

**RICHARD SINGER'S  
CRIME BROADCASTS**

**24  
NOTABLE TRIALS**

Singer, Richard  
24 notable  
trials







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EPUB ISBN: 978-0-908327-24-9

PDF ISBN: 978-0-908330-20-1

The original publication details are as follows:

Title: 24 notable trials

Author: Singer, Richard

Published: Oswald-Sealy, Auckland, N.Z., 1944

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24

# NOTABLE TRIALS

By

RICHARD SINGER



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343.1

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## FOREWORD.

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This volume covers a wide field, several countries, many centuries, and a great diversity of incidents.

Chronological sequence has not been used and no particular method of classification employed.

A countless variety of human wrongs and human rights has been exposed and expounded in courts of law all over the world and all down the centuries. The interest they invoke and hold is perennial.

Herein are to be found select examples of court proceedings containing outstanding features. There are state and private actions, stories of murder—secret and open—of piracy and robbery, of bigamy and forgery; and there are included scenes of ancient history that are as vivid as yesterday's causes célèbres. Familiar trials are presented, and also unfamiliar cases with which even the legal student will probably not be acquainted.

With regard to the Mareo case, which is a feature in this volume, it is believed that this is the first time that the case has been presented to the public in detail. Readers interested in this exceptional proceeding have hitherto had to rely on their recollections of contemporary Press reports and the advocacy for the revision of the last verdict against the convicted man. An endeavour has been made to present the facts clearly and accurately and to reduce the claims of the advocates for revision to such as may be submitted to the jury of the general public.

Every care has been taken to ensure accuracy of fact and detail, and although many of the trials presented merit greater space it is hoped that the stories as they stand are pictures of "that real life that does not fall behind the boldest imaginative efforts of the novelist."

Nearly all the ensuing chapters formed items in a series of broadcast addresses given by the author for the New Zealand Broadcasting Service.

A number of New Zealand trials are included in this volume; it is believed that at least the trials of Priestley and Mrs. Hamilton and of Florence Farndale and the great legal contest over the issue of the Battle of Taumatawiwi will be new to the reader and that the trial of Edward Gibbon Wakefield forms an amazing introduction to New Zealand's greatest benefactor.

RICHARD SINGER.



# A MOUNTAIN OF PERJURY.

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## THE TICHBORNE CASE.

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The greatest case in English legal history was the Tichborne case, or perhaps the term that should be used is the hugest case; for there were two Tichborne cases, the first being the claim of a remarkable scoundrel, whose real name was Arthur Orton, to the Tichborne estates and monies, the hearing of which lasted one hundred and two days, the printed notes covered 5,213 pages and the costs of the dependants exceeded £91,000; the second case, in which Orton was charged with perjury under the name of Thomas Castro, lasted one hundred and eighty days and the printed notes covered 4,835 pages.

While the mouths of some privileged persons may water over those figures, the brains of the ordinary man will probably reel. But the reader may be assured that the trials make great fun in the reading at least, provided he is careful not to overwork his digestion. It is proposed now to deal with the civil claim which was officially known as *Tichborne versus Lushington*.

Roger Charles Tichborne was born in Paris in 1829 of an English father and a half-French mother. The first sixteen years of Roger's life were spent in Paris, where he was educated and brought up in the Catholic faith. From the age of sixteen Roger spent three years at the famous Catholic college, Stonyhurst, England. He learned some Latin and some Greek and naturally spoke English with a French accent and wrote English with a French idiom. At the age of twenty odd he entered the army, and held a commission until he retired at the age of twenty-four. He was then five feet eight and a half inches high, 36 round the chest and 29 round the waist, his hair was dark, he had a way of lifting his eyebrows when he talked and the lobes of his ears were completely attached to the head. Among other marks, he was tattooed on the left forearm with a cross, a heart and an anchor (representing faith, hope and charity) and also the letters R.C.T. (his own initials) below the symbol marks. It may be stated that the tattoo marks were seen by many witnesses, including



M. Chatillon who had been for years his tutor in Paris, and that a Lord Bellew deposed that he himself had tattooed the initials R.C.T. on the arm of Roger at Stonyhurst in 1848.

In 1853 Roger went to South America, and after various travels there left Rio de Janeiro in 1854 on the S.S. Bella bound for Liverpool. The Bella was undoubtedly wrecked with all hands, and no person who sailed on that ship on that voyage was ever seen again. It is also to be noted that no claim was ever made by anyone on the owners for salary or wages. The infant son of Roger's younger brother assumed the baronetcy and took over the Tichborne estates.

And so things went on from 1854 until 1865 when Roger's mother, a half-crazy, superstitious and highly stupid old woman, who had nursed the obsession that her son Roger was alive and would return to her, took it into her benighted head to advertise for Roger. In Wagga Wagga in New South Wales there then lived a person passing by the name of Tom Castro; his real name was Arthur Orton. Orton was in 1865 a butcher by trade, not a very successful and probably not a very good butcher. This person was twenty-six stone in weight, he had dark hair and he lifted his eyebrows when he talked, his ears were most distinctly separated from his head and he did not have the tattoo marks of Roger on his left arm; he knew no French or Latin or Greek; he wrote letters in the most ignorant and incorrect English and he could not spell his alleged mother's name; he said he was born in Dorsetshire at his father's seat The Hermitage; Roger was born in Paris and no such seat as The Hermitage existed. He said that he had enlisted in the sixty-sixth regiment as a private and was only in the regiment thirteen days and was bought out by his father, but Roger was for three years in the 6th Dragoon Guards as an officer. Orton said he had been wrecked and picked up by the S.S. Osprey, a ship no one else had ever heard of, and taken to Melbourne in 1854.

You will understand that few of the lies and tricks of the Claimant, as he came to be called, some stupid and some subtle, can be detailed. Orton managed to impose on persons in Australia, some of them professional men too and one of them known to fame as old Bogle, an ancient white-haired negro formerly servant for many years to an uncle of Roger. This old negro Henry Hawkins could not refrain from referring to as "an ebony stick with an ivory knob."

After strange delays the Claimant arrived in England; strangely also immediately on arrival there his first enquiries were not after the wealthy and titled Tichborne family but as to the humble Ortons at Wapping, and more strangely still he delayed visiting his anxious and doting old mother in Paris. However, he was got over there at last, accompanied for some reason by a solicitor and a new-found chance friend or hanger-on, whom he had picked up in a billiard saloon in England, and even then he seemed to balk at seeing the Dowager. So the mother had to go over to her precious son's hotel and see him in his bedroom where he was lying fully clothed on the bed with his face to the wall. Orton, perhaps with some wisdom, did not then open his mouth to the mother whom he had not seen for thirteen years. Later Lady Tichborne said that he was her lost son; the oftener that she said it the more strongly she seems to have held to her opinion. Indeed she seems also to have died with that ineradicable conviction. One witness probably summed up the old lady's mind fairly accurately when he later said that if they had sent over an Egyptian mummy and ticketed it Roger Tichborne she would probably have acknowledged it as her son.

The attitude of Lady Tichborne would not have mattered so much but that unfortunately her identification caught the sentimental side as well as the profit-making eye of thousands or even millions of gullible and greedy English folk, who supported the mother's obsession and even subscribed huge sums of money to uphold it in the enormously protracted suits in the courts of law. And what an array of talent and learning got much of the prize-money. Among counsel for the Claimant were Sergeant Ballantine, Hardinge Giffard, the little broad-figured and million-puckered-faced future four times Lord Chancellor Lord Halsbury and Mr. Jeune, subsequently to be Sir Francis Jeune, the President of the Probate Divorce and Admiralty Division. For the defence there were Sir John Duke Coleridge, Q.C., subsequently Lord Chief Justice, Mr. Hawkins, Q.C., subsequently Lord Brampton and Mr. Charles Bowen, subsequently Lord Bowen, belated tribute to whom has been paid as the one whose untiring industry and matchless ingenuity may be said to have been the mainspring of the defence. The judge was Mr. Justice Bovill, who suffered, not unwillingly it is stated, a bevy of ladies to support him on the bench and to advise him on French and geography in which the learned judge's grounding was not thorough. It is remarkable that not one single member of that very large Tichborne family, other than the infant

baronet, had the slightest financial or other ascertainable interest to keep the rightful claimant out of his own. No Tichborne relative recognised or supported the outrageous Orton in his ridiculous claims.

The claimant had a lot of difficulties to face; his stock refuge was a plea of loss of memory; he had forgotten French, which was really his mother tongue, as well as Latin and Greek, and he could not recognise his former teachers and spiritual advisers, and did not know the places he had frequented as a youngster and so on and so forth. As to Latin, he declared that a volume of Cæsar produced to him was written in the Greek language. He had certainly prepared himself for his impersonation by picking up all sorts and scraps of information about persons and incidents associated with the Tichborne family and its affairs. As the days and weeks wore on the plaintiff's funds wore out; he must have been living at an enormous rate and supporting hosts of witnesses; he went bankrupt for £33,000 during the hearing. His own counsel's refreshers ceased after the forty-first day of the trial. But it was not until the seventieth day of the trial that Ballantine closed his case for the plaintiff, after having called two hundred witnesses. Then Coleridge spoke in opening his case for twenty-five days.

The despicable Orton had actually, but from every point of view wantonly and needlessly, attacked the character of the young cousin of Sir Roger Tichborne, Miss Kate Doughty as she was then, and aged only sixteen when he had last seen her, and whom, of course, the Claimant had never set eyes on before he launched his preposterous claim. That lady, now married and the mother of four children, gave evidence indignantly but dignifiedly repudiating the Claimant's baseless slander. Needless to say the jury believed her and so did the judge. When the trial had lingered on to its one hundred and second day and only a few witnesses had been called for the defence, the foreman of the jury intimated that they did not require to hear any further evidence. Ballantine asked whether the jury meant that they had satisfied themselves solely on the tattoo-marks or whether they had formed their opinion on the whole case; they replied that it was on the whole case. So Ballantine promptly elected, as he was entitled to do, to accept a non-suit on the claim, and the judge equally promptly ordered the Claimant to be arrested on the charge of perjury.

The Tichborne Case still retains its place as the classic example of the unreliability of evidence of identification.



That feature continued during the trial of Arthur Orton, under the name of Thomas Castro, for perjury committed in the course of the hearing of the Claim, when he had sworn and sworn and sworn again that he was the shipwrecked and lost Sir Roger Tichborne. At the conclusion of that conglomeration of farce and blackguardism the judge very properly ordered the perjury prosecution.

## II.

We are now to deal with the prosecution in 1873 of Thomas Castro, whose real name was Arthur Orton, for perjury. Several misguided and credulous gentlemen had stood bail for the accused in the sum of £5,000, but on the 26th day of April, 1873 Orton came before three judges, Sir Alexander Cockburn, the Lord Chief Justice, and Mr. Justice Mellor and Mr. Justice Lush and a jury of twelve. Henry Hawkins, Q.C., afterwards Lord Brampton, Sergeant Parry, Mr. J. C. Mathew, afterwards Lord Justice Mathew, and Mr. Charles Bowen, who had been styled the junior of unparalleled industry and intelligence and who subsequently became Lord Bowen and who may also be described as having been nearly a very great man, these were of counsel for the prosecution. Dr. Kenealy, Q.C., led for the defence; this was unfortunate, not so much for the accused, whom the late Lord Chancellor Maugham has not hesitated to describe as guilty as Hell, (with a capital "H"), not so much for Castro or Orton, as for the public purse and for those people whom this rowdy, inconsequent and utterly wrong-headed Kenealy abused and slandered and outraged with his torrent of evil verbiage. The accused was no more Sir Roger Tichborne than he was Dick Seddon, though the obsessed and obstinate and half-crazy Dowager Lady Tichborne had avowed that he was her son Roger and died in that declared faith. As we know scores of thousands of misguided, many of them greedy, English folk had subscribed both their belief and their monies in support of the preposterous and unfounded claim.

