly irresponsible being. Every act he performed, and every word he uttered, were characteristic at once of the cunning and the cruelty of the enraged and frenzied madman biding his time, subduing his language and suppressing his rage for the final spring upon his unsuspecting victim. It mattered but little to him which one of the three older members of that court it was who

should make an answer to him in the "trial" of the bloody "issue" his disordered mind had conjured up. They had sanctioned and made irreparable the great wrong upon his "robbed" and "murdered" sister and himself, and either one, two or all must meet him to "try the issue" in that outside court of supreme revision his maniacal fancy had constituted and called to sit anywhere and everywhere throughout space.

This hopeless, rudderless, reasonless lunatic saw everything through a medium of blood and vengeance. His arraying himself in the garb of a huntsman, with gun and gamebag on shoulder; his asking his apparently accidentally encountered victim to go snipe hunting with him, and then on the Judge's refusal, "Well, let's go and take a drink together," followed instantly by the fatal shot; then, his saying, with a laugh, "I'm sorry for it;" his preparations for his own probable death—all these incidents, and more that might be adduced, illustrate the proverbial cunning of the hopelessly irrational maniac. His contemptuous laughter when speaking of the dreadful deed immediately afterward; his caress of his shotgun and remark that Judge Elliott was "the most ignominious game it had ever killed;" his laughing exhortation to his prostrate dying victim to "die like a man"—these, and much more attested by witnesses, illustrate the very refinement of cruelty so characteristic of the enraged lunatic when working out his frenzied will; while his kneeling down, with a smile on his face, to place his own soft felt hat under Judge Elliott's head after he was dead upon the pavement—done, as he said soon after, "to treat him with as much courtesy as he had shown in the robbery and assassination of my dear sister"—and his repeated assertions, "*I killed Elliott to try my case,*" "I took a walk to see if I couldn't spare Pryor on account of his children," with many other similar utterances—all are steeped in the rankest lunacy, the very midsummer madness of a crazed brain, "clawed to pieces by the goblin of insanity," perverted and inflamed to ungovernable fury by the memory of a great and irremediable wrong, not merely to himself, but more particularly to that dear, dead sister whom he had all his life long loved so well!

To say that Thomas Buford was not insane when he committed so fearful a deed of death, so atrocious a crime—that is, what would have been so, if done by a sane man of education and refinement—is to place humanity, civilized and enlightened humanity, on a lower level than has ever yet been assigned to it by the most cynical. His

whole conduct, as well before the homicide as afterward, was that of a lunatic, with, of course, occasional lucid intervals—occasional glimpses of that gallant, truthful spirit, that fearless, chivalric, old pioneer blood which flows in his veins. For example, he first said that \$15,000 of the sum paid for the Henry county farm was his own money, and the very next day denied it flatly—even denied that he had ever made any such statement. At first, he declared that he had loaded one barrel of his shotgun for Chief Justice Pryor, and only a day or two later contradicted the statement repeatedly and emphatically, seeming to have entirely forgotten that he had ever made it. The truth is, we presume, that when the blind, maniacal frenzy was on him, he would have killed either Judge Cofer or Judge Pryor, as well as Judge Elliott, had the opportunity offered; but, there is no consistency in any of his statements or recollections of that culminating day of a life-long insanity.

The brain of an insane man is at once chaotic and kaleidoscopic. One interviewer reports that he said he had a revolver in his pocket at the time of the killing, with which he intended to defend himself in case of attack by any of the judge's friends; a second interviewer reports that he declared he was going to use the pistol on himself in case of mob violence; while a third reports him as denying the pistol story altogether—that, "in fact, he had no pistol of any kind, and had any man or set of men attempted to avenge Judge Elliott's death, he would have submitted without a murmur."

