

Andrew Stewart, brother-in-law of deceased, was called and proved that Patrick came to him at his house at Alyth, where he received a letter from Catherine, wrote a reply and gave him a phial which he told him contained laudanum and a small paper packet which he said contained salts. These he desired him to give privately into Mrs. Ogilvie's own hand. When Stewart came to Eastmiln on the Wednesday afternoon before Thomas Ogilvie's death, he was first taken into old Lady Eastmiln's room. Presently young Mrs. Ogilvie and Anne Clark came in, and the former took him apart into the Easter Room, where he gave her the phial and the packet and a letter from the lieutenant.

Before Stewart left, the old mother and Anne Clark pressed him to tell them what he had brought with him, and he informed them in detail. Thereupon Miss Clark declared she was afraid that Mrs. Ogilvie would poison her husband, and both women warned Eastmiln not to take anything out of his wife's hands except at table.

Mrs. Ogilvie herself admitted receiving from Stewart a small phial of laudanum and a letter of directions about taking the salts. These things she said she had asked Patrick to send her when he left the house, and she required the laudanum for sleeplessness.

On the day when the package arrived Eastmiln had a serious quarrel with his wife. She was openly making some cambric ruffles for her absent brother-in-law from material which she said Patrick had left behind. That very morning a chapman had called and had been dunning old Eastmiln for payment for this very cambric which his wife had bought without her husband's consent. The laird was furiously angry and after upbraiding his wife went away in a

sulky humour to spend the day with his tenants on the other side of the hills. He returned in the evening still sulking and went to bed without supper.

The next morning at breakfast Andrew Stewart saw Catherine carry away a bowl of tea to her husband, who remained in bed. A servant saw her on her way to the bedroom take it into her closet, where she was stirring it. Andrew Stewart, however, left the house without any suspicion of foul play and rather indignant at the time at the suggestion made by the old lady against her daughter-in-law.

That morning Eastmiln was taken ill in the stable. He complained of a burning sensation and thirst, drank much water and vomited painfully. He suffered great pain in the calves of his legs and moved his limbs as if in pain. Anne Clark's account of his symptoms is consistent with arsenic poisoning. The wretched man in his death-agony is deposed to have said to a servant that he was poisoned and "that woman had done it." When another servant brought him some water in the bowl from which he had taken tea, he cried out, "Damn that bowl, for I have got my death in it already." Stewart, who had not left when he was taken ill, proposed sending for a doctor, but Mrs. Ogilvie would not agree, saying hopefully that he would soon be better. A surgeon was sent for later, but when he arrived the wretched man was dead. Lieutenant Ogilvie arrived at the house soon after his brother's death, and Anne Clark declares that when he was charged with sending poison to Mrs. Ogilvie he replied hastily "that he did not think she would have the heart to use it," but Stewart says that when he advised him to make his escape he said "that God and his own conscience knew that he was innocent."

Mrs. Ogilvie's conduct after the matter came into the hands of the Sheriff was not calculated to assist her defenders. She had made the most compromising statements to the doctor and the servants after her husband's death and refused to reply to the Sheriff's question or produce Patrick's letter or the parcel of salts. No medical examination was made of the body, and perhaps in far Forfarshire there were not men of sufficient scientific attainments to make a proper post-mortem. But the absence of this and other testimony that might have been put forward did not prevent the jury from acting on the strong circumstantial chain of evidence with which the prisoners had entangled themselves.

Both are found guilty of incest and murder at Edinburgh, on August 13th, and Patrick is sentenced to be fed on bread and water until the day of execution, when he is to be hanged on a gibbet in the Grass Market and his body given to Dr. Munro, Professor of Anatomy. All this is duly carried out, Patrick protesting his innocence to the last.

On arrest of judgment Catherine is remitted to the Tolbooth to await the birth of her child in March next. Early in March a little girl arrives. The Court of Justiciary hearing of the event, with business promptitude sets down Catherine's case for Monday, March 17th, to sentence her to execution. But the grim judges were balked of their prey. On Saturday Catherine disappears. She departs south in a post-chaise with a gentleman companion. She is disguised as a young officer wearing "a hat slouched in the cocks with a cockade in it." She passes through Haddington that afternoon and pushes on with four horses day and night for London.

The holy Scots Sabbath makes immediate pursuit impossible. On Monday proclamations are made and rewards offered. The chase begins. At times it is a close and exciting affair. She is tracked to Dover, doubles back to London and hires a Gravesend tilt boat there to carry her to Calais. Then she drives down to Billingsgate in a Hackney coach to meet the tilt boat, floats along the pleasant Thames out to sea, lands safely at Calais, and the world knows no more of her. How was it done? What became of the infant child born in the Tolbooth? Did Catherine live happily ever afterwards? These things are lost in the mists of time.

2. THE MAYBRICK CASE

The basis of this trial is the eternal triangle of modern West End drama. Whether a murder was ever committed who knows? But the tragedy that slowly develops with Elizabethan horror and intensity is to watch the hand of fate slowly drawing the beautiful Magdalen into the lonely and deserted dock, and then to picture her sitting in the condemned cell listening to the rappings of the hammers as the scaffold builders finish their work in the prison yard.

From a lawyer's point of view one must honestly class the trial among miscarriages of justice. A combination of unsuitable legal machinery, human shortcomings in the working of it, a series of strange accidents and a natural social prejudice against the prisoner's general conduct, resulted in a failure of that certainty necessary to the conviction of a citizen accused of crime.

The drama of the trial divides itself naturally into two acts, the first telling the story of the crime, if crime there was, and the way in which the law

handled the investigation of it; the second investigating the investigation, as it were, and putting the law upon its trial by holding an inquest on the proceedings in the interests of justice and truth.

Mr. James Maybrick was a Liverpool cotton merchant and had lived for a considerable time in Norfolk, Virginia. Florence Chandler, who married him, was the daughter of a banker of Mobile. They met on an Atlantic steamer and were married in 1881, the husband being forty-two and the wife eighteen. In 1884 they settled in Liverpool. There were two children of the marriage, a boy and girl, who were seven and three years of age in 1889, when the drama opens.

The Maybricks lived in some luxury. They had a villa and four servants at Aigburth. Maybrick kept a saddle-horse, and they attended race meetings and went to balls and entertainments, after the fashion of well-to-do people. But, in fact, Maybrick's business was not flourishing; he had cut down his wife's allowance, and as the household expenses were not curtailed she had run into debt.

Two things caused his wife anxiety and trouble. She had discovered that her husband was unfaithful to her, and she had learned that he was in the habit of taking poisonous drugs. She had spoken of this habit to his doctor and to one of his brothers. She does not seem to have known that he took arsenic, but imagined that he indulged in strychnine. As a matter of fact, Maybrick was a confirmed drug taker. He had commenced taking arsenic in America, possibly to ward off malaria, but he had continued to take both arsenic and strychnine as a pick-me-up, and like most confirmed drug takers concealed it from his family and his physician, though he spoke of it to his friends. This aspect of the case was

never fully explained at the trial, nor was sufficient weight given to the matter by the judge.

In opening the case to the jury, Mr. Addison said that it was clear that the deceased had not administered the arsenic to himself. Had he known all we know to-day he would never have hazarded such a remark, for Addison was a scrupulously fair prosecutor.

In June, 1888, Maybrick began worrying about his health. He consulted several physicians, and in April, 1889, went up to see a London expert named Dr. Fuller. This gentleman described him as a strong healthy man on April 19th, but he heard and knew nothing of his drug-taking habits which the patient concealed from him. The case for the prosecution, however, was that Maybrick was in excellent health until April 27th, and that between that date and May 11th he was poisoned.

It is necessary, I fear, to consider shortly the most painful part of the story, the alleged motive for the crime. It appears that Mrs. Maybrick had a lover named Brierley. On March 21st she had stayed with him for two nights at a London hotel. On March 29th, at the Grand National, she had offended her husband by accepting Brierley's attentions. On their return home there was a violent quarrel. The husband struck his wife. The wife ordered a cab and was eager to leave the house. There was talk of a separation, but the family doctor came to the rescue. There was a reconciliation. Bygones were to be bygones. Maybrick agreed to pay his wife's debts. Unfortunately, although Brierley seemed ready to drop the intrigue, Mrs. Maybrick was less willing to give up her lover. This was the situation in April of 1889.

Maybrick came back from London, after seeing

Dr. Fuller, on April 22nd. Fuller's prescription was made up in Liverpool, but a bottle of medicine came down for him by post. The next day Mrs. Maybrick bought a dozen fly-papers, and on the 25th two dozen more from another chemist. These she openly soaked in a basin of water, and her story was that she used the arsenic from them for a cosmetic. On Saturday, April 27th, Maybrick was taken ill and had an attack of vomiting, which he himself attributed to an overdose of strychnine contained in the London medicine. That day he went to Wirral races and got very wet. He dined with some friends and felt very ill at dinner. On Sunday he was worse and Dr. Humphreys was called in. In the middle of the week he got better and went down to the office. He took his lunch with him and complained of sickness at the office. His doctor gave him morphia and Valentine's meat juice. This made him ill, so the doctor prescribed Fowler's solution of arsenic. On Tuesday, May 7th, another doctor was called in at Mrs. Maybrick's suggestion, and she telegraphed for a nurse. On Wednesday morning Dr. Humphreys thought his patient was better.

Now that morning Alice Yapp, the nurse, informed Mrs. Briggs, a friend of Mrs. Maybrick, that she had seen the fly-papers soaking in the basin, and Mrs. Briggs had telegraphed to Michael Maybrick, a brother, to come at once, and told Edwin, another brother who was living in the house, what was said. At 5.30 that afternoon Mrs. Maybrick gave Alice Yapp a letter to post to her lover, Brierley. The girl opened the letter and took it to Edwin Maybrick. In it Florence Maybrick had written: "Since my return I have been nursing Maybrick night and day. *He is sick unto death.*"

This unhappy phrase had probably more to do with the jury's verdict than all the scientific evidence put before them. That a wife could leave her husband's bedside to write a letter to her lover, taking satisfaction at his being "sick unto death" when the doctors had hopes of his recovery, was indeed a horrible state of affairs. But here the restraining hand of justice should have striven to hold the minds of the jury to the main issues. Did the deceased die of arsenic poisoning? Did the prisoner administer it? Until these questions were answered the question of motive, to which this letter alone was relevant, did not really arise. Unless a person is proved to be poisoned, the fact that someone had a possible motive or desire to poison him can have nothing whatever to do with the case.

Now although the nurses were warned that Mrs. Maybrick was not to give the patient anything, and the doctors knew of her letter, she continued to come in and out of the sick-room, and nothing was said to her directly about what had been discovered. Nevertheless, she seems to have known of their suspicions and said to Yapp, the nurse: "Do you know that I am blamed for this?" One would have thought that under these circumstances a guilty woman would have hastened to destroy any evidence of guilt, and knowing that she was under suspicion would have been careful to keep away from the patient and leave him in the hands of the doctors and the nurses.

It is also open to doubt whether a guilty woman would, as Mrs. Maybrick did, have elected to make a statement in court. In those days a prisoner could not give evidence, but was allowed to make a statement from the dock, by permission of the judge. Mr. Justice Stephen gave this permission on the

terms that she might not consult her counsel about the form of it, that she might not write it down but might assist her memory with notes. It was obviously a very risky proposition to allow a woman so situated to say a lot of things that might or might not help her case but which were sure to be pitilessly criticised and pulled to pieces by the judge and the counsel for the Crown. Nothing she could say, short of giving evidence of the whole story of her life with her husband, could have in any way assisted her, and the statement when it came was a disaster. At the police court Mr. Pickford, who then defended her, had very wisely not allowed his client to make any statement, and had reserved his defence. Sir Charles Russell should have followed his example and taken the responsibility of forbidding any statement whatever. But he was in a great dilemma. His client strongly desired to speak, and he let her have her own way.

Up to this stage of the trial there were two points in her favour. There was strong evidence that Maybrick had not died of arsenic poisoning at all; there was no direct evidence that his wife had administered poison to him. In the statement, after telling the court about her cosmetic preparations from the fly-papers, which really carried things no further, she continued with a detailed story of how on the night of Thursday, May 9th, her husband had begged her to give him some of the powder he was used to take, and to put it in his food, and that she had found the powder for him and put it into the meat juice.

The statement availed nothing. It was conclusively proved that the deceased never tasted that particular meat juice, but it was removed from the room and tested and arsenic found in it. But from

the jury's point of view the prisoner had now made a direct self-incriminating admission that at least on one occasion she had been tampering behind the backs of nurses and doctors and brought arsenic into the sick man's room and put it into his food. True, she said it was done at her husband's request; but, even if this was true, how unlikely that the jury would believe it. Russell practically ignored the statement, but the prosecution and the judge criticised it pitilessly.

It took the judge two days to sum up the case, and he left it in the jury's hands with no parting warning of the very grave doubt that really existed in the minds of all reasonable men whether Maybrick ever died of arsenic poisoning at all. The jury at the last never gave any real consideration to the scientific points of the case, and maybe did not really comprehend them. They were absent for thirty-five minutes. Their minds must have been made up already. The prisoner maintained her innocence to the last, and the judge, expressing no satisfaction with the verdict he had contributed to bring about, passed sentence of death in the usual form.

But would the verdict and sentence have stood in a Court of Appeal? As to that it is very hard to express a decided view. I do not think I am putting it too high if I say that at the time the verdict was pronounced the better legal opinion held that Mrs. Maybrick was not rightly convicted. There was also a strong scientific and medical opinion that Maybrick did not, in fact, die of arsenic poisoning. Indeed, the action of the Home Office in refusing to hang their prisoner was based upon the doubt whether any murder had been actually committed.

There was no Court of Criminal Appeal in those days, and the unsatisfactory nature of this trial did

much to impress popular and official opinion with the necessity for such an institution. Assuming that there could have been an appeal by Mrs. Maybrick, it is more than probable that the court would have set aside the verdict against her. It is at all events an interesting speculation to consider how the case could have been put before such a court.