Nothing would stop the egregious dupes, and seeing that in those days Orton could not go into the witness box on his own behalf in a criminal trial, as he had done with no advantage to himself in the civil claim, his counsel doubtless thoroughly enjoyed himself in wasting months by calling some three hundred witnesses, the vast majority of them entirely useless and many completely damning to his own case. The historic and outstanding instance is that of a man who went by the name of Jean Luie who was called on the one hundred and fifteenth day of



the trial and has been described as a rough-looking man with a flowing beard. This Jean Luie said that he had been the mate on a mythical ship called the "Osprey" which Orton had alleged had picked him up after the wreck of the "Bella" and landed him in Melbourne. Jean Luie helped to land Orton in Dartmoor prison for fourteen years and to land himself in seven years penal servitude for his own perjury. Luie was in fact one Lundgren, who at the time that he swore he was on the "Osprey" was actually at Hull, and who was also proved to have served a number of previous sentences for fraud and bigamy. But Kenealy went on merrily after closing his case on the 124th day of the trial, and then there were rebutting witnesses for the prosecution. Kenealy's long suit was abuse and so he attempted the silly and evil and hopeless task of accusing practically all the host of witnesses against his client's case of perjury and subornation of perjury. His senseless tirade went on without a stop for twenty-three days, and at the end Kenealy got what perhaps was the only thing he really hoped for, an unprecedented and quite unjustified round of applause, and a public and impudent thanking of him by the prisoner for his huge efforts and an expression of the latter's hope that one day he would be able to pay Kenealy the twelve hundred pounds Orton reckoned he owed Kenealy as the balance of his fees. Fancy all that happening in the Court itself!

After that pleasing scene, Hawkins began his able and powerful attack; he explained the late Dowager's conduct as being due to "an insane delusion on the subject rather than a vicious determination to despoil the family with which she was allied by feigning a spurious heir to the inheritance of the family to which she was by no means attached." That was cleverly put, was it not? And of course Hawkins had a trump card in the Claimant's really vicious and utterly foul and unjustifiable attack on the reputation of Roger's young girl cousin whom Orton had never seen or heard of until he came to England on his fraudulent venture in 1866. Hawkins only spoke for ten days.

The Lord Chief Justice spoke for twenty days and his summing-up to the jury has been published verbatim. It caused, we are told, universal admiration. His hostile views were clear but he was certainly most careful to impress that the decision was the jury's. A most capable historian, Lord Maugham, formerly a Lord Chancellor and incidentally a brother of the novelist Somerset Maugham,

points out that there were two solid grounds for the length and detail of this address, firstly, because the judge had reason to believe when he began that there were two members of the jury desirous of holding out against a verdict of guilty (though how that is known is not disclosed), and secondly a large majority of the uninstructed public and a considerable number of educated persons were undoubtedly in favour of an acquittal. The jury were out deliberating on their verdict for exactly thirty minutes, and that after a hearing lasting one hundred and eighty-eight days; they found that the defendant was not Sir Roger Tichborne, that he had not seduced Miss Katherine Doughty, Sir Roger's cousin, and finally that the prisoner was as a fact Arthur Orton. Mr. Justice Mellor delivered the sentence and observed that it was difficult to conceive how any person could have come to any other conclusion. And the sentence was fourteen years' penal servitude. It was suggested that this sentence was insufficient, but it was pointed out by one historian that at any rate it was twice as long as seven. As the Claimant was a model prisoner he was released after ten years' service of the sentence; but he then proceeded, though more mildly, to keep up the shattered claim. He continued to use the name of Sir Roger Tichborne until he died, which was as late as 1898. A great number of unconvinced fools still believed in the rascal; there may even still be some such about; they ought to look at a picture of the monster and read one or two of his letters and if they are not then convinced, well, they never will be and no one can help them.

## THE UNWRITTEN LAW.

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### THE TRIAL OF LIEUTENANT MALCOLM.

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The charge against Lieutenant Douglas Malcolm was one of wilful murder, but it was a unique case in almost every respect; the circumstances, the parties, the counsel, the judge, the verdict. The verdict indeed came as near to the acceptance of what is called the "unwritten law" as any in an English court of modern days. As one commentator put it, "chivalry, love and honour contended against knavery, treachery and treason." All England was tensely moved and women fought for admission to the Central Criminal Court, where Mr. Justice McCardie presided at his first important criminal case.

Douglas Malcolm, who was then about twenty-seven, married a lovely girl of twenty-one in June of 1914; he was a wealthy business man but on the outbreak of war he immediately enlisted, and in July of 1917 Malcolm was on active service in France. He came home on leave and on Sunday, the 15th of July, Malcolm discovered his wife at the cottage of Mrs. Brett (called "Bunny" by her friends) in New Milton in Hampshire with Mrs. Bunny Brett and a charlatan and general blackguard calling himself Count de Borch, whose real name was Anton Baumberg. Baumberg was Russian born, well-educated and speaking several languages, but his character was most unsavoury. He was credited with being engaged in white slave traffic and he was also reputed to be an enemy spy. Mrs. Malcolm seems to have completely lost her head over the creature. When Malcolm found them together in de Borch's room at the cottage, he thrashed the spurious Count, challenged him to a duel and then took his wife back to London.

The letter of challenge sent by Malcolm to Baumberg read as follows:—

"To the Count de Borch.

"You refuse to fight. All right. I challenge you to a duel, pistols or swords; you can take your choice. Tell me when you want to meet me. As soon as possible, please. Seconds will be a difficulty to me, but I will get one.

D. Malcolm."



"Apparently," said the prosecutor of Malcolm at his trial, "the man Baumberg had taken his thrashing without any attempt to retaliate."

Hearing later in France from his wife in London that she felt that she could not give up the fascinating black-guard Malcolm got special leave and sought the fellow out; he had difficulty in finding him but in the early morning of the 14th of August Malcolm got into Baumberg's twelve-and-sixpence-a-week bedroom on the top floor of a boarding-house in Porchester Place by sending in a message that he was Inspector Quinn of Scotland Yard. Now, as all parties knew, de Borch had bought a pistol after the thrashing at New Milton to protect himself against Malcolm and his threats. Malcolm had himself just bought a hunting-crop to use on de Borch, having written to de Borch that if ever he tried to see or even speak to Mrs. Malcolm again he would give him such a thrashing that even his own mother would not know him again. But Malcolm also himself carried a pistol with him that morning, and he had written to his wife telling her he was going to thrash de Borch until he was unrecognisable, but that he might shoot him if he, de Borch, had got a gun; though Malcolm added that he realised that he himself might possibly get shot first.

There was a desperate struggle in de Borch's room and then five shots were heard. De Borch, or Baumberg, was found lying dead on his bed dressed only in his pyjama jacket, and the first shot had killed him instantly. There were no marks of blows or similar injuries either on Malcolm or de Borch. In an open drawer lay de Borch's pistol, in its case and undischarged. All the shots came from Malcolm's pistol, and he left the premises quite coolly and collectedly and told the first policeman he met that he had shot a man and gave the constable the pistol with which he had done it. Malcolm was charged and answered, "I did it for my honour." Later Malcolm said that he had gone to give the Count a good thrashing with the whip, that he had done all he could to keep the Count away from his wife, and then Malcolm said, "You can imagine how I felt when I saw the cad who has been trying to get my wife to go away with him and me in France helpless to defend her honour. Can you wonder at what I did on the spur of the moment when I saw the cur before me who was luring my wife to dishonour?" To add to the drama and the colour of the affair it is to be remembered that Malcolm always, and as often as possible publicly, declared, as at the police court hearing, that his



wife was true and faithful to him and that her purity had been preserved unsmirched. It is also to be observed that no suggestion of self-defence was ever raised by Malcolm himself. How then could the slaying of de Borch be justified in law? That was the problem put to the jury by R. D. Muir, the grim, deadly, logical and lucid.

And now for the scene in the Central Criminal Court. R. D. Muir and Travers Humphreys for the prosecution; Sir John Simon (now Viscount Simon and Lord Chancellor of England) and H. D. Roome for the defence; Marshall Hall, like a lion in chains as he was described, on this occasion holding a brief to "watch"—but not to speak—on behalf of an interested party. (Was that party Mrs. Bunny Brett?) R. D. Muir states the facts with masterly brevity and clarity; then he speaks of the different kinds of homicide: murder, manslaughter, justifiable killing. All homicide was presumed to be murder till the contrary appeared by evidence, not by conjecture. Murder might be reduced to manslaughter, such as in the case of a sudden admission by a wife of adultery; that was not the case here, for Malcolm by his own words had clearly shown his constant belief in the stainless honour of his wife. Unhappily, the facts all pointed to calm, deliberate action on the part of the prisoner. Killing could only be justified when it resulted from "necessary self-defence." There was no evidence of any violence on the body of the dead man, nor of any assault by Baumberg on Malcolm.

Muir tells the jury that there is no such thing as the "unwritten law" in England. He, Muir, had never heard that law pleaded in a court, and no advocate, least of all such a one as Sir John Simon, would ever ask a jury to do anything but administer the law. Malcolm had sought out Baumberg; Malcolm had stated that he had shot Baumberg on the spur of the moment and that he did it for his honour. There was the law; it was as hard a task, Muir pleaded, as any prosecutor had ever to undertake, but the jury must not confuse motive, which produces a desire for revenge, with justification, which admits of homicide without crime or reduces murder to manslaughter.

And then Sir John Simon speaks: Simon pleads for an accused man of whom he speaks as chivalrous and ardent, and he attacks the dead man as "a black, evil, ugly shadow." Observe that neither Malcolm nor any other witness has been called for the defence. It would have been a thrilling experience to listen to Sir John's advocacy; it has been

described; he had cross examined Mrs. Bunny Brett, who had thrown her gloves on the witness stand and burst into tears and asked for justice for herself.

See how this lady came to suggest that Sir John Simon was "goaded her"; for instance Sir John asked Mrs. Brett whether, before Malcolm had taken his wife away from the witness's Hampshire villa, Malcolm had not said to the witness how he wished he could take his wife with him to France. "I suggested that," asserted the witness. And then the cross-examination continued:—

"She needed protection, didn't she?"—"He said so."

"Don't you think so?"—"I don't follow."

"Very well, I won't press it further."

(It didn't need to be pressed further, did it?)

And later we meet this laying of a foundation in these questions and answers:—

About a week before his death, said Mrs. Brett, de Borch had showed to her a pistol in Mrs. Malcolm's presence and had demonstrated the fact that it was loaded.

"Did he tell you that he had bought it in case Lieutenant Malcolm attacked him?"—"Yes."

"Did he say that if he laid a finger on him he would use it?"—"He did."

And then the witness admitted that it was pretty plain by then that if Lieutenant Malcolm could get leave from France he would lay hands on de Borch.

Sir John asked his questions of all the witnesses quietly and with long pauses; now he is to put forth his defence. We are told that he delivered a superb speech of classic oratory. But though he spoke for the most part quietly and even confidentially he made his points with vivid English, and his arguments were subtly framed and in terms only too gladly acceptable to a jury whose sympathy and inclinations could only have been one way.

It is almost invidious to choose passages from so masterly a piece of advocacy, but the following words of appeal on an ancient theme come nearly with the freshness of new-minted phrases:—"The law is the servant and not the master of our society. It exists to foster and preserve what is brave and chivalrous, and to be a terror to evil

doers. It is the peculiar glory of our English law that in these dread matters of life and death it leaves the final decision, not to the pedantry of some written code, not even to the learning and impartiality of our Judges, but to the sense of justice and of duty of twelve citizens chosen by lot to preserve and apply the law which is the foundation of our society."

Sir John repudiates any appeal to the unwritten law; it would be contrary to his duty to do so; gradually, and with a supremely clever concatenation of suggestions, Sir John proposes that the facts disclose self-defence by the accused against the use of the pistol of Baumberg that lay in the open drawer; he will **only** ask for a full acquittal on all possible charges, and, says Sir John, "The way is open to you and I ask you to take it."

Mr. Justice McCardie propounds the law to the jury; he warns them against bias or natural sympathy or the appeal and eloquence of distinguished counsel; he warns them against Lynch law and the law of the jungle, and points out, what even Muir had not done, that Baumberg might even have been justified himself in using his own pistol against Malcolm who had sought him out to do to him threatened grave injury. And there is no evidence against that of the prosecution; there is only conjecture, and the judge ends with clear direction as to the law and a striking and solemn peroration.