Immediately after the homicide, he reported to several persons that one year before that time he had "brought twenty-four buckshot in a flannel bag to Frankfort, twelve for Judge Pryor and twelve for another person," whom he did not name, but who is supposed to have been Gen. Dan. Lindsey; and yet, a few days later, he repudiated this story utterly, saying that he had never made any such statement, and never had any such intention. About the time referred to, a rehearing of his case was granted by the Court of Appeals, on the petition of Ed. F. Trabue, Esq., and it is believed by some of his lawyers that, but for the granting of that petition for a rehearing, he would have slain the present chief justice or some of his colleagues, although his wandering intellects retain no recollection whatever of the remarkable incident of "twenty-four buckshot in a flannel bag—twelve for Pryor and twelve for another limb of legal injustice, who shall be nameless." Such are some of the astounding vagaries of a confirmed, life-long madman!

## A Sudden Change of Base.

It is a noteworthy fact, that for a day or two after the killing of Judge Elliott, many—probably a large majority—of the community spoke of the shooting as the frenzied act of a rabid, crazy and insane man—one who was known to have been crazy for a long time before that phenomenal event. Most of the editors and reporters for the public press took the same view, *at first*. Nevertheless, nearly all of these very persons, after reflecting that such an admission was calculated to lead to Buford's salvation from capital punishment, all at once changed their minds and began to adopt and declare a totally different view, saying, with much heat: "Oh, no; Tom Buford's as sane as any one; he's no more crazy than you or I; and if he isn't hung, we might as well have no laws, no courts, no juries, and make up our minds to go back to anarchy and chaos." Others would say, even more savagely: "Oh, yes; Buford's crazy, no doubt—crazy as a mad dog and every whit as dangerous, and therefore ought to be disposed of in the same summary way usually meted out to rabid canines." One newspaper, formerly opposed to capital punishment, and claiming to be a leader of public opinion in Kentucky, went so far as to voice the extremest views, and to proclaim before trial that Buford was a "doomed man," and was bound to be executed "on the gallows high" *one way or another*—so anxious were they all for a distinguished "example" and scapegoat in the person of this poor, unfortunate, deeply, irreparably wronged lunatic.

But they forget that Judge Elliott, noble and popular as he was, is not by a long shot the first good, useful and distinguished man in this world—no, not even the first Anglo-Saxon or Anglo-American judge or ruler of his people—who has fallen a victim to the crazy violence and unreasoning vengeance of a hereditary madman. The truth is, that Thomas Buford ought to have been sent to the asylum at Lexington or Hopkinsville the moment that law suit was finally decided against him, if not before; and probably he would have been, but for his exercise of that remarkable cunning for which all violent lunatics are proverbial, and which they invariably display in carrying out their schemes of vengeance or cruelty. And they are generally favored in the execution of those schemes by the fact that the schemes themselves are generally so foreign to their real natures—so diametrically opposed to their real characters—that nobody suspects them until astounded by their sudden development in action.

### Buford Sane, versus Buford Insane.

Who, for illustration, that knew Thomas Buford in his lucid intervals before the law suit began to go against him, and has heard him uniformly give utterance to sentiments characteristic of a noble, true-hearted and chivalrous gentleman; heard him denounce wrong and cruelty in all their forms, and especially the unutterably vile and unpardonable meanness of the assassin who takes every advantage of his enemy, or the object of his hatred, to perpetrate a hideous crime—who, we say, that knew *Thomas Buford's real self*, and when not completely metamorphosed by his hereditary infirmity, can doubt for one moment that he was hopelessly insane, utterly *non compos mentis*, when, in the act of proffering a friendly civility, he jerked up his gun and killed an unsuspecting judge of the Court of Appeals—one with whom he had ever been on friendly terms, and one, too, who professed to have acted as his best friend in that high tribunal?\*

In all ages of the world, among all peoples, savage and semi-civilized as well as the enlightened, persons afflicted with insanity have ever been regarded with peculiar consideration, tenderness and indulgence. Their persons are made sacred by their terrible affliction. They may be restrained but never punished for deeds done, not by their true selves, but by the demon of madness within them. The hand of God is upon them for some inscrutable reason: man can not know the cause; therefore, it would be the basest of heaven-daring impiety for man to lay the weight of any of his mere earthly and ignominious punishments upon one of these unfortunates, insanity being already, in the minds of all men, a calamity, a penalty worse than death itself!