One point would certainly have been put forward. The trial took place before a jury of farmers and small tradesmen from the neighbourhood of Liverpool. It is a curious trait in our constitution that where large sums of money are at stake or difficult considerations are involved the parties may have a special jury. This is not allowed to a prisoner, however complicated his case may be. The minds of Mrs. Maybrick's jury were probably ill-fitted to comprehend the scientific evidence or to grasp the delicate issues that were entrusted to them, and they must have received impressions from the gossip of the neighbourhood which it would be difficult for them to set aside. These things in themselves the Court of Appeal could not have dealt with. But it appears that during the trial the jury were allowed to mix with the public in the billiards-room of the hotel where they stayed. In the peculiar circumstances of this case a Court of Appeal, if convinced that the jury during the trial were not isolated from the contagion of public opinion, might have taken the sensible view that their verdict was on that ground alone tainted and untrustworthy.

In no case was it more vital that a jury should be really impressed with their sense of duty to find a verdict on the evidence and the evidence alone, and it would have been the duty of the prisoner's counsel to show that the judge's summing up did not put the case adequately before the jury. We know now

that unfortunately the great judge who tried the case was suffering from an insidious illness and that his keen analytical mind and powerful judgment were impaired. The world was shocked by an unhappy remark made by the judge when he was asked to fix a day for a case that was to follow Mrs. Maybrick's trial, and he interrupted counsel by saying: "But Sir Charles Russell may plead guilty."

Mr. H. B. Irving, in his essay on the trial, attributes this lapse to "grim humour," such as his hero, Jeffreys, might have indulged in on the Bloody Assize. I cannot accept the suggestion. Mr. Justice Stephen was not a humorist, nor was he a callous and unkindly human being. I have no doubt whatever that the words were uttered aimlessly, the offspring of a mind not wholly under control. Any other explanation is unthinkable. The lawyers who heard them were saddened and aghast. But what effect would they have on the plumbers and grocers who were summoned on the jury when they read them in their evening paper and discussed the meaning of them in the bar parlour?

It has always seemed to me a pity that on the first day of the summing up Sir Charles Russell was absent the whole day engaged in the Civil Court in an important railway case. It may be said that he could have done nothing to help his client, but it offends my sense of the theatre that an advocate should leave the stage when his presence, though he has merely a listening part, must have such a strong effect on the human audience in the jury-box.

The real issue of this case was whether or no James Maybrick had died of arsenic poisoning. Until the jury were convinced of that fact all questions of motive, immoral conduct, opportunities of administering poison and similar questions are

of no account at all. If the judge's summing up failed to enforce that aspect of the matter on the minds of the jury it might be considered to be misdirection.

On the first day of the summing up, although there are errors and repetitions which are unfortunate in a case of such grave importance, the main issue of the case is kept fairly before the jury, but on the second day, the day upon which the jury is to leave the box and decide upon the life and death of the woman in the dock, the real point of the case gets hopelessly lost in a wandering recapitulation of incidents of immorality and questions of motive dangerously dangled before the simple minds of men whose narrow faculties should have been concentrated upon scientific facts. It is almost as though the judge had said: "Gentlemen, all that medical evidence is very dull and difficult; you don't understand it in the least; but just consider what a naughty wife this was and how easily she might have disposed of her husband if, as seems very probable, she wanted to."

This is by no means a burlesque of the judge's method of dealing with the facts of the case. During most of the second day's address he seems to assume that death by arsenic poisoning is proved, and we find him using these words to the jury a few moments before they retire: "Suppose you find a man dying of arsenic and it is proved that a person put arsenic in his plate, and if he gives an explanation which you do not consider satisfactory, that is a very strong question to be considered." Was Maybrick "a man dying of arsenic"? If the judge had reminded the jury of the kind of chemist's shop that the doctors had made of his inside, even a plumber might have hesitated to jump to such a

conclusion. From April 28th to May 10th they gave him diluted prussic acid, papaine and iridium, morphia, ipecacuanha, Fowler's solution of arsenic, jaborandi tincture, anti-pyrine, sulphonal, cocaine and phosphoric acid. He was, moreover, a confirmed drug taker and had for long been an eater of arsenic. Was it fair to say to a common jury, "Suppose you find a man dying of arsenic"? Why not rather state the proposition, as that great lawyer and scientist, Fletcher Moulton, did, "Suppose you consider that Maybrick's death is due to natural causes operating upon a system in which a long course of arsenic taking had developed a predisposition to gastro-enteritis"? Had Lord Moulton been summing up, that is how he would have left the case to the jury, and the prisoner must have been acquitted.

There was a considerable quantity of arsenic found in Maybrick's house, and the Court of Appeal might have heard further evidence as to how it came there. The February before he died a Mr. Blake had given him no less than 150 grains in three separate packets. A very strong point in the prisoner's favour was that the Crown never proved that she had brought any powdered arsenic into the house. Why should she have purchased fly-papers to procure an arsenic solution, either for a cosmetic or for evil purposes, if she was already possessed of considerable quantities of powdered arsenic?

Apart from the prisoner's own statement there was no evidence that she had ever attempted to administer poison to him, and none that she had actually done so. It was proved that he himself took arsenic, but there is no satisfactory evidence that his wife gave him any. Even if it was proved that she had given him arsenic there remained the

question, was it given to him at his own request as a medicine or with intent to murder? One would have thought that all these matters would have been adequately represented, and that as the jury were leaving the box some solemn warning would have been given to them that the first issue they were to decide was whether Maybrick had died of arsenic poisoning at all, and that, in all these difficult matters they had to consider, the prisoner was entitled to the benefit of the doubt.

But the last words of the judge are painful reading, for his mind seems full of an anonymous letter he had received which had no bearing on the prisoner's guilt or innocence. A Court of Appeal, had there been one in those days, might well have come to the conclusion that the jury were at the last allowed to leave the box without adequate instructions as to their duties.

A summing up by Mr. Justice Stephen was noted for a simple and lucid statement of legal principles, a masterly analysis of facts and a stern repression of irrelevant matter. The Appeal Court might have considered that some of the judge's address to the jury fell so far short of his high standard as to amount to a misdirection, and might have come to the conclusion that the evidence seemed to invite the Scots verdict of "not proven," which in English we can only translate by the words "not guilty."

Many will believe that Florence Maybrick's story is one of relentless fate. Fate flings the dice, and who can escape the inevitable? For it is easy to trace in the warp and weft of the facts the pattern of an innocent story translated by fate into the appearances of a tragic crime. A young and careless woman, a foreigner and stranger to her husband's relations, stooping, no doubt, to a foolish intrigue,

is dragged into a net of circumstances in which her very struggles to do right only serve to entangle her the more securely in the meshes of suspicion. Everything she says or does tells against her. Only her husband does not seem to suspect her, and when he dies she is left in broken health, penniless, alone, without friend or adviser, to meet a charge of murder. Her enemies collect evidence against her; no one collects evidence for her. When she wishes to tell her story the police stop her, and when at long last she makes her naïve and trembling statement from the dock, her own advocate can make nothing of it, and the prosecutor and the judge seize upon it as the missing link in the chain of evidence which is to destroy her.

If she was innocent she was sadly sinned against. For fifteen years she was imprisoned for an offence for which she was not tried and had not been found guilty, and no one who reads the reports of her trial with an open mind can be readily convinced that the evidence justified the verdict of the jury.

3. THE THAW CASE

Grave mentors and serious judges condemn the interest and curiosity of the common citizen about the details of the squalid cases of crime that find their way into the courts. I have always been doubtful whether the superior person or the man in the street was the more easily justified in his attitude towards these unpleasant affairs.

It is not difficult to ignore the stories of crime and criminals, but after all, as a citizen, you may be called into the jury-box at any moment to adjudicate about such matters, and it would not be sufficient for your release to tell the court that you cared for none

of these things. You would find that ignorance of life was no excuse.

Why do we say that a story of real life is squalid and a poet's story is a noble tragedy? Probably because we live in the same street with the one and regard the other as a strange and beautiful dream. An eternal triangle in the Divorce Court is squalid, but the same story in a novel or in a play is, the critics tell us, a moving and beautiful lesson.

Take the lesson of Helen of Troy, for instance. Had the only record come down to us in the shape of a report in the *Evening Papyrus* of the sensational divorce case of *Menelaus v. Menelaus*, Paris correspondent, as tried in the Probate, Admiralty and Divorce Division of the High Court of Athens, what a squalid story it would have seemed. For what is the essence of it but a struggle between two men of no importance for the possession of a beautiful and fashionable lady? Nevertheless, it has been the theme of much poetry, good, bad and indifferent. It is the treatment that does it.

No doubt you could spin a romance or a poem out of the Thaw case. Delphin Delmas, the great Californian advocate, in the first trial endeavoured with sound dramatic instinct to envelop his client in the mantle of a noble St. George rescuing a maiden from a modern dragon. The facts and District Attorney Jerome were too many for him, but at least he pointed to the romance of the business.

But the real interest to thoughtful citizens of the two interminable trials of Harry Thaw is that they mark very clearly some weak spots in our modern administration of criminal law. These weaknesses are common to the administration of our own and other civilised countries, and have had similar

results in many trials in our own courts. In the first place it is exceedingly difficult to get a jury to convict in a case of murder, especially where the murderer has respectable friends and relations. This is mainly on account of the death penalty, and we find that acquittals and disagreements are frequent. In the second place, to leave the determination of questions of sanity or insanity in the hands of a jury of ordinary citizens is, on the face of it, absurd. This we recognise ourselves by promptly overruling the decision of a jury if it is not officially approved after conviction.

As a problem play in social reform the Thaw case is perhaps worth recalling for a moment. The story is certainly not without interest. Evelyn Nesbit, the heroine, was undoubtedly a very beautiful girl. If you cannot say of her little angel face that, like Helen's, it

"launched a thousand ships"
And burnt the topless towers of Ilium,"

yet to my mind it did even more remarkable things, for it launched a litigation that brought many thousand pounds into honest lawyers' pockets, and it threw a useful searchlight on the unwholesome social conditions that obtained among the idle and wealthy of New York.

Whilst she was quite a child Evelyn's beauty attracted many eminent artists, to whom she sat as a model, and about the age of seventeen or eighteen she went on the stage in the chorus of *Floradora*, in a New York company. About this time she met Stanford White, an architect of considerable eminence and a figure in society and the theatrical world. He was a man of fifty-five, and he undoubtedly entertained the young woman and assisted her to

obtain engagements. His friends alleged that he took a merely friendly interest in her career and tried to keep her away from Thaw.

Harry Kendall Thaw was a young man of over thirty, leading the ordinary life of a man about town with nothing to do. He was a son of the late William Thaw, Vice-President of the Pennsylvania Railway, a Pittsburg millionaire, and was said to have an income of £16,000 a year until he became thirty-five, when he entered into his inheritance of millions. White seems to have disliked him and to have prevented his being elected to a fashionable club. Thaw, like many others of the same set, was deeply attracted by Evelyn Nesbit's angel face. Mrs. Nesbit, her mother, seems to have been troubled about it. Tyndarus, you may remember, was excessively annoyed by the number of illustrious princes who came after his daughter Helen.

How far our American Helen fell in love with Thaw is at least doubtful. Thaw, it is said, was not much to look at. He is featured with a bulging forehead, protruding nose, long stringy hair, already tinged with grey, and a sickly complexion. However, he has money. He persuades Evelyn and her mother to go abroad. They travel to Europe. Some say that he marries her in Paris, but there seems no evidence of this. But she toured about with him and left her mother in England.

In Paris, when they are living together, she is said to have divulged to him a terrible story, to the effect that White had drugged and seduced her, and that for that reason she could not think of marrying him. However, they go to the Rat Mort, in Montmartre, and meet another American lady, and get her to do the cake walk at 2 a.m., and Harry gets a new

automobile to drive her into Switzerland, and the terrible past seems to be easily forgotten in the gay and merry present. Moreover, Thaw is found, at a date apparently after this shocking story has come to his knowledge, to be cabling over to Stanford White to get him to use his influence to placate Mrs. Nesbit, who is in London, no doubt greatly perturbed about the foreign tour of her daughter and the young millionaire.

At this time, at all events, Thaw, with full knowledge of all the circumstances of White's alleged misconduct, does not seem to have allowed the matter to weigh unduly on his mind. The young people return to New York in the autumn of 1904. They stay together at first, and then White and the Thaw family between them manage to separate them. At this time the lady seems to have been inclined to consider Thaw had treated her cruelly. She is alleged to have put her hand to an affidavit, made before one Abe Hummell, that Thaw had carried her off to an Austrian castle and treated her with shocking barbarity. Later on it is said this affidavit was made at White's instigation, and Abe Hummell was afterwards convicted as a forger and perjurer, and the whole incident may be quite unworthy of belief. The affidavit, or at least a photograph of it, is produced in court.

When Evelyn Nesbit became Evelyn Thaw she certainly knew enough about her husband to know that he was a man of abnormal temperament, given to sobbing and biting his nails and gazing into space and refusing to answer questions when things worried him. As against that he had money and the power to give her a good time, and he seemed devoted to her.

It is hard to understand or express any real belief

in any of the various stories told by the parties to this painful melodrama, but some general outlines of these things is necessary as bearing on the alleged insanity of Thaw and the probable causes of it.

In April, 1905, we at least get at one trustworthy fact, for on that date, with the blessing of the Thaw family, Evelyn and Harry are married at Pittsburg, she being about twenty-one and he about thirty-four.

Very soon after the marriage Thaw began to threaten openly that he would be revenged upon White. He took up the attitude that White was a modern Minotaur, and that Providence had given him a mission to play Theseus and rid the world of him. White's friends warned him about Thaw's threats, but he merely laughed at them.

On June the 26th the climax arrived. Thaw and his wife entertained some men friends of their set at the Café Martin. During dinner White came in, and Mrs. Thaw foolishly pencilled Harry a note to the effect that "that dirty blackguard is here." The party went on later to the Madison Square Roof Garden. It was the first night of a new musical comedy, *Mamzelle Champagne*. White was at a table near the stage. Thaw left his wife and strolled about the garden as if looking for someone. Suddenly he saw White and sauntered up to him, stopping at his table and leaning over it. As soon as White saw him he moved as if to rise, but Thaw gave him no time.

"Curse you, you ruined my wife; I am going to kill you," he cried.

He fired three shots. The first bullet buried itself in a wall, the second caught White in the shoulder, the third struck his head, and he fell on the ground dead.

"He ruined my wife and I have got him," said Thaw, and strolled away.