However the jury is only twenty minutes in bringing in a verdict of "Not Guilty"; a verdict which can hardly be heard for the cheering and even the singing, inside and outside the Court; it is said that Muir himself was one of the first to congratulate Malcolm in the dock itself. One may wonder whether that can be true. But there was human appeal enough in this great trial to move anyone to unaccustomed acts, and the judge could only protest against the traditions of the Court having been stained by the outbreak of applause.

And now that it is all over, and though we are not told any subsequent history, we may well wonder as to what was the ultimate sequel.



## A RUSSIAN TREASON TRIAL.

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### THE TRIAL OF RADEK AND OTHERS.

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Russia is still the land of wonder. It is a country so vast, so distant and so confused that it is supremely difficult to obtain for oneself any proper notions or aspects of it. Ignorance, however, is not the right attitude to maintain, and it may be that this trial of Radek lifts a corner of one of the thousand veils that envelopes that land of mystery.

It is thought that it will interest readers to know some of the story of a comparatively recent Russian trial, one of those so-called political trials the meagre reporting of which has hardly given us a fair opportunity to understand them as we should. The trial so chosen is that of Radek and others, which was held in Moscow in the month of January, 1937. Radek is no doubt the name of the accused most familiar to the reader, but there were sixteen other persons accused jointly with Radek, and it is to be noted that everyone of the seventeen accused pleaded guilty to all the charges.

The period covered by the charges was roughly the years 1931 to 1936, and the charges themselves were of a nature that English folk of the twentieth century are hardly familiar with. We must go back three hundred years in English history to obtain any kind of parallel, either in circumstance or charge; and even then we are at a great distance from both. The trial of Thomas Wentworth, Earl of Strafford, is the most recent English trial to bear any comparable qualities. In 1640 England was on the eve of revolution, but the political, the constitutional contest then in being, was between Crown rights and popular rights. Parliament followed the law and impeached Strafford; uncertainty as to the legality of the proceeding, or fear of failure, induced Parliament to abandon the established legal procedure and to substitute a Bill of Attainder, that is, a piece of new legislation, with the object of achieving its purpose. The real charge was treason; but treason against whom? Obviously it could not be against the King himself, who was the only legal target for treason, but against the State or the people, as we should now say. And off came Strafford's head.



In Radek's case in 1937 the English world seems to have been under the impression that a new wickedness, a totally new crime, had been invented and that a new method of perpetrating crime and a new kind of punishment had been devised. These attitudes are really the result of what a critic called the views of cloistered minds. Soviet jurisprudence and procedure we may and should now examine not only with more care but also with more friendliness; for Russia is now our own firm and trusted ally, and the reasons, if there ever were any, for aloofness, estrangement or hostility have completely vanished. At the times of these and earlier as well as later trials of equal notability, the Russian State endeavoured to show their justification and the fairness of their legal methods by means of full published reports; but the antipathetic or uninterested English would not trouble to read them and judge for themselves.

It may be that it is a difficult story to follow completely, for the individuals concerned belong to a foreign race. They have minds different in some ways from our own, they do not act or speak in ordinary human affairs quite as we do, but when one has taken the trouble to understand, as far as one can, and to enter into their minds and to realise their difficulties, one enters a world of humanity revealing aspirations not to be belittled, and resolution for the betterment of their own people, that must on calm reflection produce admiration and wonderment.

What were the charges against Radek and the others? They were charges of treason in the very real sense; that the accused had conspired with the enemies of their country and particularly with Germany and Japan to overthrow the state and its established regime and to cede territory, power and industrial control, and all kinds of raw and other material to those enemy countries; and that they had engineered and aided wrecking in railways and mines and industrial and other activities, and great collective and individual destruction of life in many districts. War on Russia by Germany and Japan was, as far back as 1934, declared by those enemy countries as inevitable, and the downfall of Russia as the certain sequel. In these later days those circumstances are surely tremendous food for thought.

What more is revealed at this trial? An elaborate conspiracy for vast destruction and ruthless murder, and the illusory promises actually given by Germany and Japan that, if the Soviet State is wrecked, these two countries

will support the wrecked country; which would, of course, only mean that, at no expense or trouble to the others, Russia would become first their prey and then an additional weapon for them against the rest of the world. Nobody listened. The shout, for it was more than a cry, was not heard.

And here is another revelation—though it should not be called a revelation seeing that it was revealed as long ago as January, 1937. Consider that date and then observe this quotation: "Germany had finished her military preparations." (Mark you, by January, 1937.) "Germany had finished her military preparations. Now it is a question of providing Germany with diplomatic security. This will require a year. The purpose of these diplomatic efforts was first to ensure England's neutrality. Secondly, Germany will either make terms with France or, on the basis of the growing Fascist movement which will weaken the democratic government of France, Germany can, under favourable conditions, by a lightning blow, incapacitate France for the period necessary for Germany with concentrated forces to launch an attack on the Soviet Union."

There is only space to deal with Radek as an accused person. Perhaps he possessed the strangest mind and character of them all. And what does he say? He admits that for years he had been a member of the centre of the political opposition organisation; that he was in direct communication with the foes of the Union with the view of wrecking and subversing, as we should say, the regime itself and murdering the leaders; that terrorism and espionage were the main methods of attack; that financial assistance was given to the conspirators by both Germany and Japan; that murders had been committed by their direct agents; that not only the hastening of war with Germany and Japan, but also the defeat of Russia were their objects; and the assurance of at least the Ukraine for Germany, as well as raw materials, foodstuffs, manganese, gold, oil and so forth; and for Japan, the Maritime and Amur Provinces and the unhindered seizure of China. When Russia should actually be at war with Germany and Japan, this group of real traitors was to destroy industrial plants wreck railways and military preparations and infect troop-trains, canteens and hygiene centres.

Industry had already been enormously hampered and railways, mines and industrial plants wrecked or damaged with great loss of life, acknowledged to be inevitable to their methods. It is worth noting that Germany's head

agent was none other than Herr Rudolph Hess. Is it correct to say that you will hardly credit, let alone comprehend such actions and such self-allegations? Yet unprejudiced and competent observers tell us that these things happened, that these persons lived as described and pleaded guilty as recorded and that such pleas were voluntary, honest and truthful.

Perhaps one day the true and complete picture will be drawn for our complete comprehension, with Trotsky displayed to us, maybe half in earnest, maybe more than half, perhaps a mad fanatic with more than a tincture of the charlatan and self-seeker, perhaps as a crazy dreamer divorced from practical vision by his long banishment, but undoubtedly conspiring with any and every available agent to destroy the regime recently set up and to replace it, with what? A Fascist controlled slavery even worse than the European slavery of which we now have some knowledge.

These conspiracies being discovered, most of the parties suffered death by shooting, though Radek himself escaped with a sentence of ten years' imprisonment. And the Union of Russia still proceeded on its amazing onward march, and, it is said, and it is believable, that a country that could rear such traitors, having at length eliminated them, can now fairly boast that she holds no spies, no conspirators and no non-combatants within her vast areas, and that as no other country in history she can now go forward in complete and unshakable unity to repel, and if need be to destroy, the enemy that has at length come out into the open against her.

[This chapter was written and broadcast before the publication of the impressive book "Mission to Moscow" by Joseph E. Davies, United States Ambassador to Russia 1936-38, who was present at the trial, and whose conclusions are sometimes couched almost in the very words of the above.]



## WAS HE SANE?—An American Melodrama.

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### THE TRIAL OF HARRY THAW.

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Probably no American trial of modern times attracted so much world attention as that of Harry Kendall Thaw. It will be remembered that Harry Thaw shot dead the noted architect Stanford White, and that the crime was committed on the 25th of June, 1906. The scene of the murder was the Madison Square Roof Gardens, New York City, and the occasion was during the first performance of a new play on the stage of that famous playhouse.

Here is a sentence from a summary of the case of Thaw by an American Special Committee on the Commitment and Discharge of the Criminal Insane:—"A youthful debauchee, of great wealth, trained to believe that his money gave him a right of freedom from all restraint, whether imposed by law or the rules of decency, inheriting an abnormality of mind likely to develop into homicidal acts, leading a debased and ignoble life, without a thought of the responsibility which wealth imposes on its owner, commits a foul and cowardly murder in a public resort."

Nobody will quarrel with that succinct and effective description.

Harry Thaw and his wife, formerly Evelyn Nesbit, and two male friends had dinner together on the night of the 25th June, 1906, at the Cafe Martin, where Stanford White was also dining with his son. Evelyn Thaw noticed Stanford White at the restaurant, and wrote a note to her husband telling him that White was present. Thaw enquired of his wife if she was alright. Of course she was alright; doubtless the note-sending at the dinner table was a piece of the shrewd play-acting which she thoroughly enjoyed.

Thaw had been playing cards at a club that night. He had gone home and dressed for dinner, and after the dinner the party went to Sherry's Restaurant for more drinks, and then to the Gardens Theatre.



The performance seems not to have entertained the critical quartette, and so they proceeded to leave while the second act was in progress. When moving towards the lift, Harry Thaw fell behind the rest of the party, and went slowly and deliberately up to Stanford White, who was sitting by himself viewing the performance, one arm carelessly thrown over the next chair. As Thaw came opposite the sitting man he drew a revolver and shot Stanford White through the left eye, then through the mouth, and then through the left shoulder. Next, Thaw lifted the revolver by the barrel above his shoulder and walked towards the exit.

Mrs. Evelyn Thaw exclaimed, "My God Harry, what have you done?"

The knight-like husband bent down and kissed his flower-like mate, saying, "I have probably saved your life."

The wife replied, "Harry, I'll stick to you, but my, you're in an awful mess!"

And Thaw, with the gracious consideration of a fabulously wealthy murderer for his probably less wealthy fellow creatures, asked to be taken down in the elevator, saying, "I don't want to annoy these people."

In the elevator Thaw said, "I did it because he ruined my wife."

Thaw asked for friends to be telephoned for, and was then taken to the vulgar lock-up.

The New York District-Attorney, William Jerome, at a later date, with some reason, wanted to know where the evidence of insanity lay in all that.

Mr. Harry Thaw the next morning proudly objected to being handcuffed to a detective on his way to the Police Headquarters. The detective merely gave as an answer, "We always handcuff murderers."

These are the principal highlights of the beginning of the story of Harry Thaw's crime, which was followed by an encyclopædia of nauseating events. Jerome, in the second trial of Thaw, described the crime as "simply a vulgar, ordinary, low, sordid, Tenderloin homicide."

Those words more than clash with those of Delphin Delmas, Thaw's leading counsel in the first trial, for Delmas referred to his client as "that great, courageous and indomitable man who believed he had a mission to fulfil."

Such language not only overdoes the case for the defence, it must have turned the stomachs of some of the jury, for seven of them voted for murder in the first degree and only five for acquittal on the ground of insanity. That was how the parties stood on the disagreement, which, of course, required a new trial.

We should devote a few moments to Evelyn Thaw's story and her appearance at the first trial. We all know her melodramatic tale of being ruined by Stanford White when a young girl. She said that she had told this story to Thaw when they were in Paris and that Thaw wanted to marry her whether or no; and the defence put it that the mind of Harry Thaw was perverted by his brooding on the innocent child's wrongs.

There is the crux of the first trial.

However little reliability may be placed on the story told by Evelyn to Harry Thaw, it seems likely that the telling (doubtless with some third-rate melodramatic effects) and Thaw's natural jealousy of another rich man like White, did affect the evil corners of Thaw's worthless nature. And so a side-defence was shadowily submitted by Delmas, who was the Pacific Slope expert on the unwritten law, but it very properly had no effect. It should also be mentioned that Delmas suggested a new kind of mental defect, which he termed **Dementia Americana**.

And now for a brief treatment of the insanity issue. Here we are on soggy ground. It will require all the sanity of the reader to attempt to follow the trial-switch-back on this subject. It may be, and "may be" are words advisedly used, that the history works out thus:—

In the first trial the defence submitted that Thaw was temporarily insane when he shot and killed Stanford White, but that Thaw was sane all the rest of his life, both before and after the crime; which attitude seems to imply that Thaw was entitled to his immediate liberty. The prosecution held that Thaw was sane at the time of the murder and should be sent to the chair. During the trial the prosecution shifted its ground a lot and alleged that Thaw was so insane, at any rate after the murder, that he was not even capable of instructing his counsel to defend him; which meant that Thaw's counsel should be dealt with as being guilty of professional misconduct in presuming to act on the instructions of an insane client.