### The Plea of Insanity.

If ever the plea of insanity could be properly made in behalf of a prisoner on trial for the killing of a human being, most assuredly it can be in this case. It will be proved—nay, it already has been—

\*PER CONTRA: In a recent conversational discussion of the Buford-Elliott tragedy, the law suit, etc., by a circle of Louisville lawyers, it was remarked by a very able and well known gentleman present that "the *shotgun treatment* was very much needed as a measure of judicial reform all over this country." Of course, this was going a long way too far, but still it shows the sentiment prevalent among a very large class of lawyers, and what *may* become the drift of public sentiment itself.



that Thomas Buford has been a chronic-intermittent, violent lunatic nearly all his life; that he has been insanely violent, and violently insane, at frequent intervals for thirty or forty years past; that he was universally pronounced "crazy" on the subject of the law suit by his acquaintances long before the tragedy of March 26th; and that he ought to have been sent to an asylum long before the end of that law suit was reached. For many years, he has been considered a "dangerous man," for no other reason than his salient, palpable, constantly increasing tendency to become insanely violent—nay, we should rather say, violently insane—on the slightest provocation, and without any provocation. So pronounced had this tendency become, it was considered dangerous to be alone with him for a few hours, even when pursuing the pleasant outdoor sports of the woods and streams. Such a man, one so plainly afflicted with a "mind diseased," ought to have been placed under treatment for that disease long before his unreasoning lunacy led him to commit what, in a sane man, would be regarded as one of the most atrocious homicides recorded in our annals, but which, in his case, can be looked upon only as one of those inexpressibly sad and mournful casualties—one of those horrible accidents, which will sometimes happen in the best regulated communities. In fact, the killing of Judge Elliott was a tragedy so peculiar in all its surroundings, so unique in its manner and in all its details and bearings, that it is susceptible of demonstration that none but a hopelessly insane man could have committed it. Such was the universal verdict of press and people on the 25th and 27th of March.

Now, if the plea of insanity has been accepted as a good and valid one, as we know it has in hundreds of cases where the victims were comparatively obscure and unknown, and where often the fact of insanity was only half proved, why should it not be held good in this case, where it is illustrated by evidence the most convincing—by proofs at once multitudinous, mountainous, incontrovertible? Shall this poor, life-long "crazy man," whose mind has been, for so many troubled years, "like sweet bells jangled and out of tune," be denied the benefit of this God-sent plea because his accidental victim happened to be a man of great personal popularity and distinguished official position? Such, we venture to predict, will not be the ruling of an enlightened jury of Owen, or of any other county that may be called upon to try Thomas Buford.

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## POSTSCRIPT.

The trial of Col. Buford for the killing of Judge Elliott has been appointed to begin on Tuesday, July 8, at a special term, called for the purpose, of the Owen Criminal court, Judge McManama presiding, a change of venue having been demanded by defendant on the ground that he could not get a fair trial in Franklin county, where the crime charged was committed. After considerable discussion, consultation and comparison of notes, the judge finally selected Owenton, the county seat of Owen, as the place to which the venue should be changed from Frankfort. At the present writing, July 1, it is not believed that the trial will be gone through with at the time specified, for the alleged reason that the Commonwealth, as well as the defendant's counsel, desire a postponement, but will probably endeavor to conceal the fact, so as to throw the *onus* of a continuance upon the accused.

The town of Owenton will doubtless be filled on Tuesday, July 8, with a great crowd of witnesses, jurors, lawyers, reporters for the press, etc. There will be many witnesses from Franklin, Woodford and Henry counties both for the Commonwealth and the defendant, while two or three of the most important for the former will come from Owensboro—gentlemen who happened to be present near the scene of the tragedy on the 26th of March.