At the moment it happened, as chance would have it, a chorus had just stopped, and one of the actors said, "Then let the duel go on." The shots were at first thought by many to be part of the piece. But only for a moment. A young woman knelt down by White's body and uttered a shriek. Someone called out, "He's dead." There was a disturbance. The performance ceased, and people gathered round the body.

Thaw meanwhile walked towards the exit, where his wife came to him and threw her arms round his neck, sobbing hysterically. The police arrived, and he was taken into custody. By way of stamping the deliberation of his act he told them that he had seen that scoundrel White at the Café Martin, "big, fat and healthy, and she, his wife, trembling and nervous," and had determined to destroy him.

These were the short facts of the crime which gave rise to two of the longest and most strenuously fought legal battles of modern times.

That Harry Thaw had deliberately murdered Stanford White in a brutal and cowardly fashion was beyond doubt. In a civilised country like America, where the courts are guided as ours are by written as opposed to unwritten law, there could, it seems, be only one of two results to the prosecution. Either the jury would find Thaw guilty of murder and he would be rightly executed, or he would be found to be insane when he committed the act, in which case he would be kept in an asylum during the pleasure of the State.

For the present he was carried off to the Tombs Prison and placed in a cell in Murderers' Row to await his trial, and the world was presented with a

first-rate scandal and sensation. When we study the details of these trials we shall find in them food for reflection about our legal methods of dealing with such matters, and may, perhaps, be moved to consider whether in the punishment for the crime of murder in modern days the author of Genesis has said the last word.

For the moment the newspapers of New York, and gradually those of a wider world, filled their columns with strange pictures of the orgies of American society. It appeared that the murder had struck terror into the hearts of the dwellers in the Tenderloin district of New York. This district was the centre of the fashionable night life of the city. Here were the restaurants and theatres and clubs and opportunities for a discreet police officer not to see too much. The name attached to it from a chance remark made by a captain of police when he was put on night duty in these parts. He is reported to have said to a chum: "I guess now I'll give up chuck steak and freeze on to tenderloin."

It was soon noised abroad that Thaw had shot White because his wife, the angel-faced child, Evelyn, had been ill-treated by White, and it was rumoured that the police knew and connived at White's misdoings. On the other hand, there were those who thought that White was no worse than many another, and that the confessions of the girl with the angel face must not be taken at face value.

The murder took place in June, 1906, and on January 23rd, 1907, the trial began before Mr. Justice Fitzgerald. "Harry K. Thaw to the bar" calls out the usher, and the man who killed Stanford White takes his place at a table within the bar, facing the judge. Thaw had some half-dozen counsel, but had intimated that he intended to keep the reins

of the defence in his own hands. The family seemed to place most confidence in the silver-tongued Californian advocate, Delphin Delmas, a man of great reputation in Western cases in upholding the unwritten law. Thaw himself seemed to favour Mr. Gleason, and wished him to lead.

The first eight days, after the American fashion, were taken up in obtaining a jury. Then, on February 3rd, Mr. Garvan, who with District Attorney Jerome appeared to prosecute, opened the case. His speech lasted ten minutes. The facts of the case were short and not in dispute. He claimed for the prosecution that this was a cruel, deliberate, premeditated and malicious taking of life, and asked for a verdict of murder in the first degree. If the jury found that verdict the prisoner would be electrocuted.

The few witnesses necessary to prove the murder were taken before the luncheon hour. Delmas asked them a few questions of no great moment. Now if all questions of sanity were left to an expert commission, the jury would at this stage have found the prisoner guilty of the fact of murder, and their duty would have been at an end. But mark what follows. Mr. Gleason rises to open the defence. It soon appeared that the sole plea to be raised was that of insanity. It was put forward that at the time Thaw committed the murder he did not know what he was doing, and that he believed he was acting as an agent of Providence.

No one can study the evidence given in this trial without seeing how absurd it is to put such a matter into the hands of a jury for decision. They cannot even understand, for the most part, the language in which the matter is being discussed. The first witness for the defence was a Pittsburg doctor, put

forward to prove Thaw's insanity. Mr. Jerome exposed the limits of his capacity very cleverly.

"Is it not," he asked the unhappy doctor, "the fact that all the functions of the human body are controlled by the pneumogastric nerve acting through the spinal marrow, or medulla oblongata?"

The doctor seemed to think this was a riddle, and gave it up in despair. The jury, who knew less about it, could only notice the doctor's discomfort. Thaw's friends were troubled. The doctor may have been a clever man, but he was no expert witness. After the court rose there was a council of war. Gleason handed in his baton and Delphin Delmas took command.

Delmas was born in France, and was now, at the age of sixty-two, at the height of his fame. Clean-shaven, suave, full of sympathy, there was in his appearance more than a touch of the Napoleonic aspect, and he could show on occasion a bold and determined front. His conduct of the case was excellent. I do not believe he expected an acquittal. As I read his tactics, he knew that his client was a decadent who had worked himself into a jealous frenzy and deliberately murdered a man he hated, he did not believe him to be insane in a legal sense, but he used the plea of insanity as a stalking-horse behind which he shot his bolts of sympathy into the hearts of the jury in the hope that they would disagree.

This is why our legal system of dealing with these matters is dangerous. In a case of this kind all the judge and lay jury can usefully do is to find the prisoner guilty of murder. Then a wiser system would leave to a tribunal of expert lawyers and doctors the public trial of the question of the murderer's sanity. Delmas, however, as an advo-

cate, was bound to make use of the system to save his client from the electric chair, and the way to do it, and to persuade the jury that he was mad, was to call lay witnesses to speak to his strange conduct.

His first witness was Evelyn Thaw, and he took her through the story of her life, not, indeed, as having a direct bearing on the issues of the case, but as a story that she had told her husband, which he had believed, and which he had dwelt upon with sullen perversity until it turned his brain and drove him to commit a mad act, the meaning of which he really did not understand.

It was skilfully done, and the young woman gave her evidence with great tact. It was of course a terrible indictment of the murdered man, but then it was not evidence against him, and whether true or not evidence refuting it could not be permitted. It was only put forward as a story that drove Thaw mad. It might of course be a fairy story, but legally that was no matter. At the same time District Attorney Jerome was far too skilled an advocate not to see that a beautiful woman telling such a tale of woe was a most powerful lever to use in moving the jury into undesirable paths. He watched Delmas closely and weighed every question he put. He could not stop the girl's own story, which she said she had told her lover when she refused his hand in Paris, but when Delmas asked her whether White had behaved badly with other girls Jerome was on his feet on the instant, calling out his objection to the judge: "Are there no limits to which the defamation of the dead may go?"

The judge disallowed the question. The sense of the jury took command of their sympathy. Delmas had pushed too far ahead. Jerome had

scored in the repulse. Such is the drama of litigation.

These revelations and the production of an extraordinary will made by Thaw, and the calling of a witness from the offices of an Anti-Vice Society to prove that Thaw had lodged complaints with him about White and given the society a cheque, seemed to exercise considerable influence on the minds of the jury. To bring them back to the real issue of the case Jerome obtained a ruling that, before he cross-examined Mrs. Thaw, the defence should call the rest of their medical experts. The medical line of defence was that Thaw was mad at the time he committed the crime, but was now sane again, a very popular and convenient theory with the friends of murderers.

Dr. Evans, one of the experts called by Delmas, put the case very sensibly. He said it was a "maniacal form of adolescent insanity due to exceptional stress acting on a mind predisposed to disease by hereditary influences." When he visited Thaw in the cells he found him suffering from the after-effects of a severe brain-storm, coupled with megalomania and a conviction that he was being persecuted.

Dr. Evans cited conversations to show that Thaw had a crusade against White, and thought that he was appointed to carry out the decree of Providence, also that White was a criminal whom the authorities were protecting from prosecution, and he was his ordained prosecutor. It was hard on the friends of White that these things should be reported, but it was of course only evidence of Thaw's insanity, not evidence that White had done wrong. It was difficult for a jury to follow this distinction.

Jerome's cross-examination of Mrs. Thaw was very skilful. It is always difficult to cross-examine

a young and beautiful woman about unseemly happenings without losing the sympathy of the jury. He showed by his questions that the girl had been friendly with White long after the alleged cruelty and seduction, that she lived an ordinary chorus girl's life, revelling in champagne, flowers, suppers, sweets, "such things as girls love." Then he brought out that after the alleged date of the confession, which was said to have turned Thaw's brain, he was cabling to White in friendly terms, and that after the return from Paris Evelyn had been inclined to take up with White again, and had gone to his solicitor to make charges against Thaw.

As to the truth or falsehood of the various allegations made, no one used to weigh evidence would care to express any very decided opinion. When Jerome had finished his cross-examination, however, it would be difficult for a man of the world to think that Thaw was instigated to murder by any higher motive than insane jealousy.

More experts were called, and Jerome tried to get the matter sensibly ended by a reference to a lunacy commission. The trial was adjourned for this purpose, but the commission refused to find that Thaw was now insane. Thaw's friends regarded this as a victory.

It was April before the final speeches of counsel were arrived at. Delmas sobbed over the iniquities of White and the tortured mind of young Thaw driven to sudden madness by the terrible story told him by his young wife. Jerome calmly dissected the various statements and admissions of the young lady, and bade the jury discount the attractions of the angel face.

The jury retired, and after a long-continued absence returned and disagreed. It was stated that

eight were for murder in the first degree, a result that went to show that as far as the jury were concerned the fairy story of Thaw in the character of St. George destroying a modern dragon had not appealed to them, and they considered the crime to be one of murder prompted by jealousy.

The figures of the jury's decision made it clear that the District Attorney must try the case once more, and on January 6th, 1908, Thaw again faced the judge. On this occasion Mr. Littleton defended him, and his early history was more carefully gone into to exhibit his insanity. It was proved he had had fits of mania and had actually been confined in an asylum in Devonshire when in England. Thaw, in the dock, constantly interrupted in an insane way.

After a long trial the jury found he was not guilty, because he was insane at the time of the commission of the act charged in the indictment, and the judge formally committed him to an asylum.

Jerome threw his arm round his fellow-advocate, Littleton's, shoulders, saying as he left the court: "I am glad it turned out the way it did, old man; it is a proper verdict." As for Thaw, not being allowed to stand his friends and the reporters a champagne lunch, he calls for cocktails round and retires to the asylum under the title of No. 719, where a saner legal procedure would have placed him months ago.

This particular case is of course not our affair, but it has its lessons for us, since our law and procedure are much the same. Supposing there had been no death penalty, it is reasonable to believe that the eight jurors ready to convict the prisoner of murder could have persuaded the remainder to agree. If the expert question of Thaw's sanity had been left to a legal and medical commission, after he was

found guilty of the murder he had undoubtedly committed, that business could have been speedily and wisely settled without the expense and sensation that attended, and will always attend, such trials. It is an absurd form of waste for a civilised state to spend several hundred thousand pounds in dealing with such an obvious proposition as the case of Harry Thaw.

The death penalty to-day acts as a restraint upon conviction where the evidence invites conviction, and since the verdict of a jury as to insanity is never acted upon if contrary to official medical opinion, the question should be decided by a more suitable tribunal. These are the lessons of the Thaw case.

CHAPTER FIVE

CONCERNING ONE-PART PIECES

1. WILLIAM ROUPELL.
2. CHARLES MACKLIN.
3. HENRY JAMES PRINCE

THE one-part piece is not the highest form of drama perhaps, but it is certainly most popular with the great actor and his audiences. Irving revelled in *The Bells* and *The Lyons Mail*, two great melodramas in which perhaps he reached his greatest heights as an actor, since his personality naturally lent itself to melodrama, whereas it had to be slowly dulled and disciplined to overcome the forces of tragedy. Dear Joe Jefferson in *Rip Van Winkle* entertained many generations, and one can still hear in the mind's ear his pleasant voice, speech, half asleep, or song, half awake, as he lifts his glass to the audience before he departs into the mountains, leaving behind him the kindly thought, "Your good health and your family's; may you all live long and prosper." Alas, poor Rip, the tide of your fortunes has swept out, and the village of Sleepy Hollow is a dry desert where no healths can be drunk. Sothern, one remembers too, as Dundreary lolling on his bed lazily hurling his hair-brush across the room at the candle, which, by the bye, he never missed, and delighting us with his stutter and his absurd *chassé* across the stage. A memory of Toole seems to be

a cyclopædia of one-part plays, short and long—yet how splendid it was in boyhood to spend an evening of hearty laughter with Toole—and more Toole—and yet more Toole.

In the same way we find in our legal dramas certain pieces are enacted in which the centre of attraction is one actor, and all the others are merely persons in his dream. William Roupell was *Dubosc* and *Lesurques*, or rather *Jekyll* and *Hyde*, and is certainly a creature of romance. Charles Macklin naturally stepped into the limelight of the courts when he found himself in a lawsuit, and Henry James Prince, who in a civilised and religious country cast himself with success for the part of an eternal deity, is certainly the hero of a one-part piece. Many would classify his drama among crook plays, but I am not certain that he was merely a *Tartuffe*.

I. WILLIAM ROUPELL

William Roupell was only a suburban actor. In the groves of Camberwell, the broad streets of Lambeth, and the lanes of Streatham, he was an honoured figure as the favourite son and major-domo of his wealthy father, Richard Palmer Roupell. He it was who made the name of Roupell famous in the bricks and mortar of South London, where you may find it to this day immortalised on the street corners in the wilds of S.W.2. Thus the older man amassed monies. He had £120,000 in cash, it was said, and large estates worth £200,000 in the Home Counties.

William Roupell, though only a suburban actor, had the true artist spirit. He chafed at playing the small utility part of his father's clerk of the works. As the wings of a moth carry it involuntarily to the

candle, so do the feet of the actor draw him, face upturned and arms outstretched, into the limelight. It is an instinct rather than a vanity.

On the last night of his play-acting William Roupell described himself as a "living paradox." He could not account for his amazing career, even to himself. Yet at this supreme last moment of his life he seemed complacent and satisfied. He was in the limelight. He had dedicated his life, honour and liberty to win a brief turn in the centre of the world's stage.

At last he trod the classic boards of the Old Bailey. He had achieved his end. He was the acknowledged hero of a melodrama. A sordid play, no doubt, but it had one great situation with all the flare of the lights full on the hero and William Roupell alone on the stage as the curtain fell.