The Court, perhaps fearing for its own sanity, appointed a Sanity Commission, which Commission unanimously found that Thaw was sane and capable of conducting his defence.

No wonder the first jury disagreed.

In the second trial the defence pleaded insanity straight out. District Attorney Jerome now crossed his own tracks and pleaded that Thaw was sane. The defence abandoned the kind of madness propounded by Delmas, the **Dementia Americana** and submitted that Thaw suffered from what medical witnesses now termed manic-depressive-insanity. Jerome, with some reason, remarked, "This is a new one on me; I'd like to have time to specialise in that branch."

Evelyn Thaw again gave evidence, "blooming" it was said, "under the searchlight of publicity." There were suggestions of sadistic practices; doctors and school teachers gave evidence and Thaw's old mother deposed as well.

One doctor alleged that Thaw suffered from what he called "logorrhea" which in plain English really meant that he talked too much; a trouble which after all one might meet with in a politician or an annoying society conversationalist. But there were symptoms of which everyone could judge for himself without any expert testimony whatever. There was the constant, open and senseless verbal interference by Thaw with his own lawyers during the hearing, coupled with streams of senseless notes that he insisted on writing to them. Above all there was a large bundle of Thaw's letters over a period of years; those letters were badly written, illiterate, inconsequent and largely quite incomprehensible and childish.

So the second jury, after more than twenty-four hours' retirement, found Thaw to be insane at the time he killed Stanford White. Though that was the verdict, there was really not a scrap of legal evidence that at the time Thaw killed White he was insane in the legal sense; namely that at the time he murdered White he did not know that he was committing a wrong. Any committee of unprejudiced persons now considering the crime could not fail to believe that Thaw knew he was murdering White when he shot him and also knew that in that murder he was committing a wrong. Thaw was sent to an asylum for the criminal insane. That necessary result infuriated both Thaw and his aged mother, and the Thaw millions immediately started a seven years' campaign for his release.



The power of the Thaw millions is admirably instanced by the fact that Thaw was at one time transferred to an asylum where he was provided with a suite of no less than thirteen cells for his own separate and exclusive use; thereby eliciting the disgusted protest of other inmates who were so crowded that they had to be accommodated two to a cell.

Application after application to declare Harry Thaw sane were turned down by Court after Court. Bribery of asylum officials by Thaw family agents interrupted some later efforts of this nature. And in August, 1913, Harry Thaw, with the help of accomplices both inside and outside the establishment, escaped from the Matteawan Criminal Lunatic Asylum. This startling incident led to all kinds of Court proceedings both in Canada, to which Dominion Thaw escaped, and in the United States. The uncertain wife of the prisoner became even more uncertain than ever after the escape, and she seems then to have completely gone over to the side of the prosecution. But the end of it all was in 1915 when a new judge and a new jury found at last that Thaw was sane and he was released. And one of the most charming final public incidents in this notorious creature's career was the photographing of himself and the foreman of his last jury together and the publication of the photograph for the delectation of the masses.

The extraordinary public, which had previously and for a very long period made a heroine of the horrid Evelyn Nesbit Thaw, dropped this female high-light completely and made a hero of Harry Thaw all throughout these last proceedings, and particularly on his triumphant release. The Thaw millions had achieved a great victory.

District Attorney Jerome, on one of the numberless occasions when he had the doubtful privilege of appearing against Harry Thaw, said that "wherever this case has gone, and wherever it has rested, it has left a trial of ignominy, disgrace, filth, and scandal behind."

What is the truth about these contemptible folk whose names and histories might now be forgotten, though a sane and clean world may never forgive them? What is the truth? Perhaps the best answer to that question is another question: What does it matter?



## ABDUCTION TO COLONISATION.

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### THE TRIAL OF EDWARD GIBBON WAKEFIELD.

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The name of Edward Gibbon Wakefield seems to be fast dying out from the tenuous tablets of public memory, and few remember that it was to this astonishing person that the very existence of New Zealand as an English land is due. Fewer still are aware that the immensely important colonising plans of Wakefield were devised, worked out, set down on paper and actually published whilst the author was languishing in Newgate Gaol, serving a term of three years imprisonment for the crime of abduction. That almost incredible feat then is prefaced by this almost incredible offence, of which the tale is as follows.

Edward Gibbon Wakefield was born in 1796. In 1816 he eloped with an orphan heiress whose estate seems to have made him and the two children she bore him practically independent for life. This wife, Eliza Pattle, died four years after the marriage. Wakefield became secretary to the English Embassy in Paris. In the year 1824 his father had married for the second time. The new wife of the elder Wakefield was a Macclesfield woman named Frances Davies, and for some quite unaccountable reason this second marriage was kept a profound secret. The new Mrs. Wakefield Senior returned to Macclesfield to her father, Dr. Davies, and to that pair Edward Gibbon Wakefield, now thirty-two years old, and his brother William paid a visit in February and March of the next year.

Frances Davies, or Wakefield, had made friends with the family of a Mr. William Turner, a rich manufacturer and Sheriff of the County, and this woman seems to have been the principal deviser of the criminal scheme of abducting the schoolgirl daughter of the Turners from the Misses Daulby's school for young ladies near Liverpool. A forged letter purporting to be written and signed by the Turner family doctor was sent by the hand of Wakefield's French valet to the lady mistresses of the school, informing them quite falsely that Mrs. Turner, the girl's mother, was seriously ill with an attack of paralysis and that she desired to see her daughter Ellen immediately, and also that the servant bringing the letter would convey the girl to her home with every care. The wicked ruse succeeded.

Ellen Turner went off with the valet, who informed her that the carriage would pick up her mother's old physician at Manchester. However, instead of Ellen Turner meeting this Dr. Hull she was taken into a private room in an hotel in Manchester, where she was met by the perfect stranger Edward Gibbon Wakefield. Wakefield did not even then supply the lass with his name but entered into lively conversation with the express object, as he tells us, of diverting her from any awkward questioning. Then Wakefield took her off in a carriage that drove in a direction opposite to her own home, and admitted to her that her mother was quite well in health, and that he had deliberately misled both her and the Misses Daulby; but he gave no explanation of his extraordinary conduct.

Wakefield then exerted himself to please the captured damsel, and he must have made great efforts in that respect, for he wrote about them later in the highest self-congratulatory terms, and indeed, used an expression almost prophetic of a phrase that in later days became more world-known; for Wakefield said about these efforts at charming the lass: "Never in my life did I say so much in the same time."

Wakefield's next piece of dastardry was to inform the girl that her father's financial affairs were in a desperate condition and that only by her marrying him could her fond and much-loved parent be saved from ruin; he also assured her that this plan was approved by her father's solicitor, who bore the alarming name of Grimsditch. The anxious Ellen Turner acceded to the wicked suggestion, and off the pair went to Gretna Green, chatting meanwhile, Wakefield tells us, on such thrilling topics as the novel "Waverley" and its distinguished author, Sir Walter Scott. The famous blacksmith married the pair at Gretna Green and the couple went off to London, then to Dover, and thence to Calais.

The criminal devices of Wakefield and his brother William, of his valet, and of his father and stepmother (for all were participants) were discovered, to the horror and acute distress of the Turner family. Two uncles of the girl, Mr. Grimsditch the solicitor and a Bow Street officer went over to Calais. On seeing her uncles Ellen Turner became greatly distressed, and she immediately placed herself in their hands when she heard details of the cruel deceptions practised upon her and her relatives. She promptly repudiated both Wakefield and her marriage. Brother William Wakefield was already under arrest in England, and

Edward Gibbon Wakefield declared his intention of facing accusers and accusations and all the consequences in the Court. We can give him the credit of moral and physical courage, for he duly carried out his undertaking, and on the 23rd of March, 1827, he stood his trial at Lancaster with his brother and the valet.

The trial was a tremendous cause célèbre both locally and throughout the whole country. The judge was Mr. Justice Alan Park, the judge who had already presided at the notable trial of Thurtell and Hunt for murder and that of Henry Fauntleroy for forgery. A delightful story is told of this judge, whose failings, we are informed, sometimes led him into ludicrous positions. Once he examined a little girl to see whether she had capacity to give evidence, and it is said that he asked the child in kind tones as he beamed at her with all the animation of his lively countenance, "What do you do, my little maid, just before you get into bed?" Confusion reigned in the maiden's cheeks. But instead of then putting a direct question to the child, the unhappy judge repeated his question and got the answer everyone but himself was expecting.

There was a most formidable troop of counsel on each side. Sergeant Cross had with him as counsel for the prosecution the famous Henry Brougham, later the Lord Chancellor Brougham. Sergeant Cross spread himself in forceful English, but the whole case really depended upon the testimony of the alleged wife of the prisoner Edward Gibbon Wakefield.

Ellen was even then only sixteen years old. She was apparently a pretty, genteel-looking little girl, and one can quite understand that her appearance created a great sensation. The learned judge held that her evidence was admissible against the man who presumed to be her husband, and the result could therefore be no other than to destroy any possible defence to the charge. Scarlett, the most famous verdict-getter of his day, and some say of all time ("there are thirteen jurymen in the box when Scarlett is speaking," someone said), could do little but cross-examine with as much delicacy as possible and make an address in similar terms. The laughter-provoking evidence of the blacksmith marriage-celebrant of Gretna Green, old David Laing, could hardly have made things better for the accused men and inevitable conviction followed.



The principal accused, Edward Gibbon Wakefield, took all the blame—very properly no doubt; he declared that the expense of the defence had run him into no less than three thousand pounds and that he would not accede to sacrificing his children's interests, so that if a fine were imposed it would mean perpetual imprisonment, as he would not pay it. So the Court gave him three years in Newgate.

Old Mr. Turner had recourse to Parliament and obtained an Act annulling his daughter's marriage, though the prisoner did what he could to oppose it.

All the strong and ambitious hopes of Wakefield for Parliamentary and other activities would be thought to have been forever blasted by such conduct and by such a termination. But from the awful climax seems to have been reborn and re-directed the tremendous power of his remarkable mind, and the strength and purpose of his unquenchable spirit. Edward Gibbon Wakefield devoted himself for those three stressful years to plans and actions which were to have great and lasting effects for the highest good upon countless thousands of his fellow-beings. Wakefield's experiences behind the prison walls of Newgate with fellow-prisoners and returned transportees resulted in his advocacy of unparalleled eloquence and power of the most urgently required reforms of criminal administration as well as punishment. To Wakefield's efforts is largely due the restriction of the death penalty, which at that time was applicable to no less than some hundred and sixty offences, many of which were of the most trivial character. The reform of the transportation system also owed much to his impressive advocacy.

But most of all, behind the Newgate bars Edward Gibbon Wakefield began the development of the ideas of colonisation which led directly to certain pioneer ships coming up Cook Strait in the year 1840 and the voyagers in those ships landing with high and thrilling hopes on New Zealand shores at a site called Port Nicholson. So, phoenix-like, Edward Gibbon Wakefield rose from the ashes of his ruined life, and became the most enlightened, the most progressive and the most powerful of the colonisers of the British Empire.

## MURDER OF A BABY.

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### THE FARNDALE CASE.

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It is not often that one hears the allegation of the murder by a mother of her own baby only a fortnight old, but that was the charge against Mrs. Florence Farndale heard in Auckland in February, 1908. The tale is full of most unusual features. Here it is.

Mrs. Florence Farndale was a grass-widow, her husband, a medical man, having deserted her in Fiji and gone to South Africa some three or four years before, leaving her and her two young daughters with her father and mother, of whom she was the only child. The whole family of five had come to New Zealand early in 1907 and they went to live in Hamilton. Mrs. Florence Farndale induced her parents to allow her to go to Auckland with her children in October on the excellent excuse that an outbreak of typhoid in Hamilton might be dangerous for the youngsters. She took them with her to a boarding-house in Symonds Street, where they all became very friendly with the other occupants. The little girls were pretty and fair-haired, and she herself was a most attractive and elegant woman of about 26, with a very beautiful natural head of hair, a veritable garment when let loose. They occupied a large front room in the boarding-house and the children went to kindergarten. Mrs. Farndale just did the ordinary nothings of many women of that time and entered these nothings in her carefully kept diary. A game of bezique was her evening entertainment and a glass of stout her evening consoler.