Should the trial be entered upon and concluded at the Owen special term—as at present, for the reasons above given, seems quite improbable—an account or a full synopsis of the same, with the verdict (should one be reached), will be added to the foregoing, and a second edition published shortly after the adjournment of the court.

F. L. & F. J.

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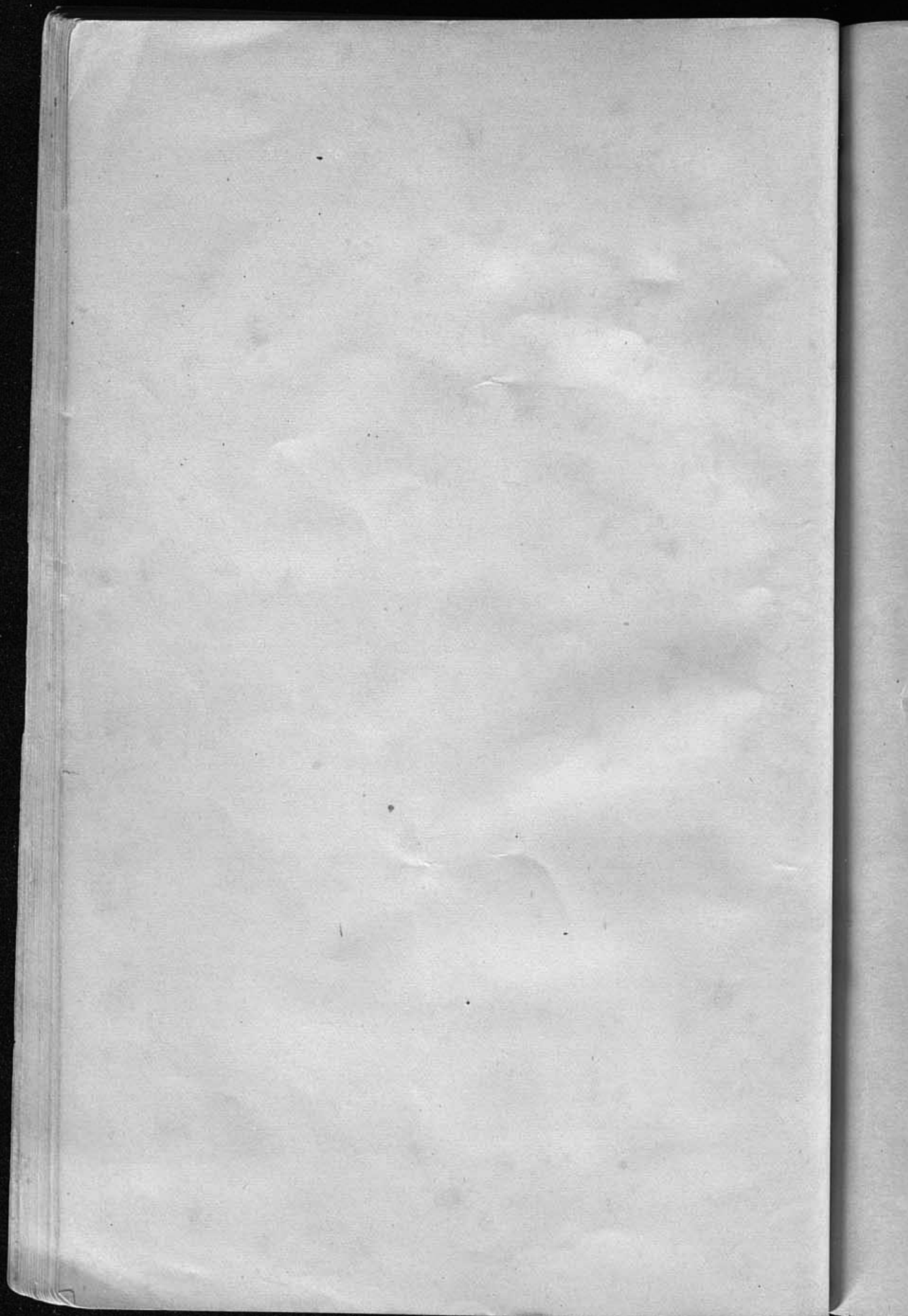
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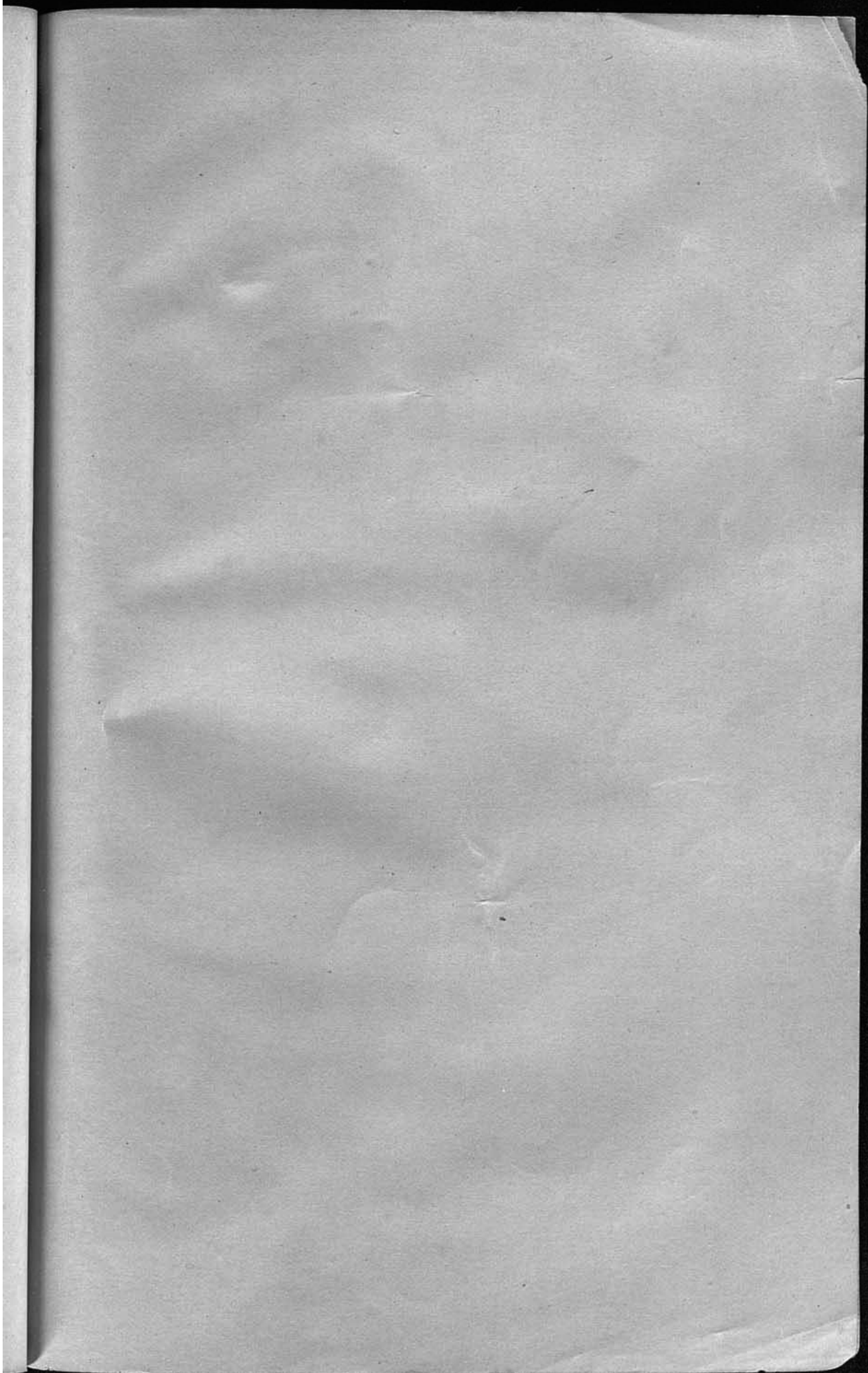
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