The first act of the piece is tame enough. Mere domestic comedy, with a touch of the problem about it perhaps. Old Richard Palmer Roupell was a skinny, grubbing fellow. His father before him, also reported to be a curmudgeon, had objected to Richard marrying. So Richard lives in his rooms in Cross Street and has a week-end house at Streatham. Here he is called Mr. Carter, and there is a Mrs. Carter with four children. William, the second son, is our hero.

In 1838 Richard's father dies, and Richard marries the lady with whom he had lived, and the family become Roupells instead of Carters. Another son is born and named Richard. But the week-end habit continues and Richard Palmer only visits his wife occasionally. The family are respectably educated. William is apprenticed to an attorney and admitted to practice, but does not follow the

profession, having sufficient to do in assisting his father and making speculations of his own.

In 1855 William must have been about three-and-twenty. His father was very proud of him. Both took a deep interest in Roupell Park, their building estate at Brixton. William is described as a steady young man given to learning. He is a volunteer officer and in every way a model Victorian son. The old man showed his trust and confidence in his son in every way except providing him with money.

In his last speech from the dock William complains of the privations of his early life. He draws a pretty picture of his first downward step. "At the age of 21," he says, "I incurred a debt to purchase books—that debt was contracted with one who was connected with me by the most intimate tie. My friend who lent me the money suddenly became involved in grievous pecuniary troubles which caused him to meditate suicide. I could not pay him the money I owed him. I could not get assistance, and I risked my soul to save my friend."

At this point William wept. Many in court were affected. But old Byles on the bench remained dry-eyed and unbelieving. The story was good sob-stuff for suburban groundlings, but the judicial mind had no use for it. The truth seems to have been that in 1855 William, being already deep in some speculations of his own, obtained the deeds of his father's Norbiton estate, had counterparts made which he returned to his father, and, after forging a deed of gift to himself from the old man, dealt with the estate as his own and received about £7,000.

As he had the general management of his father's

business he was able to keep the transaction from his father's knowledge. Later on there was a further forgery of deeds in connection with the Warley estate of the value of £15,000, and also a clever and complicated transaction with a forged deed of an insurance company by which he robbed his father of another £5,000.

Some of this money went in speculations, and some of it probably in riotous and extravagant living. William had chambers in St. James's Square, and it is alleged that his manner of life in London was wholly different from his course of conduct in sober Streatham. But these occasional joys were not what William yearned for. He was at present only playing the uncertain part of a walking gentleman who at any moment might be cashiered and out of the bill. He wanted to be a leading actor. With the aid of his parent's wealth this might be achieved.

All the time William was stealing his thousands the doddering old man was chuckling with glee at having so clever and cheap a manager as good Mr. William, and listening with respect to his son's stories of successful trade and speculation in London. And William was wearing out his soul in the part of a clerk of the works in a building concern, wondering when his father would have the decency to die and what further crime he would have to commit to consolidate his precarious position. He knew he was a hero and a great man. He had already done great crimes, and done them well and successfully, but there were still new worlds to conquer before he came into his kingdom.

In August, 1856, Richard Palmer Roupell, who was 74, was feeling in bad health. He had a genteel respect for his only legitimate son Richard, now a

lad of 16, and had made wills in his favour, leaving him the very estates which William had fraudulently dealt with. He now adds a codicil confirming these trusts in Richard's favour. Then on September 12th, in his lonely rooms in Cross Street, attended only by his housekeeper, Mrs. Hunnum, he takes to his bed and dies.

The sad news comes to Aspen House, Streatham. Poor Mrs. Roupell is overwhelmed with grief. Her good son takes her in a coach to Cross Street. As they jolt over the pavements, William is full of thought. The great moment has arrived. What kind of will had the old man made? Who are the executors? How can he cover up his crimes? So he sits staring, dry-eyed, out of the coach window screwing his courage to the sticking-place, while the poor widow sits sobbing dismally at his side.

Arrived at Cross Street, the woman Hunnum meets them, red-eyed, and hands the master's keys to William. Mrs. Roupell joins her tears with the housekeeper's. She refuses resolutely to go upstairs, and at the very thought of it breaks out into uncontrolled grief.

William, leaving them, goes upstairs alone. He enters his father's room. The corpse lies on the bed. He looks at it uneasily. The eyes are closed. He pulls up a blind half-way and goes straight to his father's escritoire. Quickly he turns over the papers. A will of 1840, another of 1850, and a codicil of August, 1856, lie temptingly at his disposal. He puts them in his pocket, draws down the blind, glances round at the poor figure on the bed, and with a sigh of relief carries off the plunder.

These few days before the funeral proved that in resource and daring William Roupell was among the aristocrats of crime. His ideas were great and simple

and among a world of fools such a man was bound to succeed, though the risks he ran seem to have been full of hazard.

It was obvious that if the wills, or the drafts of them, saw the light he must be ruined. Merely to destroy the documents therefore was useless. He took up his quarters in Cross Street, and alone in the house with his dead father he went boldly to work.

There was an old man named Moggeridge, living at Kennington Cross, aged 85—nearing the time when he would tell no tales. He was a collector of rents in the father's employ. William took him £5 down for mourning and asked for a receipt. He had cast Moggeridge for the part of an attesting witness. He then went to a stationer's in Gracechurch Street and bought a printed will form. He dated this September 2nd, 1856, and filled it in, devising all the property to his mother, making her executrix and himself executor.

Moggeridge's signature, as he acknowledged afterwards, he found very difficult, but he worked steadily at it, and at last satisfied himself. His own he added lightly with his gold pen to form as strong a contrast as possible. His father's signature was made with the old man's own quill and his own ink at his own desk, a dramatic touch with which William was very satisfied, as if he felt that the presence of his father in the coffin gave some sort of sanction to the forged signature.

On the day of the funeral the last will and testament of Richard Palmer Roupell, which was William's masterpiece, was read to and accepted by the few friends present without remark. Mrs. Roupell refused the position of executrix. The real heir-at-law, Richard, was only 16 and a boy at school.

William swore the necessary perjuries before the surrogate, and now had the whole of his father's estate at his sole disposal, and no one but the willing mother and young brothers and sisters to criticise his actions.

But for his overpowering vanity and craze for the limelight, William Roupell might now have retreated into safe obscurity, buried his crimes in his father's grave, dealt wisely with the great wealth at his disposal, lived as the idol of his family, the centre of suburban adulation, and passed away, deeply regretted, the type of a Victorian citizen.

But the call of the drama was upon him. He burst out into a wild display of extravagance and profusion. Among his many efforts to reach the centre of the stage he had the curious ambition to become a Member of Parliament. He stood for and was returned as Member for Lambeth. He had no political views of any importance, except that he seems to have been shocked at the immorality of opening museums on Sunday.

Criminals are often punctilious in outward religious observance. The only claim Roupell had to the franchise of his fellow-citizens was through his wealth. Money was spent like water on public-houses, canvasses, committees, printers and any other form of expenditure that could debauch the constituency. For a few weeks he tasted the glory of political limelight at a cost of £10,000, and then faded away into the familiar obscurity of the unknown M.P.

Of his other extravagances and struggles to keep in the public eye, nothing seems to remain but vague stories of ridicule. The "Wiscount," as *Punch* nicknamed him, was rather a lamentable, tawdry

figure of buffoonery than anything dignified and heroic.

But the climax came, and with it the situation that the suburban actor had waited and worked for. In 1862 he had wasted everything he could lay hands on. He resigned Parliament, boldly announced his crimes, and fled to Spain.

The last act of the drama opens at Guildford Assizes. Young Richard Roupell, the legitimate heir-at-law, is now twenty-one. He lays claim to the Norbiton estate, endeavouring to eject one Waite, who holds under the title of the forged deeds.

Serjeant Shee opens a case that amazes the world. He details the forgeries and asserts that he can prove them, and admitting that his client would have no title if the existing will is valid, undertakes to prove that that, too, is a forgery of William Roupell.

Bovill and Hawkins for Waite are there to object and hinder the Serjeant in his evidence. They suggest that William is merely a liar and no forger, and that the case is a sort of conspiracy against their client. Anyhow, they confidently challenge the Serjeant to put William Roupell in the box.

The case drags on its weary length, and the jury full of sympathy for Waite, are not greatly impressed with the chain of evidence produced. At length Serjeant Shee rises and in solemn tones says: "Call William Roupell." The crowd in court is literally breathless. Will the actual forger and perjurer come forward and confess and take his doom? A young fellow pushes his way through the crowd. He steps boldly into the witness-box. It is William Roupell.

Silently and unobserved a sheriff's officer takes his place at the steps leading to the rostrum. William is carefully dressed. He wears a frock-coat buttoned

tight at the waist. His curly hair and bushy whiskers are well groomed. He stands upright and militant, but his face wears the air of a patient wronged man who is doing a beautiful action. He tells the detailed story of his villainies with zest and dignity.

An air of sympathy surrounds the hero as the audience recognise that he has voluntarily come into the box knowing that he will never again be set at liberty and that as he takes the book in his right hand and kisses it with quiet reverence he is dooming himself to a living death in jail.

His part played out, the parties settle the case. Within a few months he makes his absolutely last appearance; this time in the dock at the Old Bailey. He pleads guilty to all the indictments, makes no appeal for mercy, but reads an unconvincing and elaborate apology for his crimes. As he had forecasted, the sentence is penal servitude for life. A few years earlier it would have been the gallows.

He listens courteously to the judge. A wan smile comes across his face as the sentence is pronounced. He looks vaguely round the court and the curtain falls upon him for ever.

Was he a repentant sinner or merely a victim of vanity?

2. CHARLES MACKLIN

Charles Macklin was the Grand Old Man of the English stage. He lived to the age of 97, or, as some have maintained, 107, and played Shylock and other leading parts within ten years of his death. It was when he was a youngster of 73 that he was cast for a star part in the law courts, which he played to the confusion of his enemies and the content and applause of the general public.

Macklin, like many another good citizen, had no

love of law and litigation. In his farce, *Love à la Mode*, he gives Sir Archy MacSarcasm—his own part—those well-known lines: “Oh, sir, ye dinna ken the law—the law is a sort of hocus-pocus science that smiles in yer face while it picks your pockets; and the glorious uncertainty of it is of mair use to the professors than the justice of it.”

The happy phrase “glorious uncertainty” fell straight into the English language, where it remains a constant libel on a great profession. But when Charles Macklin was in need of protection he appealed to the law, and, with no uncertain voice, the law, returning good for evil, did him ample justice and laid down for all time sound principles to protect His Majesty’s servants the actors from malice and persecution.

Early in 1773, when Colman was manager at Covent Garden, Macklin, with a touch of youthful egotism not unpleasing in a man of 73, wrote and suggested that he would like to play Richard III, Macbeth, King Lear, “and other parts, such as would suit his time of life.”

The old actor, sitting neglected by his fireside, is always under the impression that a new generation is thirsting to see him acting again. Thus Quin, too, when he had retired to Bath and John Rich was manager of Covent Garden, offered his services, with dignified brevity, sending the following missive:

“Dear Rich,—I am at Bath.—Yours, James Quin.” To which Rich replied: “Dear Quin,—Stay there and be damned.—Yours, John Rich.”

And some such answer Colman would, I think, have returned to Charles Macklin had it not been that the actor’s offer arrived at a moment when Colman was placed in a difficulty by his leading

actor, Mr. Smith, deserting him and trying to set up for himself at the Haymarket.

Macklin was therefore engaged, and it was expressly agreed in his contract that he should play Macbeth and Richard III. These were parts that "belonged," as the slang of the stage goes, to Mr. Smith. Therefore when Smith, having failed to get a licence for the Haymarket, returned to the camp of Colman, there were two Richmonds in the field, both claiming the right to play Richard and Macbeth.

In eighteenth-century London a theatrical dispute of this character was a burning public question.

Smith having played Richard, Macklin was announced for Macbeth. There was nothing in his performance to rouse the anger of a reasonable audience. True, he discarded Garrick's tail wig and suit of scarlet and gold which was then the regular dress of Macbeth, it being thought fitting to play the part in the up-to-date costume of an English general. Macklin, who was one of the first apostles of stage realism, played the part in a kilt and made his entrance to the music of the Coldstream March.

The performance seems to have been reasonably well received by the audience. But the Press of the day ridiculed it. Some say the opposition was set in movement by Garrick himself, who, like many another great actor of old times, was inordinately jealous, and Macklin's friends openly charged Garrick with helping to organise the anti-Macklin party.

There is no doubt that the attack on Macklin did not spring from any spontaneous ill-will or discontent of the public generally, but were the result of a deliberately planned conspiracy of his rivals and enemies.

On the first night Macklin was informed that a Mr. Sparks, the son of an actor, and Mr. Reddish, the best stage villain of his day, had both been in front and hissed his performance. For an actor to hiss another is an unforgivable offence against professional etiquette. Many years afterwards Forrest, the American actor, damned himself in the eyes of his fellow-artists by hissing Macready at Edinburgh. Macklin, at a second and more noisy performance of Macbeth, appealed to the public for protection, and, on his stating his charge against Reddish and Sparks, the theatrical world was properly indignant and sympathetic.

But now Reddish and Sparks made affidavits denying the offence, and Macklin, at a further performance, instead of withdrawing and apologising, came forward with counter affidavits of people who swore they had heard them hissing. These roused the rival parties in the audience to a frenzy of excitement, and the piece was performed amid constant uproar and interruption.

It seems possible that Macklin's friends were mistaken about Reddish and Sparks, and the actor was told as much, but he was not going to give way. He knew he was right. Throughout his long life he had never known himself to be other than right. He was like that eminent modern actor who, when a friend said, "My dear fellow, you are an egotist," replied: "No, I am not an egotist, but I *know*!" Macklin had said, "I *know*," and would never unsay it. His Irish blood warmed at the prospect of a faction fight, and he refused to make the least concession. At the trial Sparks was dismissed from the proceedings and it was not proved that he was guilty.

The anti-Macklinites were just as determined as

Macklin that they would have their own way. They would expel the surly iron-checked old fellow from the stage. He was to be ruined. At the Bedford Arms the conspirators met and planned his destruction. They were John Stephen, James and Joseph Clarke, Esquires; Ralph Aldus, gentleman; William Augustus Miles; and Thomas Leigh.