So things went on until the early morning of Monday, the 11th of November, Mrs. Farndale was then taken seriously ill and alarmed the whole household; a doctor promptly saw what her condition was and she was sent to Nurse Grace's maternity home in Vincent Street, where a female child was born almost immediately on her arrival. Nurse Grace noticed at once the disinterest, almost aversion shown by the mother to the newly-born baby which was perfectly healthy and was treated with the utmost care in the home for the ten days the mother and child were there; but the mother would not allow the baby near

her, or even consent to feed it, and it had to be put on the bottle. So strange was the mother's behaviour to her baby that Nurse Grace had unpleasant fears about it and communicated with the police; and when on Saturday, the 23rd of November, Mrs. Farndale left with the baby in her arms in a cab, a detective was actually on the box-seat. The cab, on instructions from Mrs. Farndale, went first to a Catholic Orphanage which was unable to take the baby in as she requested, though the Mother Superior also felt and expressed some alarm as to the fate of the child. Next the baby was offered to the Salvation Army Home in Hepburn Street, but that was only a maternity home; then, in desperation, the woman actually enquired at the City Police Station to see if the matron could suggest a place for the child. On the matron asking her if she was related to the child the answer was that she was not, that she was only a short time out from England and had met the mother of the child on board ship, and that the father of the child was a blackguard and was travelling on the Continent. But there was nothing else for Mrs. Farndale to do but most unwillingly return to the boarding-house in Symonds Street, where she and the baby were treated by everybody with the utmost kindness.

Opposite the Farndales' room two young women, sisters, worked in their own room at their sewing business. One of these young women witnessed Mrs. Farndale leave the house at 7 p.m. on Monday, the 25th of November, with the baby wrapped in a shawl and return about ten o'clock without the baby, but no spoken comment was made by anybody in the house.

On her return to the boarding-house the shawl was quietly replaced by Mrs. Farndale in the wardrobe in her bed-sitting room.

During the time Mrs. Farndale was in the nursing home the diary entries were naturally suspended. Immediately on her return they were recommenced. There is a most significant blank in the diary for the whole Monday, the 25th of November, the day of the disappearance of the baby from the boarding house. The petty events of the next and subsequent days were fully noted by Mrs. Farndale in the diary and there was no suggestion in it of any unusual happening.

Things settled down again to the same old dull even tenor. On the following Saturday week, the 7th of December, the morning paper contained the horrible news of the discovery of the headless body of an unknown baby



which was washed up on a Ponsonby beach. The gruesome narrative was read aloud right through from beginning to end without sign or quiver to the two seamstress sisters by Mrs. Farndale herself.

The police enquiries as to the dead baby were that evening directed to Mrs. Farndale herself. Two detectives came to her room where the two children were asleep. Mrs. Farndale told the police in answer to their queries that her baby was at the Hepburn Street Home and that she was paying twelve and sixpence a week for its keep there. She went quite willingly to the police station; one detective went in to order a cab, while she waited outside with the other, engaging him in ordinary and quite calm conversation. They all then went in the cab to the Army Home; all three in the back seat, a detective being on each side of Mrs. Farndale. When the cab stopped at the door of the Home, Mrs. Farndale put out a hand on to the arm of one detective and said "Stop, don't get out; the child is not there. I know you will not believe me now I tell you, you will think I did it purposely. I took the baby away at dusk on the Monday and went for a blow up the harbour. I got on a ferry boat and the baby slept peacefully. On the way back it got restless. I walked up and down to quieten it, and then sat on the rail of the boat. All at once the steamer lurched and the baby fell overboard. I was too scared to do anything or tell anyone at the boarding-house, and I am so sorry I told so many lies." Then she burst out sobbing.

Mrs. Farndale gave no explanation for not calling out on the boat on the happening of that really alarming occurrence. She was duly arrested and appeared for trial on the charge of murdering her infant before Mr. Justice Edwards and a jury in February, 1908. Dressed for the part in heavy black gown and veil, and sobbing without intermission, she went through a day and a-half's ordeal. Poor Nurse Grace had the worst time of anybody, however, particularly at the hands of the judge, who bent every effort to secure an acquittal. But Nurse Grace, having from the first, with some justification, taken a strongly hostile attitude towards the accused, presumed, very stupidly, to identify a diaper and a woollen band found on the dead baby as those of the baby of the accused, and even went so far as to declare that a stitch in the clothing was the very stitch made by Mrs. Farndale herself. When asked what colour was the cotton used by the accused, Nurse Grace swore most positively that it was white; when shown the cotton in the stitch, to her amaze-

ment it was red. She did not know, nor did anyone else then realise that the cotton in the band had been coloured red in consequence of all the garments having been soaked in a reddening carbolic disinfectant.

The judge tackled Nurse Grace unmercifully. The dour old nurse's evidence did not affect the real issue one little scrap. Certainly the Crown had the duty, first of all, to prove the death of the baby of the accused; that death was surely overwhelmingly proved, firstly by her own frank if somewhat startlingly late admission that she had somehow inadvertently dropped the child overboard; secondly by her own string of elaborate lies and her total failure to make any mention of the little incident to anyone after the occurrence; thirdly by the fact that her own baby was not found or produced alive; and lastly by the production of the dead baby discovered on the beach. If Nurse Grace's whole evidence had been eliminated, if she herself had never been called as a witness at all, the case would have been just as compellingly strong against the accused. The judge, fierce enemy as he was of anybody else's red herrings, was a master at dishing them up himself when he wanted to and when a lovely lady was the centrepiece of a case, as here; and he relished his own red herrings with an almost salacious gusto. However, this quite unimportant testimony of the unfortunate Nurse Grace, to whom the judge addressed these words in a fiercely stern voice; "Woman, do you realise that that other woman's life hangs upon your evidence?" (which of course, it didn't), this evidence of the nurse and an admission by a doctor who was a witness for the prosecution that Mrs. Farndale might have been so overcome with horror, and some other unspecified feelings, at the suggested accident on the boat and by her own physical weakness at the time that her highly original story might be true, were practically the deciding factors in the case. Anyhow, the jury, heavily assisted to the conclusion by the fascinated judge, acquitted Mrs. Farndale on the charge of murder. It may be mentioned as a lucky thing for the lady that her diary was swept aside as having no bearing on the prosecution, so the judge and the jury never took even a glance at so significant and damning an exhibit. For that diary not only showed the blank on 25th of November, but immediately afterwards, and continuously right up to the arrest, the plain and simple entries of her ordinary dull doings displayed neither regret nor any other humane sentiment.

## A DERBY SENSATION.

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### THE "RUNNING REIN" RING-IN.

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In all the history of horse racing there was never a case quite like the "Running Rein" ring-in. The details of this extraordinary incident are numerous, and save to those highly experienced in turf matters most of those details are almost incomprehensible. But the main outlines of the nearly-completed fraud are clear and well worth recalling.

In the year 1844 two now notorious horses were entered for the classic Derby race—Running Rein, owned by Mr. Wood, and Orlando, owned by Colonel Peel. Running Rein romped home the winner, and Orlando was the second horse in the race. There had been enormous betting transactions connected with the race for the 1844 Derby, and it was strenuously contended that very large bets had been laid against the horse Running Rein. Colonel Peel protested that the horse that won the Derby that year was not the horse Running Rein, but a four-year-old substitute named Maccabeus, whose sire was a horse named Gladiator, whereas the real Running Rein was by The Saddler out of the dam Mab.

Of course the Derby was and is a race for three-year-olds. The whole of the racing world, fashionable and unfashionable, was stirred to its murky depths by the sensational allegations. Mr. Wood had no other course but to take legal action against the allegedly slanderous Colonel Peel. And a fine couple of days was had in the old Exchequer Court before Mr. Baron Alderson and a special jury by everybody of note and everybody of no consequence whatever. The bar engaged for the historic contest was as distinguished as could be procured in those days of forensic big fellows. Alexander Cockburn, later the Lord Chief Justice of England and the noted presider at the trial of the Tichborne Claimant for perjury, led for the plaintiff; and the Solicitor-General, Sir Frederick Thesiger, led for the defendant Colonel Peel. The Court was crowded by noblemen and women, eminent members of the Jockey Club, horse trainers and breakers, copers and dopers, jockeys and stable-boys and a mob of assorted and



wondering victims of the sport of kings and crooks. Not even Bob Sievier, of mixed memory in later days, gathered a more interested and excited audience to hear the disclosure of the devious activities of the racing world.

The whole and sole question for the Court was, whether the horse that won the Derby had been truly described and whether he was of the age which qualified him to run for the Derby, and whether, therefore, he should be deemed the winner of the greatest of English classic horse races. The question seems a simple one for decision.

Mr. Cockburn, plaintiff's counsel gave, in his opening, the pedigree of the horse and his whole history. It seems that in the previous year, 1843, the horse Running Rein had won a race at Newmarket and that an objection had been lodged on account of age, but that the stewards had decided in the horse's favour. The original owner of the horse was a Mr. Goodman; perhaps this name was a misnomer. Then Cockburn lashed out against his anticipated opponents, the heavy betters against the horse, who were determined, according to Cockburn, not to lose even if they didn't win; because they were the principal parties to the enquiries as to the identity of the horse Running Rein. Lord George Bentinck, an exceedingly well-known horse owner and Parliamentarian, was the main object of Cockburn's innuendoes. The horse, we are told, was of a bay colour with black legs and a little white on the forehead and its heels were cracked. In 1842 it had broken the skin of one leg which left a scar. Well, a star witness was one George Hitchcock, a breeder of colts, who said that he had been employed in October, 1842, to break Running Rein. Here is a transcript of important parts of George Hitchcock's evidence; to many this rigmarole must doubtless have considerable meaning, and a sinister one at that:—"I know George Dockray the trainer," said Hitchcock, "I never said to him 'Damn it, this colt has been broken before; here is the mark of the pad on his back.' I showed him the mark but I never said these words or any words to that effect. I don't know why I showed him the mark. It was not big enough for the mark of a pad, and was not in the place for the saddle to make it. I told Lord George Bentinck the same. The mark of the pad never wears out. I recollect being asked in the presence of Mr. Smith: 'What had I there?' and I recollect answering: 'a four-year-old. I have not the slightest doubt of it.' Mr. Smith struck me for it. I did not say afterwards that I had forgotten all about the horsewhipping and that the marks of the pad had worn out. I never said either that somebody had behaved very well to me."

Early on in the evidence, the judge, Mr. Baron Alderson, asked that he and the jury should see the horse for themselves, which seems a perfectly sensible request.

Mr. Alexander Cockburn said that he had no objection, which seems a perfectly sensible attitude. One would have expected that the horse itself by this time would almost have been personally keen to have been produced for inspection. But a training groom now called as a witness deposed that the horse had been smuggled out of the way, so that it might not be seen by the defendant's agents, who had naturally been most anxious to have a look at the animal but who up-to-date had been refused access to it, much to the expressed complaint of Colonel Peel's counsel. The judge commented on the obvious perjury of witnesses for the plaintiff. The Solicitor-General wanted veterinary surgeons to inspect the horse. That demand raised questions as to the judgment of a horse's age by its teeth, and argument ensued as to the reliability of that test. When the plaintiff's case was suddenly and unexpectedly closed, the Solicitor-General had his opportunity to lash out at the plaintiff's case, and Sir Frederick Thesiger denounced it as a gross and scandalous fraud on the part of the plaintiff.

The case for the defendant, he said, was that the horse was not Running Rein at all but a colt by Gladiator out of a dam originally belonging to Sir Charles Ibbotson, and that it had had the name of Running Rein imposed upon it, being originally called Maccabeus, and had been entered for certain stakes under that description. But his allegations, he said, were not against the plaintiff, Mr. Wood, but against another person named Goodman, who had entered into a conspiracy with other persons to run horses above the proper age. The Gladiator colt had been entered for races under the name of Maccabeus before Goodman purchased him; and to run these races while the colt was in training for the Derby, for which he was entered under the name of Running Rein, Goodman hired an Irish horse which he disguised to represent Maccabeus, though a year older than that horse. The Gladiator horse, the soi-disant Running Rein, when he ran for the Derby in 1844 was four-years-old, the race being for three-year-old horses.