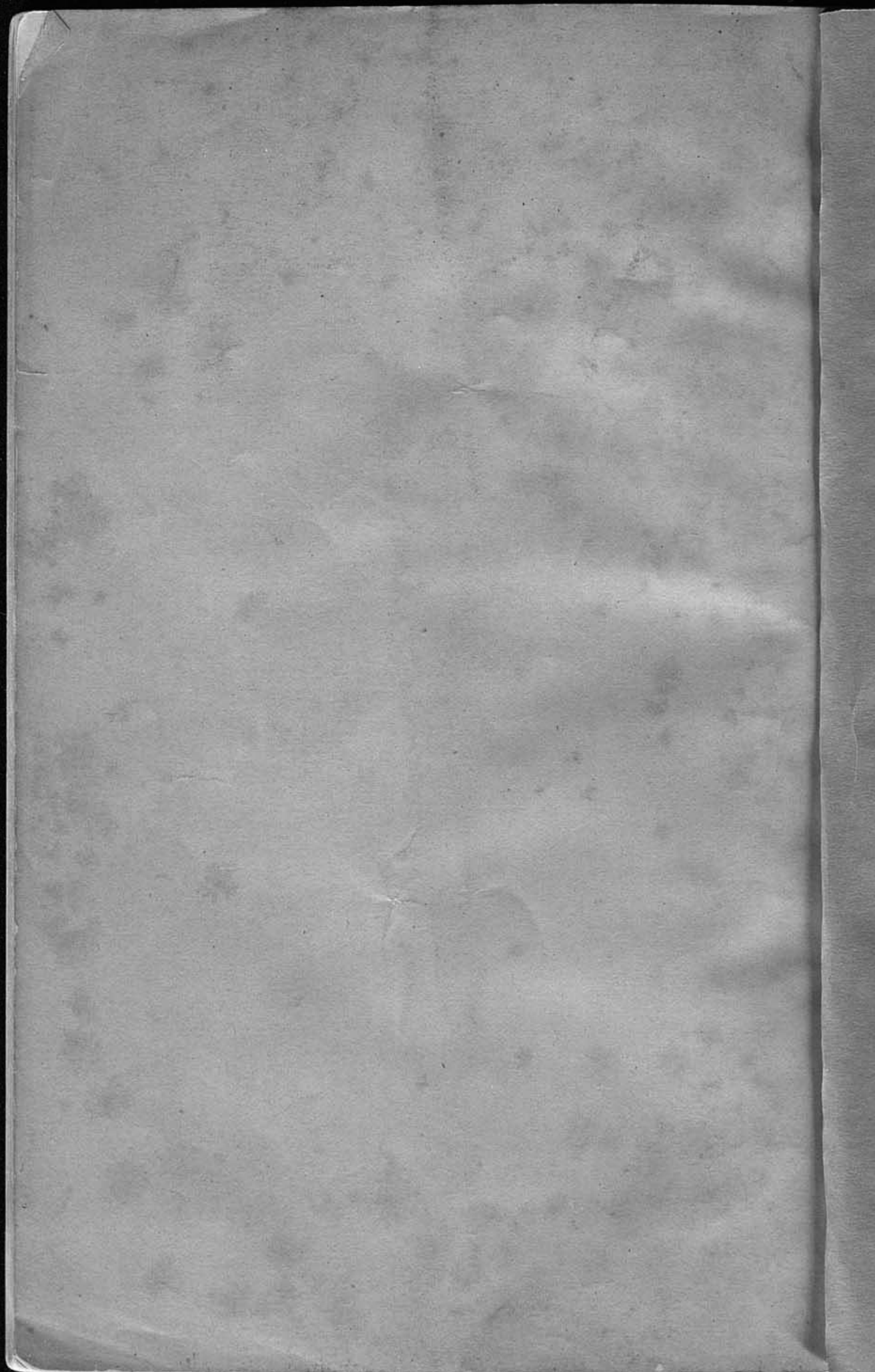
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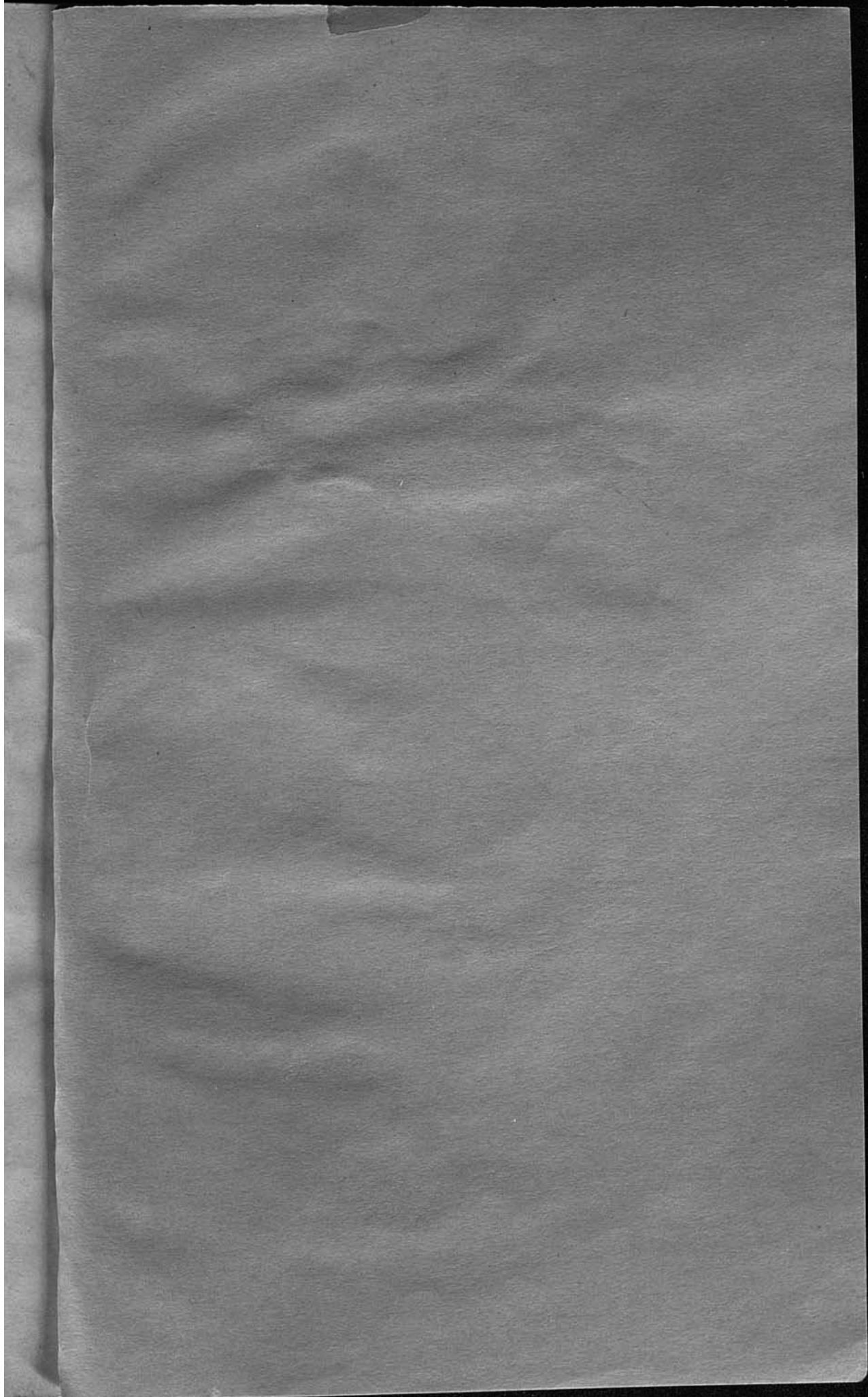
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