Leigh was a tailor, brother-in-law of Sparks. He was the ringleader and to the last was full of hatred and malice against Macklin. The Esquires and the gentleman were young men about town who were attracted to the affair by the more human lure of mere riot and devilry. Leigh raised a tag-rag and bob-tailed regiment of tailors and other mechanicals from the Dog and Phœnix, the Magpie, and the Antelope, and all the low beer-houses in the neighbourhood, and these readily agreed to take part in driving to hell "an old unknown villain of the name of Macklin" at the price of a shilling a head with beer and supper.

The management, hoping to placate his enemies, persuaded Macklin to appear in Shylock instead of Macbeth, and on November 18th, 1773, the curtain rose on the *Merchant of Venice*. The harmless Antonio was scarcely allowed to tell his companions, "Why I am so sad." The row began at once—a concerted attack from every part of the house, led by Leigh in the pit and Aldus in the boxes. The offending Salarino and Salanio gave up their pretty speeches in despair and were hooted off the stage with coarse threats.

Macklin himself now came forward and endeavoured to make himself heard. He was met by the conspirators with a storm of objurgations. Foul curses and threats, interspersed with hooting and yelling, drowned his voice. He threw out his

arms in appeal, went on one knee and supplicated a hearing, but in vain. The noise increased, and then an apple was thrown, hitting him in the face, and a shower of similar ammunition poured from pit and boxes, driving him off the stage.

The audience now yelled for the managers and called for Macklin's dismissal. Shivering little Mr. Colman, hiding in the green room, authorised the issue of a large blackboard, on which was printed in large white letters, "*At the command of the public Mr. Macklin is discharged.*" This was carried in and placed before the curtain.

It was not enough. The mob called for Colman, who was at last dragged forward and appeared upon the stage. Already the mob were tearing up the benches and had begun to smash one of the chandeliers. One may not blame Colman for bowing to the storm. With difficulty silence was obtained. The manager announced that it was always their object to please the public and conform to their pleasure and that Mr. Macklin was dismissed.

The mob cheered at their victory, and the army poured out of the theatre towards beer and supper at the Dog and Phœnix. Leigh, the victorious general, and his blackguard officers held high revels at the Bedford Arms, and Macklin left the theatre a ruined man, expelled from the stage for ever.

But here, as Serjeant Arabin observes, "The hand of the law steps in and speaks." Macklin consults his lawyers. Proceedings are instituted in the King's Bench against Leigh, Clarke, Aldus, Miles and others for conspiracy and riot. They are duly convicted on February 24th, 1775—Clarke of riot only, the rest of the whole information. The question of compensation to Mr. Macklin is ad-

journed and set down for hearing before Lord Mansfield on May 11th.

For eighteen months the old man had had to stand out of an engagement. What had troubled him even more was that he could not appear for his daughter's benefit, and thereby that popular and deserving actress had been seriously injured. Mob law has this in common with the Mosaic code in that it visits the sins of the fathers upon the children.

At the hearing before Lord Mansfield, that eminent lawyer laid down the rights and duties of actors and audience very clearly.

"To be sure," he says, "every man that is at the playhouse has a right to express his approbation or disapprobation instantaneously, according as he likes the acting or piece; that is a right due to the theatre; an unalienable right—they must have that. The gist of the crime here is coming by conspiracy to ruin a particular man—to hiss if they were ever so pleased—let him do ever so well, they were to knock him down and hiss him off the stage."

No actor has ever objected to the audience applauding, but here the common law right to hiss is equally maintained with sound rigour, though all good playgoers will agree that it is a right that should be very sparingly used, and only under real provocation.

Lord Mansfield was in a very stern mood with these cowardly offenders who had conspired to ruin the old actor, and was for dealing with them very roundly in the matter of damages. But Macklin, who, with all his obstinacy, was not a bad-hearted old fellow, and who was yearning to see across the footlights the grizzled wigs in the pit, and hear once more the grateful applause of an audience, picked up his cue from Lord Mansfield, took the centre of

the stage of the King's Bench, and made a generous and kindly offer of settlement to his defeated enemies.

He disclaimed all thought of revenge. He claimed that he had prosecuted the defendants out of self-defence and for a public example. He did not want money, but he wished for his expenses to be paid, and that a few hundred pounds' worth of tickets should be taken for his daughter's benefit and his own.

Lord Mansfield, who had suggested that the damages must amount to something substantially over £1000, was greatly pleased with this generous offer, and told the defendant's counsel that Macklin, in his opinion, had acted handsomely, honestly and honourably. As for the little tailor, who seemed to the last to be a troublesome proposition, his lordship, inspired thereto perhaps by theatrical example, put the fear of the Lord into his heart by promising Macklin "to bind him by a rule of court to stand committed if he ever so much as by look or word puts you in a passion."

So ended a memorable drama of the law in which an actor played a noble part in real life, upholding the rights of his profession and his public status with great dignity and honour to himself and his fellow-actors. Lord Mansfield was certainly happy and hit the spirit of the piece when he brought down the curtain on the tag: "Mr. Macklin, you have met with great applause to-day. You never acted better."

3. HENRY JAMES PRINCE

Everyone has heard of the Agapemonites, though present-day readers could not be asked to treat them seriously. A scientific modern diagnosis of their

spiritual condition would probably be based upon symptoms of hysteria and credulity.

But, like all strange sects that flourish ever so weakly, you will also find a thin thread of good and self-sacrifice running through the crazy pattern of their lives, for without that no fabric can hang together, even for the short space of a century.

The movement in England started with a curious mystic named Henry James Prince. It was a direct descendant of German mysticism, based upon what its authors called the spiritualisation of the matrimonial state. Prince was born in 1811. A weakly lad, he was from early life a fervent disciple of religious mysteries. He studied medicine in his youth, but his health forbade him to continue medical work, and in 1837 he became a theological student at Lampeter. Here, with several other enthusiasts, he founded the Lampeter Brethren, whose methods were based on those fervent missionaries, the revivalists, who from time to time have stirred the depths of Welsh religious life to wild storms of enthusiasm.

He contracted his first "spiritual marriage" with a good woman older than himself who had a great influence in his life. Then he became curate of Charlinch, in Somerset, where he had sole charge of the parish during the illness of his rector, the Rev. Samuel Starkey. This gentleman was—so he believed—raised from his death-bed by the miraculous interposition of his curate. A mild weak man, he became his preserver's second-in-command. The first Mrs. Prince died and at once Prince contracted a second "spiritual marriage" with the rector's sister.

The strange behaviour of the rector and his curate did not please the Bishop, who withdrew

their licences, and they now went out into the wide world to preach their new religion. Prince started the Adullam Chapel in Brighton. Weymouth was the scene of Starkey's operations. They made money. It became a tenet of the faith that everyone should give up his or her property and throw all their wealth into the common stock. By this means large sums of money were obtained.

The success of his methods enabled Prince to purchase a house and land at Spaxton, near Bridgewater, in the beautiful Quantock district. Here he founded the "Abode of Love." His mystic enthusiasm ran to wilder excesses. He himself became the "Beloved." Starkey and a brother of Prince's were the "Two Anointed Ones." There was an "Angel of the last Trumpet," "Seven Witnesses" and other extraordinary officials of his church. Here at Spaxton, in peace and luxury, these strange people lived their unwholesome lives, listening to the sermons of the "Beloved," worshipping him and doing his will.

That Prince, like Cagliostro, Daniel Dunglas Home, Casanova and other adventurers, had a real hold and influence over the minds of weaklings who fell into his web cannot be denied. No doubt he learned to believe in himself in his own crazy heart. Such people do. But the "Abode of Love" was by no means a spiritual paradise. Scandal attached to it not without justification. Several irate relations of the wealthy spiritual wives of Prince and his apostles made trouble, and at length, like Home, in later years, Prince found himself up against the Chancery Court, that dull prosaic machine that so often makes difficulties when enthusiastic brethren want not only to embrace their worldly sisters, and carry them into the safe harbour of spiritual matri-

mony but also to endow themselves with all their partner's worldly goods.

When Prince had been a curate at Clare, in Suffolk, he had been received into the household of a retired Bermondsey merchant named Josias Nottidge, who had five elderly maiden daughters, the youngest about thirty. These good ladies had means of their own and expectations from their father, and Prince was their pet curate. When their father died, three of these ladies, Harriett, Agnes and Clara, with £6,000 apiece, made up their minds to follow the "Beloved." It was with some of this money that he purchased Spaxton. The three misguided women were married to three of Prince's disciples without any time or opportunity to consult their friends, this being decreed by Prince to be the will of God. Starkey, one of the "Anointed Ones," gave away the brides, and Mrs. Price, Mrs. Cobbe and Mrs. Thomas, with eighteen thousand pounds of the old merchant's money, were taken into the "Abode of Love," and were henceforth entirely under the physical and spiritual control of the "Beloved."

One would have thought that even a servant of God and Mammon might have been content with a *coup* which, to the eyes of the world, had successfully countered the text in that case made and provided. But like all similar characters Brother Prince in his worldly ways was a very greedy knave. There were yet two more Nottidge sisters with £6,000 apiece, and one of them, Louisa, seemed to be of a mental character not unlikely to fall to the wiles of religious prompting.

The story of poor Louisa is set out at length in the Chancery Reports of 1860. By that time the lady had died and the suit was instituted by her

brother Ralph against Henry James Prince, head of the Agapemone in the parish of Spaxton, Somerset, to recover £5,728 7s. 7d. 3 per cent. Annuities, formerly the property of Miss Louisa Nottidge.

In December, 1845, Louisa, who was then forty-one years old, had placed herself under the religious guidance of Prince at Weymouth. It was upon the 9th July, 1845, at Swansea Parish Church, that her three sisters had been suddenly married to Prince's disciples. In 1846 her brother, with great difficulty, had detached her from Prince and his satellites, and as she appeared to him and her medical advisers to be suffering from religious mania she was in November, 1846, placed in confinement, where she remained until May 15th, 1848, when she was released by the order of the Lunacy Commissioners.

On the very day of her release she was met by Thomas, the husband of Agnes, who at once took her to Prince's broker to make the transfer of her money. There was a difficulty in carrying this through at once, as she did not know the right amount of her stock, so Thomas took her down to Spaxton to the Agapemone, where about a fortnight later the transfer was made. She seems to have lived at the Agapemone until her death in 1858, and as she had made no will her brother took out letters of administration and sought to collect her estate.

The point to be decided was whether Prince had exercised an undue influence over Louisa Nottidge by imposing a belief on her mind that he sustained a supernatural character. In order to decide the case the whole career of this strange personality was exposed by the plaintiff's counsel.

There was, of course, the story of his treatment of the three sisters, and in relation to that the threats

that he had used to the youngest bride, Agnes, Mrs. Thomas, who seemed to have been more independent than the other two. She had tried to persuade her husband to leave Prince, but had not succeeded, and on her return to the fold the "Beloved" had shook his clenched fist at her and denounced her, saying, "If ever you dare attempt to influence your husband again in acting contrary to my commands, God will crush you out of the way."

Later on, poor Agnes had fallen badly from the high ideal of spiritual matrimony by presenting Thomas, who was one of the "Anointed Ones," with a son. This had made Prince furiously angry, and he forbade Thomas to return to his wife as soon as he heard that a child was likely to appear.

The poor woman, in February, 1846, within less than a year of her ill-fated marriage, had been practically turned out of house and home, and had taken refuge with some friends named Roberts. Here her child was born. Later on, in 1850, Thomas took proceedings to claim her boy, but the Chancellor Knight Bruce, having heard how Thomas deserted his wife, and listened to the history of the manners and customs of the Agapemonites, decided that the English law was strong enough to rescue the child from temporal ruin and spiritual peril, and granted an order restraining the father from acquiring possession of the infant. In those days it required an overwhelming case of right to deprive a father of the custody of a child.

There is no doubt that, whether sane or insane, Prince once he had raised a sufficient sum of money to retire to the luxury and peace of Spaxton, arrogated to himself tremendous spiritual powers, which he announced to the slavish household around him with blasphemous self-confidence. The

“Beloved” was a being to be worshipped; he declared that he was immortal and could not die, and he assumed the false character of a god. The poor Louisa, when she left the asylum, was, as the Commissioners pointed out, still suffering from delusions. She had told them that she did not now pray to God as there was no use in it. She acknowledged she believed the tabernacle of God to be upon the earth, that Prince was that tabernacle, and that the Spirit of God dwelt therein, Prince’s original spirit being extinct. The doctors had indeed only released her from the asylum on the ground that her confinement was affecting her bodily health.

That a gift to this supernatural power, made within a few days of her release from an asylum, when the woman was under insane delusions as to the donee’s real character, could stand in any court of law was impossible, and Vice-Chancellor Stuart decreed that the money must be paid over to the lady’s brother.

In his judgment the Vice-Chancellor hazarded the suggestion that the man Prince may really have believed in the character he had assumed, but that was, of course, quite immaterial to the issue he had to try. It occurs to one’s mind at once that if Prince had been a mere rogue, fully aware that he was robbing Louisa Nottidge of her money, he would have had intelligence enough to put the money in other hands. Then, again, one remembers that even great criminals are strangely negligent in their methods, and Prince was not the type of character to trust anyone but himself with the keys of heaven or the keys of the safe.

It is satisfactory to know that he was made to disgorge, but it did not bankrupt Agapemone. Many years afterwards Hepworth Dixon visited

the "Abode of Love," and he leaves us a pleasant picture of the "Beloved," a gentleman of fifty-six, dressed in black, with broad white neckcloth and shiny leather shoes, whose sweet grave face smiles a kindly welcome to him. He is seated in the centre of a formal semicircle, where he presides in state, the "Anointed Ones" and the holy sisters, according to rank, sitting on each side of their lord, who seems rapt in his own dreams.

There are sixty souls in the "Abode," he tells Dixon, and it is God's will that they shall be saved, and all beyond its walls lost for ever. They are saved, he repeats, and will not die. He himself was assured that he will not die, though he acknowledged that death had occurred at Spaxton owing, as he thought, to some error in the way of life of the deceased.

A child toddles across the lawn. Hepworth Dixon looks at it with smiling interest. "Satan's offspring! the triumphs of the devil!" said Brother Thomas, with emotion, thinking perchance of his own child, from whom the doctrines of the "Beloved" had separated him for ever.