And so the defence called a horse dealer named George O'Dell to swear that Running Rein was in fact the Gladiator colt and that this colt had two marks on one of its legs. There the judge very reasonably remarked that the pro-

duction of the horse would prove that—which of course it would. But where was the horse? Mr. Alexander Cockburn said that he would do whatever his Lordship pleased; and his Lordship replied to Mr. Cockburn, "Mr. Cockburn, you do whatever you please." So Mr. Cockburn had to say then that he was convinced that he had been deceived. Well, if that was so, of course that was the end of the case. But Mr. Cockburn was still as uncertain as he was uncomfortable, and the defendant's counsel very properly would not help Mr. Cockburn in the slightest degree and proceeded to call some more witnesses on behalf of the defendant, making the plaintiff's case worse and worse. Up to then there had been a host of witnesses called on both sides, horsey men of all kinds, training grooms, stablemen and boys, horse dealers, jockeys, lords, stewards of the Jockey Club and so forth. When the plaintiff's counsel could go no further he took a large whitewashing brush for his client Mr. Wood, which seems to have been acceptable to the presiding judge as a proper instrument; and as the plaintiff's counsel would and indeed could say nothing more the judge directed the jury to find a verdict for the defendant, Colonel Peel, which verdict the jury very promptly returned without leaving the box.

It is said that the ever ready sporting instincts of the English people was again displayed by a large number of the opinionated who laid heavy wagers upon the result of the trial of the case of **Wood versus Peel**.



## WIFE AND PARAMOUR.

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### THE MURDER OF FRANCIS RATTENBURY.

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This is a tale of passion, crime, retribution and terrible nemesis, and it is told in the trial for the murder of a husband and a rival. The trial is that of Mrs. Alma Rattenbury and George Stoner, heard at the Old Bailey in May of the year 1935.

No. 5 Manor Park Road, Bournemouth, was named Villa Madeira; a more appropriate name might have been Cock-tail Villa. In 1935 there lived in that tiny house Francis Rattenbury and his wife Alma, Irene Riggs the companion help, George Stoner the chauffeur and handyman, and the dog Dinah. Francis Rattenbury was a retired architect of 67 with ample means; Alma Rattenbury, aged 38, was his second wife and he was her third husband. Her second husband divorced her over her third, Francis Rattenbury, and Rattenbury's first wife did the same with him over Alma.

Rattenbury had a grown-up family by his first marriage. Alma had a son of thirteen by her second husband and a son of six by Francis Rattenbury. Irene Riggs had been in her then situation for some four years and was on most friendly terms with her mistress whom she always called "darling." George Stoner was only eighteen years old. He was a simple youth in some ways but he and Alma Rattenbury had developed a passion for one another which had been given full play. Irene Riggs knew all about it; it is said that the husband did not, though the wife said later he must have known. Some men however, are, and will always remain, quite blind.

The woman and her lover Stoner had been together in London for four days until the 22nd of March, 1935. On Sunday the 24th of March, Irene Riggs who had had her half-day off, came home to Madeira Villa at about 10.15 p.m. Irene Rigg's story was that when she got home she went upstairs to her bedroom, and then downstairs again and heard unusually heavy breathing, looked into Francis Rattenbury's bedroom and not finding him there, concluded that he was asleep in the drawing-room next door, and went back to her own room upstairs. She said that a little

later she saw George Stoner looking over the banisters and that he told her that he was looking to see if the lights were all out down below. Irene Riggs said that Alma Rattenbury came into her room and had a talk with Irene about her and her husband's intended visit the next day to a friend's house at Bridport and that during that talk Alma was a little excited but otherwise quite calm and normal; that about ten minutes or so later she heard Alma Rattenbury scream out for her from the drawing-room, and that on going down she found Rattenbury sitting in his armchair terribly wounded on the head. It must be understood that Rattenbury's bedroom was on the ground floor and the rooms of Mrs. Rattenbury, Irene Riggs, and George Stoner were on the next floor above.

Alma Rattenbury had obviously broken out into a drinking bout; it seems to have been her habit to have periodic fits of excessive liquor taking; but she was certainly in a state of great distress and alarm, indeed Irene Riggs said that she was raving about the house. At first Irene thought that the victim was just sitting in his armchair asleep; as a fact he had three severe wounds on the head, one of which had broken the skull, and there was a lot of blood about. Irene rushed to the telephone and rang for Dr. O'Donnell, Mrs. Rattenbury urging Irene to hurry and calling out: "Can't somebody do something?" George Stoner came at a call from both of the women. Dr. O'Donnell brought the surgeon Mr. Rooke. Alma Rattenbury's behaviour became worse and worse, but she told Dr. O'Donnell a quite reasonable story to the effect that she had been roused by a sound and had run downstairs and found her husband in the condition seen by the doctor. Later Alma got even worse and when her husband was removed to the hospital she seems to have gone half crazy.

Here is the position. Rattenbury is terribly injured; Mrs. Rattenbury yells for Irene Riggs, who comes on the scene, and then both women call for Stoner who also comes down. Mrs. Rattenbury is distraught and gets crazy drunk. Stoner remains quite calm. The victim, the doctors and Stoner go to the hospital leaving only Alma and Irene in the house.

It was about 2 a.m. when Constable Bagwell came. To the constable Alma Rattenbury stated: "About 9 p.m. I was playing cards with my husband in the drawing-room and I went to bed. About 10.30 I heard a yell. I came downstairs into the drawing-room and saw my husband sitting in the chair. I then sent for Dr. O'Donnell. He

was then taken away." Mrs. Rattenbury took still more liquor and tried to kiss the constable, who cleared outside to dodge such awkward treatment and to look for further help; Irene Riggs had to lock the doors of the house to prevent Mrs. Rattenbury going out after the constable and actually had to sit on her to keep her quiet. Mrs. Rattenbury took to playing blaring gramophone records. Then Inspector Mills came. Alma told the Inspector something similar to what she had told the constable. The Inspector went to the hospital and about half past two Alma suddenly said to Bagwell, the constable: "I know who done it." Bagwell cautioned her but she said: "I did it with a mallet. Ratz (Ratz was the name used to signify Francis Rattenbury) Ratz has lived too long. It is hidden. No, my lover did it. I would like to give you ten pounds. No, I won't bribe you."

In fact, some time later Bagwell found a mallet hidden outside the front door, with hair and flesh on it. When Mills came back from the hospital about 3 a.m. he said to her, "Your husband has been seriously wounded and is now in a critical condition." She said, "Will this be against me?" Mills cautioned her but she said, "I did it. He has lived too long." He said, "Dear, Dear." "I will tell you in the morning where the mallet is. Have you told the coroner? I shall make a better job of it next time. Irene does not know. I made a proper muddle of it. I thought I was strong enough."

Dr. O'Donnell came back from the hospital about 3.30 a.m. and then Mrs. Rattenbury said, "I know who did it—his son." Mills said, "How old is he?" and she replied, "Thirty-two, but he is not here." Dr. O'Donnell gave her a heavy shot of morphia saying, "Look at her condition. She is full of whisky, and I have given her a large dose of morphia. She is not fit to make a statement to you or anybody else."

Dr. O'Donnell left the house about 4.30 a.m. and Detective Inspector Carter came. Mrs. Rattenbury was asleep and Carter took a statement from Stoner, who told nothing more than Mrs. Rattenbury, and Stoner also stated that he had never seen a mallet on the premises, and that he did not know how the thing happened. At a quarter past eight in the morning Carter went into Mrs. Rattenbury's room; she had drunk some coffee, had had a bath and was then dressed, having previously been in her pyjamas. Carter charged her with attempting to murder her husband and cautioned her. Carter said that Mrs. Rattenbury spoke



coherently and with deliberation, and that she made a statement without being questioned, that he read it to her, that she asked to read it herself and that she read it aloud and signed it sitting on the bed without resting on anything. This was her signed statement:—

“About 9 p.m. I was playing cards with my husband when he dared me to kill him as he wanted to die. I picked up the mallet. He then said: ‘You have not got the guts enough to do it.’ I then hit him with the mallet. I hid the mallet outside the house. I would have shot him if I had a gun.”

Mrs. Rattenbury was arrested, and when leaving with the police she whispered to Irene Riggs, “Tell Stoner he must give me the mallet.” She said aloud, “Don’t make fools of yourselves.” Stoner then said, “You have got yourself into this mess by talking too much.” At the police station she was again charged and again cautioned; but there she said, “That is right. I did it deliberately and would do it again.”

All this, it is to be remembered, occurred on the morning of Monday the 25th of March. On the Thursday, the 28th of March, Rattenbury died. On that day Inspector Carter arrested George Stoner as he was getting out of the London train at a Bournemouth station. On Stoner, when arrested, among other things, was a loving letter from Alma Rattenbury from the gaol and was signed “Lozanne,” the name she had been accustomed to use for the cheap and sentimental ballad songs she used to compose. All that Stoner said in answer to the charge was, “I understand.” But later he said, “Do you know Mrs. Rattenbury had nothing to do with this affair? When I did the job I believe he was asleep. I hit him and then went upstairs and told Mrs. Rattenbury. She rushed down then. You see, I watched through the French widow and saw her kiss him goodnight and then leave the room. I waited and then crept in through the French window which was unlocked. Still, it ain’t much use saying anything. I don’t suppose they will let her out yet.”

But you must know one or two more facts. On the night of Sunday, the 24th of March, the night of the murder, Stoner had gone to his grandparents’ house and borrowed the mallet, which he said he wanted to use on the pegs of a tent, but such a massive implement was not required for the sun shelter in the garden, which in any case was not then in use. And further, after the arrest

of Mrs. Rattenbury, Stoner had made certain important and striking statements to Irene Riggs. Irene Riggs realised that the police had found the mallet. She gave Stoner Mrs. Rattenbury's message about Stoner giving the mallet and added that the police had got it. Stoner did not reply to that. Later on that Monday morning, the 25th, Stoner had said to Irene Riggs, "I suppose you know who did it." On the next day, the Tuesday, Stoner drove Irene Riggs out in the car and pointed out to her his grandparents' house where he told her he had got the mallet. She asked him if there would not have been finger-prints on it to which he answered, "No," for he wore gloves. She asked Stoner why he had done it and he said "Because I saw Mr. and Mrs. Rattenbury together in the afternoon." On Wednesday, the 27th, Stoner came home intoxicated and told Irene Riggs that he wanted to tell her something. Her words were that he said how Mrs. Rattenbury was in gaol and he had put her there, and he was going up on the following morning to give himself up. Apparently in his drunken state he had been going up and down the road shouting out the words.

So that is the position which we have reached: Alma Rattenbury and George Stoner are both under arrest on the charge of murdering Francis Rattenbury; both have confessed to the killing of him with the mallet. The questions are:—Are they both guilty? If only one is guilty, which one is it? And how will the two accused fare when they jointly come up for trial?

The trial opened at the Old Bailey on Monday, 27th of May, 1935, and was as dramatic as any in recent legal history. The Crown took up the attitude that the accused had conspired together to murder the husband of the woman prisoner. Irene Riggs told her story. Irene told of the scene in the drawing-room when Alma Rattenbury had screamed for her to come down; how Alma immediately took to drink and raved about the house and she stated that, as her mistress was being taken out of the house by the police, she whispered to Irene, "Tell Stoner he must give me the mallet." Irene gave the Court the admissions of Stoner to her and repeated that when she asked Stoner if there would not be finger-prints on the mallet he told her "No," because he had worn gloves. She also deposed to her knowledge of the sordid and long standing love affair between the thirty-eight-year-old Alma Rattenbury and the eighteen-year-old chauffeur George Stoner, with which Irene was uncomfortably familiar.

Dr. O'Donnell and Mr. Rooke gave evidence as to the terrible injuries to Rattenbury's head. The police gave the history of the repeated confessions of Alma Rattenbury, both verbal and in writing, and of the confessions of George Stoner. Here was a dilemma, or rather a series of dilemmas, for both the Court and the defence. How were they all dealt with?