But there was certainly a little child at Spaxton, and there were menservants and maidservants and wine and good food and horses and carriages and hot-houses and pleasure-grounds and all the amenities of a pleasant country house. The Agapemonites had a certain amount of common sense and human nature in their disposition after all.

Prince, the deathless founder of this wonderful sect, grievously upset his followers by joining the majority on March 8th, 1899. But they were a plucky crowd and refused to be daunted. So they elected the Rev. T. H. Smyth Pigott as his successor, but he in turn has passed away.

CHAPTER SIX

CONCERNING FARCE

1. MRS. FOXBY.
2. THE TENPENNY.
3. PIGOTT.
4. WHISTLER *v.* RUSKIN

FOR a lawyer to speak of farce in connection with litigation and trials savours of contempt of court. Yet there are cynical publicists and merry journalists who persist in presenting to the world all litigation as a pickle-herring farce, in which the parties are humorously ruined that cannibal lawyers may feast on their remains. At such extravagant heresies my orthodoxy revolts.

At the same time I cannot deny that there are aspects of cases tried in the courts which have in them the true essence of farce. Farce, I take it, is an entertainment whose chief interest is to move the onlooker to uncontrollable laughter, to poke healthy if extravagant ridicule at absurd people, to exhibit human beings in nonsensical positions and to entangle them in adventures of blundering tomfoolery and piteous mischance.

Do not forget that, but for the extravagance of the business and its native imbecility, a good farce would draw tears to your eyes, since the woes of the hero are the best part of it and must be as real and logical as they are preposterous. This is why nearly all farces are written round male actors, for an audience would not be moved to laughter at the

cruel adventures of lovely woman—*aliter* perhaps of the plain and middle-aged spinster aunt variety.

It is this touch of cruelty in farce that makes it so human and yet inhuman. The clown, with his red-hot poker—a repetition perhaps of the medieval devil—is typical of all farce, and the aspect of cruelty and the herd instinct of the audience, emptying their lungs of laughter over the comic miseries of their victim, is present at all legal farces.

The spirit of farce in the stories of Mrs. Foxby and the Tenpenny consists in impudence outwitting the dignity of the law. Pigott, as comic actor, literally convulsed a crowded court with the wildest outbursts of laughter, yet beneath his buffoonery the seeds of tragedy were already sown. In *Whistler v. Ruskin* you have the law lending itself to a farcical contest of the most delightful absurdity to the world at large, some of the dialogue of which is worthy of Sheridan at his best.

In each of these legal dramas the farce springs from the unerring human instinct that finds food for boisterous laughter in the folly and misfortunes of absurd people.

I. MRS. FOXBY

An amateur. Granted. But what self-effacement, what super-modesty!

It was in the first year of the reign of Good Queen Anne that Mrs. Foxby was indicted for being a "common scold" at the Maidstone Quarter Sessions. She was found guilty and ordered to be ducked. I read in a modern law book the other day that it is still an offence to be a common scold, and that the proper punishment is to place the culprit in a certain engine of correction known as a ducking stool.

It seems to be the peculiar privilege of woman to be a "common scold." The offence is legally of the feminine gender. A man may be a common bore, of course, but this, though a nuisance, is not an indictable nuisance. Moreover, occasional and spasmodic scolding does not count; even marital nagging, which a great lawyer has defined as "the continued reiteration of unpleasant truths," would not be sufficient to support an indictment. To entitle a lady to be carried to the ducking stool she must have attained public notoriety for the abuse of language and the strength and power of the tongue.

What the actual evidence was against Mrs. Foxby history does not record, but she was duly convicted, and the good people of Maidstone looked forward to the free entertainment of seeing the lady carried to the chair and dipped into the Medway as many times as the Sheriff's officer thought desirable.

Spectacular effects like these were very dear to our ancestors, who understood and enjoyed to the full these jolly endings to a legal drama. There is less colour and movement in the legal drama of to-day, but in the good old times the judicial impresario knew how to cater for public entertainment. There were cunning managers in the legal theatrical business who knew what the public wanted and gave it to them.

How little remains nowadays of splendour and glory in the mounting of legal drama! True, our judges still dress up in different coloured robes and honour rascality with royal red and erminous tippets, and assume a black cap at the solemn sentence of death.

When they play in the provinces, too, and "go circuit," as the phrase is, they mingle the legitimate

with popular circus effects akin to the Lord Mayor's Show. They have a gilt coach to ride in, with four prancing circus horses; a sheriff, with a cocked hat and feathers, to take them to court; a sleek chaplain, in gown and bands, to say grace for them at dinner; trumpeters to herald them, and javelin men dressed like beefeaters to keep back the gaping and delighted mob.

It was Falkner Blair who, when taking some ladies round the Manchester Assize Courts, came across a number of the javelin spears resting against the wall during the luncheon hour, and replied to their questions as to the use of these weapons: "My dear ladies, very few people really know, but those are what the judge charges the grand jury with."

Our forefathers not only dressed their judicial characters bravely in red and gold and powdered wigs, but they took care that every legal drama should wind up with a splendid spectacular show to delight the simple, pleasure-loving mob.

Wednesday was a great holiday in London in the days of good Queen Anne. There was generally a procession on that day to Tyburn and a few executions there. You might take up your stand at Newgate and see the prisoners put in their carts with their coffins, or you could meet the dismal procession at St. Sepulchre's, where friends of the leading actors threw them nosegays as they do on the last night of any other play.

It was a free show. There was nothing to pay and no entertainment tax. The streets were full of barrow and stands for the sale of gin and gingerbread and nuts and apples, and ballad-mongers singing a last lament, and boys shouting broadsides containing the last dying speech, which some starving author had written in a Grub Street garret.

Wednesday was a right jolly holiday for the London mob in those days, and then how edifying it was—at least, the judges and the clergy said so, and they ought to know.

But if you had no stomach “to see a man swing at the end of a string,” there were lots of minor entertainments of a similar character. You could go to Bridewell, for instance, and see the women whipped by the men in blue, and watch the old alderman poising his hammer in the air, and the wretches crying out, “Knock, good Sir Robert, knock!” for when the hammer fell their torture came to an end.

That was real sport and a fashionable spectacle that everyone went to see. And, of course, there were often jolly sights to see in the streets when men and women were whipped at the cart’s tail or put in the pillory. So that, when you come to think of it, there was a lot of first-class free theatrical entertainment of a spectacular character for the fortunate Londoner, and legal drama of that sort was exceedingly well put on.

In the country towns, of course, there was less fun going on. No doubt the good folk at Maidstone turned out on occasion when there were culprits in the stocks to torment, or vagrants tied up to the whipping-post. The magistrates at quarter sessions did their best to provide what entertainment they could, and so intent were they on providing suitable amusement for the people that they took care that there should be no alternative fine or imprisonment for Mrs. Foxby, and she was sentenced to a ducking and nothing but a ducking.

You may find ducking stools in one or two county museums. Some are on wheels, so that you can run them down to the edge of the river at a

convenient place, where the populace can sit on the banks and hang over the bridge and see all the fun of the fair. Others are fixtures at the edge of the village pond, and these had to be padlocked, for the children used to play at ducking each other, and their little dramas sometimes ended in disaster.

Mrs. Foxby was not only a "common scold"; she was one of those advanced women who cause a lot of trouble in their generation by refusing to accept the laws and customs of the country they live in in a proper and submissive spirit.

I gather also from the report of her case that she had money to spend in legal proceedings; otherwise, had she been a poor woman, she would have been ducked and done for without delay. Mrs. Foxby was determined not to be ducked if she could avoid the ceremony, and she instructed her solicitor to move in arrest of judgment in London. The point her lawyers raised was that the prosecution had called her by the wrong Latin word for "scold" in the indictment.

This motion came on for hearing in Trinity Term, 1702, and judgment was arrested until Michaelmas; but Chief Justice Holt seemed to think that ducking would be the end of it, for he pleasantly reminded her counsel that ducking in Trinity Term would be less irksome than at Michaelmas.

In order to get rid of the punishment altogether Mrs. Foxby had now to get a warrant from the Attorney-General and bring a writ of error to quash the indictment. Meanwhile the Sheriff let her out on bail.

The lady now took to her bed and called in doctors to make affidavits, and there were several hearings before the courts, the judges insisting that Mrs. Foxby must appear in person. The law of

scolds was solemnly discussed and so was the penalty of ducking.

The Chief Justice, perhaps with a knowledge of the chalky nature of Kentish soil, thought the waters of the Medway might harden the lady. One judge expressed doubts about the legality of ducking, but that idea was not pressed. They all seemed to think that a common scold must be ducked by English law, as long as you called her by the right Latin name in the indictment. And the farce of this case was not the slap-bang knock-about of the ducking stool but the punning quibbles of the pedantic legal dramatist.

Personally, I enjoy pulling down these old forgotten volumes of law reports and ambling along the paths of judicial wisdom, considering thoughtfully whether a common scold is to be called *communis rixa* or *rixatrix* or *calumniatrix*. It must have been a pleasant way of earning your living to get fees and refreshers for talking through your wig about such utterly futile propositions. But one has to treat these farcical points seriously even in an up-to-date legal drama of to-day.

It took twelve months to decide Mrs. Foxby's point, but ultimately the court decided in her favour, the indictment was quashed, and the good folk of Maidstone were done out of their entertainment.

I have no reply to those who say she was a selfish woman and wanting in public spirit. But there is another aspect of this legal drama which is worth a moment's thought. This law of "common scolds" and the punishment of ducking women was a survival of those ancient man-made laws which regarded woman as a chattel, to be sold or beaten or treated as a thing, rather than a person, at the pleasure of man.

Mrs. Foxby would not play the spectacular rôle assigned to her, because she wished to play the heroine in the greater problem drama of the evolution of woman's freedom. And she succeeded. I cannot find a later case in the books about a "common scold," and the attention called by Mrs. Foxby to the matter, and the gentle raillery of the Lord Chief Justice, may have convinced the age of reason that these proceedings were even then already obsolete, or, in other words, that the law in these cases was a worn-out farce.

I am glad Mrs. Foxby won her case, but I am sorry for the inevitable disappointment of the Maidstone audience waiting on the banks of the Medway.

2. THE TENPENNY

The dramatic theme of this farce is a very old one. Persecuted humanity, insolently spurned and bullied by authority, breaks out in rebellion. There is a revolution. The aristocracy of Whitehall receives a rude buffet from one of its lackeys, the complacency of the gods is rudely disturbed, they run whining to the police and claim the protection of the law only to find that they have omitted to make or provide any law for their own protection against their own negligence. The magistrate waves the prisoner aside with a bland smile. The world chuckles aloud. The tame bureaucratic fowl flutter their wings and run away to tell the King the sky is falling, and, as no one is a penny the worse when the curtain falls, the audience walk home well pleased with an afternoon's amusement at Bow Street. Once again the Press beats bureaucracy at its own child's game of hide and seek.

Many readers will remember Charles Marvin, the

hero of this little farce, as a sage publicist and writer on the affairs of Europe and Central Asia. His early struggles, the sordid romance of his youth in London, and the memory of his encounter with the law are long forgotten in admiration of his brilliant books about Russia and the East.

You must picture him in your mind as a sort of Copperfield. He is working as a lad in a warehouse in Watling Street. Then, at the age of sixteen, he joins his father, who is an assistant engineer in Russia. In Russia he travels many thousand miles, visiting all the great cities. He learns to speak and read the language like an educated Russian, studies and becomes an expert in other European tongues, and after six years he returns to England in 1875 equipped with a knowledge and experience of Russian affairs that few Englishmen possess. He has already been a correspondent of the *Globe* newspaper, and he looks forward with some justification to obtaining a place in the Civil Service of his country, where his knowledge of languages and foreign affairs might be useful.

It was a time of great hope for aspirants to the Civil Service, which, through patronage and jobbery, had well deserved Charles Dickens' vivid genre picture of the Circumlocution Office. But new notions had been put into men's minds by the facile promises of politicians. Gladstone, bareheaded, pale and resolute, had mounted a tub in Blackheath, and announced to the cheering mob the joyful news that henceforth patronage, jobbery and favouritism were swept away and a new era had dawned in Whitehall: any son of an Englishman could now compete for public employment irrespective of the question of his condition in life or the amount of means with which he might be endowed. These

glad tidings had reached Marvin's ears. His educational equipment was of a far higher standard than that of the general Civil Servant, but he had neither money nor influence. Nevertheless, he had hope and a simple belief in Gladstonian eloquence. Full of dreams of a glorious public career he presented himself for examination at Cannon Row.

Here he found a ragged army of lads fresh from school and clerks out of place, but everything must have a beginning, and he remembered that Gladstone had told him that henceforth the Civil Service was "the property of the nation," so he planked down the five shillings that Cannon Row demanded to satisfy the Treasury thirst for fees and passed with ease an elementary examination. He then presented his testimonials and medical certificate, and on January 10th, 1876, became a full-fledged Civil Service writer. That was indeed a fateful day for Russia and England, Salisbury and Schouvaloff!

Our young hero was now part of "the property of the nation," and as such he was entitled to tenpence an hour by way of remuneration, and was therefore known in the slang of the service as a "Tenpenny." "Tenpennies," or temporary writers, were sent out to such Departments as required them. Marvin's first job was at the Customs House. Here, in a dirty low-pitched room on the fourth story of a house in Thames Street, he added up entries in export books amid the amenities of Billingsgate.

He soon found that promotion by merit, so glibly promised on the hustings by the "old man eloquent," had not yet been put into practice in Thames Street. The clerks at higher salaries did much the same work that he did. They set the stroke at which the work was to be done, and woe

came to him who desired to increase the pace. A "Tenpenny," he discovered, would always remain a "Tenpenny." He was a month or two too old to pass a second-class examination, and could not even aspire to be a thirty-shilling-a-week permanent writer. Kindly but firmly the head of the Department told him that no service, however prolonged, would give him any claim on the office, and he had no prospects of promotion. That was the truth and the whole truth of the Gladstonian perorations.

And now we must imagine an ardent young soul embittered by the irony and cruelty of official affairs. It must be confessed that Marvin's attitude towards the Service, though philosophic, was not quixotic. He was not endowed with the spirit that humbly turns the cheek to the smiter. On the contrary, he was full of that turbulent egotism that delights in tapping the smiter on any knob of his anatomy that he leaves unprotected.