The most difficult dilemma was of course that of the accused woman. Alma Rattenbury was undoubtedly a strange, a most unusual creature; she had manfully held to her self-incriminating attitude, obviously determined to protect Stoner, her lover, at all costs. But we are told that her thirteen-year-old son by her second husband at length prevailed upon her to consent to tell the truth.

What stage-play could have produced a more moving and dramatic scene than that when Alma Rattenbury stepped from the dock into the witness box? There she told a thrilling and absorbing tale. She stated that she had not lived as a wife with her husband for six years; she admitted that from November of the previous year until the murder in March she and George Stoner had been lovers; she stated that on this fatal Sunday night, she and her husband had arranged to visit a friend at Bridport the next day, and that Stoner had taken exception to the visit and threatened her with a revolver; that she had left her husband in the drawing-room downstairs about half past nine on the Sunday night after kissing him goodnight; that after she left, her husband must as usual have let the little dog come up to her room as usual; that George Stoner had come to her room, also as usual, and seemed agitated and at length was induced to tell her that she was not going to Bridport the next day as he had hurt Ratz. Stoner told her that he had hit Rattenbury on the head with a mallet. This declaration did not penetrate her mind at first but when she heard a groan she immediately dashed downstairs. She said that she then saw her husband sitting in a chair and that she tried to rub his hands and shook him and tried to make him speak. Then she saw blood and trod on his false teeth and got hysterical and started to drink whisky. After that she declared solemnly and repeatedly that she could remember nothing at all; but she swore that she had neither injured her husband nor had had any part in planning to do so, nor knew of any such act or intention.

Alma Rattenbury had made a splendidly impressive witness; her evidence was self-condemnatory in many re-



spects, social and moral; but though she must have shocked the ears of many curious and excited listeners, she gave the appearance of a truth-teller to nearly all. Stoner's counsel cross-examined first. Naturally he was careful, he had to be; he did not dare attack Mrs. Rattenbury; what is more he did not intend to; it was clear that George Stoner was pledged to protect and assist her; indeed his counsel did not hesitate to admit, as far as he was allowed, that it was Stoner who struck the three blows.

When prosecuting counsel cross-examined, the thrilling scene became more strained and exciting. Alma Rattenbury had emitted no less than seven distinct statements; her evidence made eight. She was now, she declared, telling the whole truth, about everything, pleasant or unpleasant, even degrading or nauseating to her hearers; but whatever counsel or judge might ask, whatever doubts might be thrown on her memory or truthfulness, she never swerved from her story that after Irene Riggs came into the drawing-room, which would be some time between half past ten and eleven o'clock, she, Alma Rattenbury, could remember nothing but two vaguely recollected incidents, the kissing of her by Stoner just before she left and the frightened face of her little boy John at the door as she was being taken away.

At about 3.30 in the morning, Dr. O'Donnell had given her a heavy shot of morphia. Medical evidence told the court that such a dose would be expected to occlude the memory, particularly under the known circumstances of terrible strain and horror coupled with the alcohol; yet it was strange indeed that she could not remember incidents happening long before the giving of the morphia; such was her determined attitude, however; lies she had told, she admitted; she had lived a lie, as the conventional would say; but the treading on the false teeth of her injured and dying husband, that incident seemed to have stopped her power of conscious recollection; she did not remember, she said, the coming of her friend and doctor, Dr. O'Donnell, nor her ravings and subsequent tiplings, nor her repeated endeavours to kiss the first constable on the scene, Constable Bagwell, nor the morphia, nor the police coming and talking to her, nor her wild and contradictory statements to them and others; though at the police station she had written out and signed two cheques for five pounds each, one for her companion Riggs and one for the chauffeur, Stoner. She declared that she had tried and tried and tried for days and nights to remem-

ber, and to piece together from what she had heard, but all with the same blank and hopeless result; that, she said, was the absolute truth.

And Stoner? He did not go into the witness box. His counsel made a good best of a very bad job. A half-plea of insanity could not possibly hold; nor a vague suggestion of drug-taking on Stoner's part resulting in an even vaguer condition of irresponsibility. If Stoner inflicted the blows, what evidence was there of Alma Rattenbury's implication in the murder?

The jury said she was not guilty. Stoner was convicted and sentenced to death.

Charity still sometimes sweetens life. Alma Rattenbury's murdered husband's relatives looked after her on her release on the 31st of May. She was placed in a nursing home; she escaped from the home and bought a knife and took a train to Christchurch and must have spent many hours wandering about alone and writing pathetic diary notes as to her thoughts and feelings; she was found stabbed to the heart and dead, floating in a stream.

One extract from her confused diary was as follows:—  
"If I only thought it would help Stoner I would stay on, but it has been pointed out to me all too vividly I cannot help him. That is my death sentence."

Alma Rattenbury committed suicide on the 4th of June, four days after her acquittal. On the 25th of June George Stoner's sentence of death was commuted to penal servitude for life.

# A NEW ZEALAND WIFE AND PARAMOUR.

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## THE DEATH OF HUGH HAMILTON.

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In the month of November of 1882, Hugh Hamilton, a warehouse employee, lived with his wife and three children (the youngest only two months old) in East Street, Newton, in the City of Auckland, New Zealand. Right next door to the Hamiltons lived Mrs. Neilson, Mrs. Hamilton's mother, together with the sister Ann Neilson, the brother Robert Neilson and his wife, and also Thomas Priestley, a young theological student who boarded with the Neilsons. At about seven o'clock on the evening of Monday, the 27th of November, 1882, Hugh Hamilton, who, according to his wife, had only been there for a few minutes and was in liquor, left his home, called for a few moments on a neighbour who later said that he was quite sober, and then he went to a meeting of the Orange Lodge of which he had been the secretary for some years. No liquor was allowed in the Lodge, which finished its meeting soon after ten o'clock. Hugh Hamilton then visited one or two hotels, carrying the Lodge books with him, and some time later went to his home, quite sober, according to his friends, including, of course, the respective publicans. His wife put the time of his arriving home variously at something between midnight and one o'clock on the Tuesday morning, 27th of November. On the Tuesday morning between nine and ten o'clock, Hugh Hamilton was dead.

The cause of death was clear. Hamilton had a terrible wound on the side of the head and that wound had caused his death. Mrs. Hamilton told a strange story, indeed several strange stories. She was sleeping in one room with the children; Hamilton's bed was in an adjoining room. Mrs. Hamilton said that she heard her husband come in by the back door. She said that when inside the house he came into her room and wanted to take away the light from there but that she needed it because her baby was sick; that Hamilton wound up his watch and duly put away the Lodge books and that then she heard him fall; to some people she said afterwards that her husband fell down twice, to others that it was five or six times; at any rate the second fall was so severe



that the whole house vibrated and her own bed shook; he called out to her and she went into the passage, where she found Hamilton who was bleeding profusely; he was in liquor, she maintained; and he then made use of some curious words (the only words, according to her, that Hamilton uttered before his death some nine or ten hours later). These words were: "Will you please take me to another room, for I have fallen and cut my head on the bed-post and the blood is flowing so freely that I feel quite weak, for I am bound to let my missus know to-night"—a long and peculiarly worded statement with a final most mysterious allusion to his wife. What did Mrs. Hamilton do? She says that she helped her husband to bed, changed his night-shirt for an old dirty one and then proceeded to bathe his head, continuing to do so for some hours until five or six o'clock on the morning of Tuesday; this according to one statement of Mrs. Hamilton's; according to another she immediately went back to her own room where she lay in a dead faint until four or five o'clock. It never seems to have occurred to her to attempt to bind up the wound which was bleeding freely. She said that Hamilton vomited terribly and that about five o'clock in the morning she went out into the backyard, which faced the premises of a neighbour, a Mrs. Cullen. Mrs. Cullen saw Mrs. Hamilton getting water from the well and putting sheets in a tub; this conduct Mrs. Hamilton admitted; but neither Mrs. Cullen, who had on previous occasions been called in by Mrs. Hamilton in sundry domestic difficulties particularly in case of sickness, nor her own relatives next door were summoned by the distressed woman to assist her, though she only had to call out from the yard or the verandah and she must have been heard at once. Later she explained that her failure to call for help was due to her inability to leave the house on account of the illness of her baby, which was obviously partly a lie and partly mere subterfuge. At last, somewhere about six o'clock Mrs. Hamilton did call on her own relatives next door; a sister arrived, but she was overcome by the sight of Hamilton and then a brother was summoned, and the brother called in Dr. Walker. Dr. Walker arrived at the house at about a quarter past seven. The doctor could do nothing, as he quickly saw, and realising the gravity of the case he sent for Dr. Dawson. So great was the injury to the head of Hamilton that Dr. Walker could easily remove with his forceps a half-inch piece of bone from the wound, which was then bleeding profusely; indeed there was so much blood about the premises that Mrs. Hamilton told one witness that she had to scoop some of

it up with an iron spoon. To the doctors Mrs. Hamilton told her story of her husband having fallen upon the iron bedpost, and she repeated the story to friends and relatives who came flocking to the house as soon as the news of Hugh Hamilton's strange death spread around the town. An inquest was held before a jury and the Coroner, Dr. Philson, on the 29th of November. At the inquest Mrs. Hamilton gave her evidence—the same old story. Dr. Philson was very considerate towards the poor woman—her baby was obviously dying in her arms; it actually died that very day and was buried with its father. Whilst giving evidence the witness's head was bent low, tears flowed down her cheeks, and she seemed in such grief that kind Dr. Philson did not care to harrow her feelings by too minute questioning about her deceased husband; that was how a contemporary reporter recorded the incident. In those days newspaper reporters were in the habit of going everywhere, talking to everyone, saying anything, and promptly and with impunity filling their papers with reports and statements and views and the merest guesses. Dr. Walker had been told her story by Mrs. Hamilton and he thought, naturally enough in a way, that the story was true; and so Dr. Walker stated in his deposition that he thought the wound, as he saw it, could have been caused by the deceased falling on the iron bedstead. The trousers of the deceased, which Mrs. Hamilton said were round his feet and which she had handed to the police and which had no signs of blood about them, these trousers were not produced at the inquest. In face of the evidence before them the jury could return no other verdict but accidental death. Mrs. Hamilton went home and reported, with some reason, that everything had passed off satisfactorily and that dear Dr. Philson was a perfect gentleman and that none of the jury seemed to doubt her statement. These views of Mrs. Hamilton showed her poor judgment, for some of the jury and some of the relatives of the deceased were anything but satisfied or happy about the conclusion of the incident. For the purpose of the inquest the evidence presented to the jury had to be accepted, and in view of that evidence the verdict was obviously right and proper. But the whole affair was far too queer to be allowed to remain in its foggy state; and very soon there were all sorts of stories about young Priestley humming through the city.

And what sort of young fellow was this Tom Priestley? He was an orphan, it seemed, who had lived in the north of Auckland, where he had exhibited some kind of pious

leanings that had attracted the notice of a rich and religiously-minded old man; this old man had sent young Priestley to Auckland to be educated at his expense. Priestley was a very ignorant young man, as a fact. The benefactor's intention was that Priestley should become a minister; he had actually conducted some religious services in outlying places. His benefactor made him a weekly allowance, which Priestley seems to have supplemented by engaging to put up at night and take down in the morning the now out-of-date shutters of a well-known Queen Street shop. In appearance this young Priestley has been described as having regular and well-defined features, a clear complexion and a firm and resolute expression of face, while his figure was slightly above the average height. His upper lip and cheeks were clean-shaven, but he wore a bushy goatee beard. Mrs. Hamilton seems to have been a singularly unprepossessing woman. One historian states that she had a prominent nose and high cheek-bones, while her mouth was depressed as if some of her front teeth were gone.

It began to come out that Tom Priestley had been a constant visitor at the Hamilton home, very frequently, indeed mostly during Hugh Hamilton's absence; always attending to Mrs. Hamilton's smallest wants; laving her brow with lavender water; reading to her and allowing her to read to him; praying with her; taking the children out and making toys for them; and generally succeeding in making Hamilton very uncomfortable and unhappy. When Hamilton on one occasion thought of pulling his wife's hair Priestley stated that if Hamilton had done so, he, Priestley, would have brained Hamilton with a chair.