The work was child's play to him. He could do in two hours what the average barnacle toiled through in a day. He hated dawdling, so having done five shillings-worth of work in two hours he devoted the rest of his office hours to the study of European politics and the practice of journalism. He hated with loathing and contempt the system of which he was a victim. He saw that writers could not become clerks; clerks, however able, could not obtain promotion but had to wait their turn, for the official rule was that, no matter how imbecile a Civil Servant was, his weight of years carried him along from post to post until he dropped automatically into the pension basket.

To a travelled scholar and man of the world all this seemed exquisitely absurd. He could have laughed

at the farce of it had he not been cast to play a degrading part in the drama. The iron entered into his soul. He cursed the short chain of poverty that fastened him to the office desk. But, as yet, journalism could not feed him, and the tenpences were necessary to his life even at the cost of degradation and hopelessness of his tasks. It was in this frame of mind that, after a transfer from Billingsgate to the Dog Section of Somerset House, Marvin was sent to the Foreign Office.

Here he had more interesting work to do, but the future outlook was no better. He was still a "Tenpenny," drawing £78 a year, with £10 allowance on account of his knowledge of French. And now came the temptation and the great adventure.

This brilliant young man of four-and-twenty was already making a name for himself as a free lance journalist, contributing articles of an expert character on foreign affairs in the East. He had ideas of his own on the subject of foreign policy which were not in accord with those of Lord Salisbury, our then Foreign Minister.

In May of 1878, Count Peter Schouvaloff was Russian ambassador in England, and he and Lord Salisbury, unknown to the world, were concocting a treaty.

Marvin had a deep hatred of the "Russian Ex-Inquisitor," as he called him, and believed that any treaty made with him would be a bargain to England's dishonour. At this crisis in his life he was called upon by one of his chiefs to copy portions of this new treaty, and was ordered to read over the whole document in order to compare one copy with another. Marvin had studied Stokes' well-known memory system, and by this means memorised not only the portion of the treaty he had

copied but the passages he had read over to his fellow-clerk.

In the office, it must be remembered, this was not called a Secret Treaty. Marvin was told that it would be sent in good time to the papers. His action cannot be defended, but it was not a mean action. He was not prompted by a spirit of levity or greed, but no doubt he was actuated by a desire to expose the folly of his well-paid superiors as well as to warn the public what was being done for them behind their backs.

His friends of the Press were kind to him and gave him more encouragement than his official superiors. He fully considered the future, and making up his mind that he had had enough of the life of a "Tennypenny," he walked down the Strand to the *Globe* office and handed to the editor a full summary of this astonishing treaty.

When the good work of a Department is brought to light the bureaucrats are often covered with modest confusion and seek to belittle their own good deeds. Like the excellent Mr. Allen they

"with an awkward Shame,
Do good by stealth and blush to find it Fame."

So was it here, and when Earl Grey in the House of Lords asked whether there was any truth in the summary in the *Globe*, the noble Earl of Salisbury, who had just come away from hobnobbing with Schouvaloff over the tea cups, put his hand upon his heart and assured their Lordships that the statements "were wholly unauthenticated and are not deserving of the confidence of your Lordships' house." I do not fancy this phrase really deceived anybody in the political world. The mere fact that the use of the official jargon, "the answer in

the negative," was departed from made the Tadpoles and Tapers of Westminster nod their heads, shrug their shoulders and wink the other eye.

But our good simple Marvin was intensely annoyed. His honour as a journalist was at stake. Lord Salisbury had charged him with purveying false information. The soul of the man was full of wrath and he was bound to defend his honesty and his livelihood. Accuracy is the chief asset of a journalist, and Marvin felt that he must prove his innocence to his employer. Lord Salisbury could not have foreseen this dilemma when he uttered his unfortunate prevarication. The head of a great Department knows nothing of "Ten-pennies," and even if Lord Salisbury had ever heard of this particular "Tenpenny," the notion that he had a soul and would be injured by an official falsehood would never have occurred to his aristocratic mind.

Marvin did not sit down under the insult. He made a complete copy of the treaty and handed it to the *Globe*, providing the world with a high-class political sensation and illustrating to the man in the street the moral value of Departmental Parliamentary statements.

Marvin made no secret of his *coup*. The highly paid heads of the Foreign Office met together and sent for police and lawyers. The former seized his papers and his person and threw him into a verminous cell in King Street, the latter pulled down their law books to prepare an indictment against him.

But, though the power of bureaucracy is great, the power of the Press is also a force in the world. Lying in his unpalatable cell, a friend whispers to him through the door that the *Globe* have hired a

champion to do battle for him by the name of George Lewis, and that bail will be provided. The Crown lawyers get busier than ever over their books when the name of George Lewis is mentioned. They determine to charge Marvin with larceny of the treaty or of the Foreign Office paper on which he wrote his copy. After all, they said, he must have done something—but what?

When the matter is heard, the wise old magistrate, Mr. Vaughan, is clear that no crime has been committed. There was no evidence of larceny, no evidence that Marvin had been warned to secrecy. If you leave these mighty State affairs in the hands of "Tenpennies," what can you expect? Once more Marvin scored an easy victory and at the end of the police court scene the Departmentalists walked off the stage to shouts of contemptuous laughter.

But to thoughtful minds the publication of the worthless treaty and the careless handling of State papers were not the real tragedy in the life story of a "Tenpenny," but the public advertisement of the fact that the system of our Civil Service had no power to assimilate a clever, brilliant young citizen who had neither friends nor the money to secure him the place he deserved, and that the chiefs of the Foreign Office had no appreciation of exceptional ability and not the least desire to retain it for the services of the Empire.

3. PIGOTT

Richard Pigott was the demon in a legal pantomime. He was also a clown and a mountebank, convulsing the court with laughter by his foolishness. Forger, liar and thief, this wretched creature, like an evil spirit, poisoned the political atmosphere

of the country for many months, tempting the wiseacres of the world into malicious indiscretions, and bringing the curtain down on a squalid farce with a note of tragedy.

Born in County Meath in 1828, Pigott made a place for himself in Irish journalism. Had he died at fifty he would not have been known as a scoundrel. He owned newspapers, published patriotism, milked the Fenian funds to live luxurious days, ate, drank and entertained extravagantly, was semi-popular, unrespected, tolerated as a useful party man.

Then Parnell came. Having no use for the creature and no pity, he refused to buy him at any price; preferred to destroy him. Boycotted his newspapers, and then bought them cheap and let him go to the devil—which he did.

Downhill he went, struggling to keep in comfort four motherless children whom he adored. Became a hack writer for Government papers, sank lower, drifted into the begging-letter business, sank again to blackmailing, fraud and a vile trade in obscenities.

At the brink of the pit came the greatest temptation of all. Money, luxury for self and children, gratitude of honourable and right honourable politicians and, sweetest of all, revenge on Parnell, if only he would find and produce to them Parnell's correspondence with the Fenians in America.

That it was there to be found, like Eldorado or the Holy Grail, was beyond doubt. He, Pigott, knew it. The right honourables were certain of it. They fill his purse with money, and Richard with a lady friend starts gaily on his quest, travelling France and America full of the joy of life.

Still, even in politics, there comes a day when goods must be delivered. Pigott had taken the measure of his right honourables, recognises their

capacity of self-deception and fools them to the top of their bent with black bags, in Paris, stuffed with incriminating documents, and mystery men waiting for heavy bribes.

More money passes. Pigott hands letters of Parnell to one Houston, a political personage, and on April 18th, 1887, *The Times* startles the world with a facsimile letter of Parnell, in which he is made to write: "Though I regret the accident of Lord F. Cavendish's death, I cannot refuse to admit that Burke got no more than his deserts."

The world stands amazed. It is unthinkable that *The Times* should publish a forgery and hardly thinkable that Parnell should be among the murderers. Liberals grovel and growl. Unionists galumph around. The political atmosphere crackles with electrical excitement.

Parnell remains calm, strolls down to the House in the evening, having heard nothing of the business, looks at *The Times* in the library, shakes his head, remarks to Tim Harrington that he "never made an S like this since 1879," and dismisses the matter with contempt.

Not so the man in the street, who is puzzled at Parnell's indifference and left cold by his denials, thinking that if a man would approve murder he would deny anything. Moreover, was it not in *The Times*? So, for a year and more, the world remains in doubt, but deeply stirred, wondering what is the truth of this Parnell letter.

At length the Drama of the Law begins. The curtain goes up, "discovering" Justices Hannen, Day and Smith, a Commission to inquire into Parnellism and Crime. Webster and Henry James, Russell and Asquith champion the two causes. They begin drearily enough with old tales of Irish

politics. To the public all this is but a curtain raiser. The real drama is the truth and falsehood of the letter.

Rumour has it that Sir Richard Webster is funking the issue of the letter. Labby's name occurs in club conversations. George Lewis, Parnell's solicitor, is said to be "on clover" by knowing ones who know nothing. There are even a few who have heard stories about a man named Pigott.

Not until the fiftieth day does the play begin.

Enter Mr. Soames, solicitor to *The Times*. The buzz of conversation is hushed, and is not heard again for many a day. Soames produces the letter, but knows nothing of its origin. He had it from Macdonald, *The Times* manager, who had it from Houston, who had it from one Richard Pigott, to whom large sums were paid. He had trusted in these men.

Enter then Macdonald, the business man, proud of his journalistic scoop. But inquiries? No! He had trusted in Houston and the good Pigott.

Enter now Houston, political official. Surely he will know something more? He tells a thrilling story of a meeting with Pigott at an hotel in the Avenue de l'Opéra. There are men downstairs, with a black bag and letters in it, waiting for gold, which is paid over. But, alas! he himself saw no one but the excellent Pigott, in whom everyone has faith.

At last, on the afternoon of the fifty-third day, the real hero of the drama enters the box. A comic figure enough. Short and stout, round-shouldered, shiny bald head, plenty of white whiskers, fleshy features, eyes wide apart, and an eyeglass screwed into one of them. Benevolent-looking and elderly, "like a church deacon," says a spectator.

Webster leads him gingerly through biographical details, travels in France and America in search of letters, discovery of same, sale to *The Times* for over a thousand pounds and expenses. Then he discloses to a breathless audience meetings with Labouchere, Parnell and George Lewis. Pigott's story is that these men tried to bribe him to say he had swindled *The Times*, but his virtue was adamant. So absurd are his statements and so obvious his lies that the audience rock with laughter at them. The President intervenes with rebuke—Pigott smiles uneasily, Sir Richard Webster is glad to sit down.

Sir Charles Russell stands upright before this puffy, ridiculous person. For weeks the great advocate had been waiting, nervous and irritable, for this moment. He has ammunition enough, perhaps, but will it hit or miss?

He holds out to Pigott a clean sheet of paper. Invites him to be seated. Asks him to write several words which might have significance, and then, as an afterthought: "Lower down, please, leaving spaces, write the word 'hesitancy'—with a small 'h.'" Pigott wrote.

Russell took the paper and looked at it. He knew then that Pigott was the forger. For in one of the forged letters "hesitancy" had been written "hesitency," and again Pigott had made the same blunder.

Russell had lost all nervousness and irritability. He dived into the armoury that George Lewis had provided, and with the marvellous skill of a great cross-examiner dragged out of the lying wretch bit by bit the truth of his crimes. He holds up the witness to his employers, his advocates, the audience, the court, and the listening world of England and

America, and gibbets him as liar, forger and black-mailer. His listeners almost pity the dazed, bewildered wretch who wanders about aimlessly in a maze of falsehood of his own building.

On the next day it is driven further home. He is told in detail how he forged the letters, tracing actual phrases in genuine letters. He denies it uneasily, shuffling about in the box, grimy, clammy and pale. A whole series of begging and black-mailing letters written to Archbishop Walsh and Mr. Forster, Irish Secretary, is put to him. The poor wretch stands helpless, confused, incapable of coherent answers.

Bursts of merriment followed the outrageous lies of his letters and the folly of his explanations. When, in a last blackmailing letter to Forster, begging for £200 with which to emigrate, he tries a note of pity: "I feel this is my last chance, and if this fails only the grave and the workhouse remain," a loud roar of laughter stopped the proceedings, and it is recorded that even Mr. Justice Day bent forward shaking over his desk.

Sweet are the uses of cross-examination. The court adjourns. The man who had deceived the world for two years and lived bravely on the proceeds of his infamy slinks out of the box stripped of every rag of character and reputation and known to the world as a villain.

This was on Monday night. The court did not meet again until Tuesday.

It is a full house, packed to suffocation. The judges take their seats. Sir Charles Russell is waiting like a greyhound in the slips. But the hare? There is a silence of moments. The President looks at Sir Richard Webster, who consults his colleagues. Then he rises and mumbles a few words which are

but ill-heard. The sport is over. There is no hare. The witness has fled. The farce is over. But not the drama. The curtain rises again on two scenes of tragedy.

In the hall of the Hôtel des Ambassadeurs in Madrid the hotel interpreter tells a stout, florid Englishman, who has just come in from a visit to the museum, that the police are waiting to see him. He will be with them in a moment. He slowly climbs the stairs of the hotel, muttering prayers. He enters his room and locks the door. A shot is heard. Richard Pigott is dead.

And another scene. On the floor of a cheerful nursery at Kingstown four little children are playing with little toy yachts and tricycles. A good house-keeper hears the boys shouting the news in the street. She looks in pity and dismay at the orphan children, and buries her face in her hands.

4. WHISTLER *v.* RUSKIN

You may regard the trial of Whistler *v.* Ruskin, which took place in the old Westminster Courts in 1877, as a personal duel between two angry men, or the clash of eternal principles voiced by apostle antagonists, or merely a society farce that amused the quidnuncs and gossips of the West End clubs. But at least it revealed for the first time to a larger world the strange personality of James Abbott McNeill Whistler.

And in spite of the evil passions it aroused in the combatants at the moment, I can well believe that, somewhere in the shades on the far shore of the River Acheron, Whistler and Ruskin are laughing together in friendly fashion over the insane folly that lured them into the indiscretion of litigation. For, indeed, in the world of art they should have

been true brothers, like Castor and Pollux setting forth hand in hand to find the Golden Fleece.

It must have been some tricky spirit of mischief that filled their hearts with hate and fury and set them on to buffeting each other with bigwigs. Many such quarrels seem to arise from a different quality of humour in the opponents. You cannot expect a churchwarden to chum with a harlequin, though each may be intensely interested in some common pursuit. In this way Gladstone and Disraeli were as oil and vinegar to each other, though each was a Statesman of high ideals. To Ruskin art was the most serious thing in the world, after the Protestant religion, and he had spent his life preaching his gospel of art. Whistler rightly symbolised himself as a butterfly. But he could *do* things that Ruskin could only write about.

Ruskin, in 1877, was at the height of his fame and authority as an art critic. He was the only son of a well-to-do and entirely honest merchant, brought up in wealth and comfort and allowed to devote himself from early Oxford days to the study and criticism of art. Now, at the age of fifty-eight, he was regarded by the British public as a writer of apostolic authority, and when vexed by the follies of the age he wielded his pen with savage freedom in denouncing anything that did not at the moment meet with his approval. He was in all things a violent partisan, and was not endowed with the judicial temperament.

The fame of Whistler was something quite otherwise. Thanks to his own eccentric conduct he was known to the world at large as a mountebank artist who painted incomprehensible pictures, which he perversely called "nocturnes," or "arrangements," in divers colours. Many of his own craft recog-

nised the wonderful colour of these pictures and their grace and beauty. Among a young generation of students, a somewhat crazy and unbalanced set, Whistler was worshipped as "The Master," and in his capricious fashion Whistler allowed these youngsters to air their follies in his train, earning thereby the contemptuous laughter of the outer world. To the mind of the contemporary Philistine the legends about "The Master" pictured him as a kind of modern Mephistopheles.

His everyday appearance in the streets of Chelsea and such public galleries as he occasionally attended made the stodgy British public distrust the man. He looked like a Svengali or a Daniel Dunglas Home, and rather rejoiced to exaggerate his romantic exterior. He was proud of his great mass of black curly hair, with the uncanny effect of the famous white lock flaunting over his brow. He was daintily particular about his clothes, wearing strange-shaped hats and a long overcoat, and carrying in his yellow-gloved hand a slim wand for a cane. He was a picturesque figure, and he knew it, and like a festive child was pleased to attract attention in the streets, though to his disciples he grumbled at the manners of the mob. He was to the last an aggressive American, out of sympathy with the country of his adoption, mischievously bent on confusing the stolid British citizen and angering him with an impudent stare of contempt through his characteristic monocle.

This was the Whistler he gave to the world, but there was a real Whistler who was a very different character, and if, as nearly occurred, Ruskin had met this other personality at the house of a mutual friend, this lawsuit might never have happened. Whistler was a kindhearted man to the rare few

that were honoured by his friendship, but he was swayed by a childlike jealousy and could not accept anything but the most wholehearted fealty. Like Ruskin himself he was a great lover of little children, and both men were devoted sons of their adoring mothers. Each has used his art to express his adoration. Ruskin has left us a pen portrait of his mother in "Praeterita," and Whistler immortalised his mother under the cold unfilial title of "Arrangement in Grey and Black."

Whistler himself acknowledged in his later days that he had made a practice in surroundings of antagonism of wrapping himself for protection in an atmosphere of misunderstanding. With strange caprice he chose to display himself to the world as a scatter-brained eccentric, with a rare power of uttering sardonic witticisms about the commonplace citizens among whom he lived. He could hardly expect them to love him.

Bearing all this in mind, it cannot be wondered at that the journalist art critics were not very friendly to "The Master." They were not as a rule men of very expert knowledge, and Whistler revenged himself handsomely by printing their dissertations of his art in a catalogue that is now of some value.

Here we find that when he gave an exhibition it was called "another crop of Mr. Whistler's little jokes." His paintings were "beyond the understanding of any ordinary mortal," they were "eminently vulgar," and it was a mild thing to say of him that he was an artist "of incomplete performance." But Ruskin went further than any of the others. At the opening of the Grosvenor Gallery by Sir Coutts Lindsay, Ruskin sat down and wrote in a paper called *Fors Clavigera*, a periodical supposed to be addressed to working men readers, and not in

any sense an art journal, that Sir Coutts "ought not to have admitted works into the gallery in which the ill-educated conceit of the artist so nearly approached the aspect of wilful imposture. I have seen and heard much of Cockney impudence before now, but never expected to hear a coxcomb ask two hundred guineas for flinging a pot of paint in the public's face."

The picture referred to was the "Falling Rocket at Cremorne Gardens," and this and other nocturnes, which were so eloquently derided by the critics, are now acclaimed as masterpieces of the highest merit, and hang in dignity in national collections alongside the work of the great masters of all ages.

Ruskin's outburst was unfortunately copied into many popular newspapers, and when Whistler's attention was called to it he at once went off to his lawyers and directed them to serve a writ on Mr. Ruskin, claiming damages for libel. As Oscar Wilde said at that period, "Popularity is the only insult that has not yet been offered to Mr. Whistler," but the artist was not averse to seeking it, and in his heart of hearts by no means despised popular applause, and this libel action was an endeavour to put his ideals of art before a larger public than he had yet attracted. It was easy for the artist to say to his friends that abuse was "the only tribute possible from the mob to 'The Master'!" but it was very human to desire to get damages from one of the mob.

My father, Serjeant Parry, appeared for Whistler, and Sir John Holker, then Attorney-General, was for Ruskin, who, fortunately for himself perhaps, was too ill to attend the trial. I remember my father, after a dinner at Whistler's famous "White House," given just before the trial, declaring that

they were waited upon by bailiffs, and that he feared his client's eccentricity would make it difficult for him to get a verdict.

But though it was never possible that any advocate could persuade a jury to give heavy damages, that was not Whistler's object. He wanted to have a field-day to exploit his personality and ideals, and he certainly scored a triumph.

The Attorney-General perhaps intended Whistler to betray his extravagances to the jury, as Buzfuz hoped to do with Sam Weller, but history repeated itself, and the witness was the victor.

"How long," asked Sir John, "did it take you to knock off that nocturne?"

"About two days perhaps," replied the artist.

"Oh, two days! The labour of two days, then, is that for which you ask two hundred guineas?"

"No; I ask it for the knowledge of a lifetime."

There you have one of those brilliant impromptus which followers of "The Master" boasted of and sometimes used as their own. It was a crushing reply to a fellow-man of art who was sitting with a hundred-guinea brief in front of him "knocking off" a day's work.

But his final blow to Hölker left him dead upon the field. The advocate asked him: "Do you think now that you could make *me* see the beauty of that picture?"

Whistler gazed at the picture and the Attorney-General attentively several times, scanning his face carefully. At the end of a long silence he said with judicial gravity: "I fear it would be as hopeless as for a musician to pour his notes into the ear of a deaf man." Such was the clash of wit in the dialogue of the legal farce.

The end of the trial was a farthing damages for Whistler, which his friends considered a triumph, as it had been generally expected that Ruskin would win the day. Although it was the prelude to Whistler's bankruptcy, yet the artist, with youthful optimism, took no thought for the morrow, but celebrated his triumph with his friends and sat down to make his opponents famous in a volume of pleasantry, entitled *The Gentle Art of Making Enemies*.

Frith, the painter of the "Derby Day," who gave evidence for Ruskin in the case, had happened to say in a reminiscent after-dinner speech that "It was just a toss-up whether I became an artist or an auctioneer." To which Whistler added the consoling reflection: "Ha! He must have tossed up." About Ruskin himself Whistler was unrestrainedly witty and contemptuous. When Ruskin's friends reminded him that he was a "Slade Professor" and a lifelong student of pictures, he replied: "It suffices not, Messieurs! A life passed among pictures makes not a painter, else the policeman in the National Gallery might assert himself." Moreover he declared that Ruskin's views on Titian were uttered with "a verbosity and flow of language that would, could he hear it, give Titian the same shock of surprise that was Balaam's when the first great critic proffered his [*sic*] opinion." Here he laid himself open to the rejoinder that though Balaam's critic may have been an ass, the lady was undoubtedly in the right with her criticism.

It is fair to remember that Whistler was a true wit, and was just as pleased to score off a friend or a customer as over an opponent. When he had finished a portrait of a well-known celebrity he asked him whether he liked it.

“No, I can't say I do, Mr. Whistler, and you must really admit it's a bad work of art.”

“Yes,” replied the artist, looking at his sitter through his monocle, “but then you must admit that you are a bad work of nature.”

All his sayings must be taken *cum grano*. A solemn artist discussing the question of flat tones in painting was horrified to hear Whistler say: “House painters have the right idea about painting. God bless them!” Again to the lady who came to him, gushing with enthusiasm, crying out: “Oh, Mr. Whistler, I have just been up the river, and it reminded me of your pictures,” he smiled enigmatically, saying: “Indeed! then nature is looking up.” It was because Ruskin heard these anecdotes at second-hand and had not the sense of humour to dissolve the acid in them that he shouted out, “Coxcomb!” when he should have praised them as the natural dialogue of a really witty mind.

But though these two immortals played their foolish farce like other citizens of common clay, we who knew them and mourn their loss can say that both of them were lovely and pleasant in their lives, and believe that in their death they were not divided.

CHAPTER SEVEN

CONCERNING MELODRAMA

THE TICHBORNE TRIAL

1. THE MYSTERY.
2. THE RETURN OF THE
PRODIGAL.
3. ARTHUR ORTON

MELODRAMA is the favourite repast of the common playgoer. By melodrama we no longer mean plays interspersed with melodies and music, but strongly accented drama, with exciting plot and sensational passages wherein common characters are involved in romantic incidents, innocence is endangered, evil seems to prosper, and violent appeals are shouted to tense emotions until it is time for the curtain to fall on a happy ending. A story of unusual domestic calamity, with hero and heroine poised dangerously on the brink of moral and other precipices, terminating in married happiness and financial prosperity, touches a chord on the frayed strings of every human heart.

Most honest playgoers really prefer *Proof*, or *The Silver King*, or *The Lyons Mail*, or *The Corsican Brothers* to *Lear*, or *Macbeth*, and do not willingly spare a night off for *Justice*, or *Major Barbara*, or *The Wild Duck*. After the drudgery of the day's work there is no anodyne like a good melodrama. In fact, it is probably the basic melodrama in all great plays that keeps them alive. Shakespeare, we may suppose, knew all about this human frailty

of ours and founded his plays upon a melodramatic story. So, if you will, you can enjoy *Hamlet* as the capital melodrama it is without worrying your mind over the problems that modern highbrows, both on the stage and off it, have read into the text of the playwright. The play is still the thing, and the play is a melodrama at heart.

The law courts are in the nature of things full of melodramas. Novelists and playwrights ransack the law reports for sensational copy, and too often caricature a legal drama in their endeavour to add unnecessary violet to the natural beauty of the legal flower. *East Lynne* is rightly as favourite a melodrama with the public as *Hamlet* itself, and has played in its day perhaps to as much money, but are either of these box-office favourites more sensational and extravagant in plot than the true story of the Tichborne Trial, which I take to be the noblest melodrama ever produced on the stage of our English law courts, and the ending of it is essentially a happy one, since virtue triumphs and villainy is defeated.

I. THE MYSTERY

If Boucicault or Mrs. Henry Wood had invented the Tichborne case they would have produced their drama or romance in three acts or volumes with some such titles as these :

I. The Lost Heir.

II. Back from the Beyond.

III. The Day of Reckoning.

For, as Julius Cæsar remarked about Gaul, the Tichborne case divides itself into three parts, and I have found it necessary to tell the tale in triplicate.

My father, Serjeant Parry, appeared for the prosecution in the criminal trial, and I spent several

days in court—some of them rather weary ones, I fancy. To taste the full flavour of the Tichborne romance you must not only pull down many heavy folios of evidence and burrow in dusty files, but picture for yourself the crowded musty court, the heavy obese figure of the Claimant sitting in the well in front of the irascible whiskered Doctor Kenealy, with the alert suave personality of Hawkins, Q.C., dominating the scene.

To me it seems almost impious to peptonise so great a mass of legal pabulum and present it in tabloid scenes. But in this cinema world of ours it is the only way.

The prologue is of necessity domestic. The atmosphere of the first act is aristocratic. The characters are from the pages of Thackeray and Meredith and move with ease and dignity among the landed gentry of Hampshire, the households of Belgravia and the English circle in Paris.

Roger Charles Tichborne was born in Paris on the 5th January, 1829. He was the elder of two sons of Mr. James Francis Tichborne and Henriette Félicité—a name her long-lost son completely forgot—who was a natural daughter of Mr. Seymour, of Knoyle House, Wiltshire.

Mr. James Francis Tichborne succeeded his elder brother, Sir Edward Doughty, in 1853. He took the baronetcy of Tichborne and the large and strictly entailed estates in Hampshire and elsewhere, known as the Tichborne and Doughty estates. Tichborne Park, the family seat, was at Alresford, in Hampshire, and there was a second house at Upton, near Poole, in Dorsetshire. Sir James Francis Tichborne died in 1862. His son, Roger, having disappeared in 1854, and being presumed to be dead, the second son, Alfred, succeeded. He

died in 1866, and his infant son succeeded him in the baronetcy and to the estates. To these, if Roger were living, Alfred and his infant son had of course no title or right of possession. Was Roger living? That is the mystery!

At the time of Roger's birth his father and mother resided in Paris. They were strict Roman Catholics and Roger was educated in this religion. When he was about six years old he had a tutor, Monsieur Chatillon, who came to his father's house in the Rue Cromartin and taught him French and writing and arithmetic and took him to his dancing class and his riding school. The boy chattered to him in French and was brought up in the style of a little French gentleman rather than as an English lad. He was kept much at his mother's apron strings and had other tutors, M. Jolivet and M. Courcet, and there was a friend of his parents, the Abbé Salis, to whom the young fellow was greatly attached. Nor must we forget Father Le Fèvre, who prepared him for his first communion and received his first confession and was his sole confessor whilst he was in Paris, and who received Roger's last confession only a few days before he left on his travels to South America in 1853.

This French life continued until he was sixteen, when his father determined to send him to Stonyhurst. Unfortunately Mr. James and his wife did not live very happily together. She was an eccentric woman and strongly opposed her son's being sent to England. She fidgeted about his health and wished to keep him near her. It may have been an amiable weakness on her part, but it led to the son's affairs being a bone of contention between the parents, and for a year after he left her she showed her resentment by never writing to him.