Now, it became an extremely important question as to where Tom Priestley was on the night of the 27th of November, 1882. We now reach some startling facts. On the night of the 27th of November, Priestley certainly did not sleep at the Neilson's, next door to the Hamilton's as usual—that was frankly admitted by him and conclusively proved by the Neilsons.

As usual detectives interviewed him as to his movements, and the story now becomes even more strange and complicated. Mrs. Hamilton's dozen or so stories to detectives and relatives and friends are, to say the least of them, of dubious verisimilitude, but Priestley's contradictory statements are even more suspicious. Sifting Priestley's various declarations, we find that he tells one detective that he went down to Queen Street on the night of the 27th



of November; that he waited at the shop until he put up the shutters between nine and ten o'clock, and that then he walked out on the main road towards Onehunga, meeting no person whom he knew; and that he then went on to Mangere (travelling some eight or nine miles altogether over what must have been in those days a most dreadful piece of road) and that he called at the house of one Richard Wallace; that he stayed at Wallace's, thinking for some reason that he might be asked to stay all night, but that not receiving any such invitation he went on further, to John Short's at Mangere, where he did stay all night and until between six and seven the next morning, when he walked back the same way as he came, and when reaching the city he went straight to his classes. Priestley also stated to a Presbyterian minister that he had stayed at John Short's on the night of the 27th. As a fact, Priestley was not at Wallace's or at Short's at any time that night. The detailed statement was made by him on the 5th of December. On the 13th of December Detective Strathern took Priestley to Inspector Thomson, who wished to interview Priestley in order to give him an opportunity of stating where he was on the important night. Priestley was all alacrity to go to the police station, and he even wanted to pay the bus fares of both of them to the office of the Inspector; and Priestley used the extraordinary expression that he would be only too proud to tell Inspector Thomson all he knew and where he was on the night of the 27th of November. He made use of the same expression to the Inspector himself.

Priestley told the Inspector about the putting up of the shop shutters; and then he stated that he went to the house of one Richard Lee at Onehunga, arriving there between nine and ten p.m. (a quick walk indeed, as was remarked and as Priestley had to agree); then, he said, he had some cold tea at Richard Lee's and left the Lees at about two o'clock the next morning; that he then walked all the way to Shelly Beach, roughly about eight or nine miles, arriving at Shelly Beach about four o'clock in the morning, and that he had a bath in the river, and from Shelly Beach he went to the Turkish Baths in the city, and that after having a hot bath there he walked about until it was time to take down the shop shutters, and that having carried out that duty he went off to his classes. Priestley never submitted any reasons for this suggested behaviour. And it transpired that Priestley had actually asked Richard Lee to support him in the statement that he (Priestley) had stayed with Lee on the

night of the 27th, but that Richard Lee had refused to do this as it was a lie; and further that Priestley had also asked a Mrs. Horne, who kept a lodging-house at Onehunga, to say that he had stopped with her at her lodging-house that night, but that she had also refused and for the same reason as Lee. Indeed, Priestley declared to Mrs. Horne that he had been out fishing all the night of the 27th of November. Curious facts also came out as to the obtaining by Priestley of two lots of strychnine of twelve grains each lot, supposedly for a friend who wanted the stuff to poison some Maori dogs.

Mrs. Hamilton admitted that Priestley had been at her house on the afternoon of the Monday, the 27th of November, and another woman stated that she saw him there at eight o'clock that night. A photograph of Mrs. Hamilton was found in a blotting pad belonging to Priestley, together with a most curious acrostic in his own somewhat defective spelling, which contained a very strange question (or one might call it message) in the initial words of the lines. The lines run thus:—

When wind and storms are past and gone  
Shall gentle calms succeed,  
I know to ease the troubled mind  
Sleep is the rest indeed;  
With these few lines I tell my mind,  
You may in them a question find.  
My meaning's plain, so find it out.  
Love is a torment when in doubt.

The meaning is certainly plain when found out; for the initial words of the lines reading downwards make the sentence, "When shall I sleep with you my love."

Priestley also had in his possession a short suspicious note written to him by Mrs. Hamilton, setting out the difficulties she recognised she had made for herself by her own evidence at the inquest on her husband and containing some significant remarks about an axe.

The body of Hamilton was exhumed three weeks after his death and a post-mortem held by three doctors, though Dr. Philson was not asked to be one of them. It was at the post-mortem that the true extent of the injuries was first disclosed. And it transpired that there was an axe at the Hamilton house. Mrs. Hamilton was observed putting this axe outside the house on the 29th of November and pressing grass down over the head of the axe. The back

of the head of the axe exactly fitted the wound. The scalp of the corpse was removed; it was discovered that the skull was cracked for a length of eleven inches; the whole side of the skull was removed by the doctors without any difficulty. The three doctors declared that in their opinions a fall upon a bed, except from a very great height, could not possibly have inflicted the injuries now disclosed; tremendous force must have been employed to have effected them; one doctor stated that the man must have fallen after such a blow like a bullock that had been pole-axed. Mrs. Hamilton and Priestley were both arrested and charged with the murder of Hugh Hamilton, as might quite reasonably have been expected, and the contemporary interest was now thoroughly aroused.

Much justified wailing was put up by prisoners' counsel at the continuous comments of the Press; one counsel complained that Priestley was herded with other prisoners in an evil-smelling cell; the police in answer explained that any obnoxious smell came from the carbolic disinfectant necessarily used there. When the case reached the Supreme Court the conduct of the police was commented on by counsel as well by the judge as being more suited to the French methods than the English. Mr. Justice Gillies had very early shown that he was completely on the side of the defence. This was doubtless a symptom of this judge's remarkable attitude to women in his court, for he seems to have cherished that still-existent assumed chivalric view that women are, by some mysterious quality of their sex presumably, incapable of wrong doing of any kind, including of course perjury, and that any contrary suggestion was a hideous libel upon that universally virtuous section of humanity. Dear Dr. Philson continued to be a perfect gentleman. He still declared that the wound might have been caused by the fall described in Mrs. Hamilton's stories, though, or even perhaps because, he himself had not been present at the post-mortem.

The defence was, as to Mrs. Hamilton, lack of proof that she had done the murdering, if there was any murdering. The defence of Priestley was an alibi. This alibi consisted entirely of the evidence of one witness called on his behalf. This witness was one Edward Lee, a drunken brother of Richard Lee, and all Edward Lee had to say was that on some date in November which he could not remember, Priestley had stayed at his brother Richard Lee's place at Onehunga. Edward frankly admitted that during that part of November when he, Edward



Lee, had stayed at his brother's at Onehunga he was all the time on a drinking bout and that he had spent all that time in the public-house, which institution, Edward Lee stated, was his proper place. The judge forsooth suggested that the prosecution had failed to prove where Priestley was on the night of the 27th of November; this was in face of the fact that the evidence was clear that he was certainly at the house of the Hamiltons at eight o'clock that night, and that that fact coupled with the young man's obvious lies and subterfuges as to his whereabouts justified any jury in drawing the necessary damnatory inferences; as this judge would doubtless have not hesitated to point out with cogency in any other case in which a woman was not involved.

After the heavy assistance given to the defences by a withering summing-up, the jury were only forty minutes in bringing in the verdict of acquittal for both prisoners and before a Court so crowded with curious onlookers, most of them feminine with offspring of all ages, that one small boy was only rescued from suffocation by a prompt and humanitarian police constable. And the judge finished up the melodrama by telling both prisoners that he did indeed hope that this trial would mean a lesson to them both—to the female accused a lesson not to associate with single men in the future—and to the male accused a lesson not to associate with married women in the future. History does not tell us whether the lesson was effective in the case of either of this exceptionally fortunate couple.

And now you may ask yourself: Was Hugh Hamilton murdered; and, if so. by whom?

## BIGAMY IN HIGH LIFE.

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### THE DUCHESS OF KINGSTON'S BIGAMY.

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Now we come to the very remarkable trial for bigamy of the notorious Duchess of Kingston, which took place, as the law provided, in the House of Lords; a very great affair indeed, full of incident, and, to the sardonic, what may appear as humour. The modern person, that is the very modern person, can hardly refrain, when making himself or herself acquainted with the exploits of the notorious Duchess, from using the very modern expression—What a dame!

Elizabeth Chudleigh, which was her maiden name, was never respectable, though she was not ill-born. She seems to have had little education and her father died when she was young. She was born about 1720, and is said to have been very beautiful. There is in existence a picture of very nearly the whole of Elizabeth Chudleigh, and it is probable that it would not be as attractive to the connoisseur of the twentieth century as it seems to have been to that of the eighteenth. The nastier gossips and writers of the time, as well as the nicer, could not resist spreading the scandal about Elizabeth, which continued to flow in a rich stream for a period of quite forty years. They included eminent persons like Horace Walpole, who knew her and played with her when they were children and disliked her intensely when she grew up. Samuel Foote, the actor and dramatist, wrote a play mostly about her and even tried to blackmail her with it.

Elizabeth went to Court as Maid of Honour to Augusta, the consort of Frederick Prince of Wales, at a salary of four hundred pounds a year! The Court of George II. was foul. The establishment of Frederick was even worse; it was indeed lucky for England that Frederick died before he could become king. Noblemen aspired to marry the witty and attractive Elizabeth, but she made the queerest of secret marriages in a small church in Hampshire with Augustus John Hervey, an impecunious naval officer. The wedding, it appears, took place at night and a friend had

to hold a rush-light protected by his hat so that the officiator might see his prayer-book, as well as the bridegroom, and the ring-finger of his bride.

Elizabeth had a child by Augustus in 1747; that birth was also kept secret. After the birth the husband and wife never lived together again. Of course, one good ground for the secrecy was that Elizabeth could not remain a Maid of Honour, and retain the emoluments of that high office, if she were a married woman.

About 1750 Elizabeth took up with the Duke of Kingston, immensely rich, quite brainless and apparently very handsome. In 1759 there was a good chance of Augustus, her husband, becoming Earl of Bristol; in which case Elizabeth would become Countess. The marriage having been so secret and there being no record of it, Elizabeth set out to get one and sought out the Reverend Thomas Amis, the clergyman who solemnised it, and got him, practically on his death-bed, in front of his wife and other witnesses, to make out and sign an entry of the marriage in a parish register specially purchased for the purpose. Years later, in 1768, Augustus Hervey made a move to get a divorce, which at that time had to be based on the misconduct of Elizabeth. She, now being completely attached to the Duke, as he was also to her, naturally would not stand for that, and so she countered in an Ecclesiastical Court with a suit of jactitation of marriage. This was a proceeding for a declaration of sentence that Elizabeth and Augustus had never been married and incidentally, though rather fruitlessly, enjoining Augustus not to bruit it about that they had. By suppression of evidence, and due to the eighteenth century chivalry of Augustus in not saying too much (it would now be termed collusion) the Ecclesiastical Court was fooled into giving a judgment in her favour.

The Duke of Kingston promptly married the lady and lived as her husband for about four years more. There were no children. Dying, he left Elizabeth great wealth—every scrap of his great personal estate and the life interest in his real estate, which latter was to pass on her death to the second son of his sister, Charles Medows. The eldest son, Evelyn Medows, got nothing. That little fact caused all the trouble.

Young Evelyn, who had heard, like all the world, of the reports of the marriage to Augustus, never rested in enquiry and finally got all the evidence he wanted. A



grand jury found a true bill against the lady. They found, in the quaint language of the period, that she had "with force and arms" feloniously married the Duke of Kingston. She was in Rome at the time of this finding and was advised that she would be outlawed and so lose all her estates if she did not return to answer the charge. So back she came, all fire, fury, and finery, and engaged a large body of capable counsel to defend her, in addition to her own eloquent tongue. The great Lord Mansfield predicted a stalemate and told the Lords so; for if the lady was not the Duchess of Kingston she was now the Countess of Bristol; for by great good fortune Augustus Hervey's elder brother had died childless, and so Augustus had come into the title just in time to make Elizabeth his Countess, if she was not the widow of the Duke. This meant that, if at the trial Elizabeth was convicted and pleaded the benefit of the peerage, there could not be a death sentence or even the burning of a hand, which was one of the penalties for felony.

There was a great trial; Mr. Attorney-General Thurlow was magnificent in phraseology and righteous indignation. After days of learned and interesting argument, the judgment of the Ecclesiastical Court was held not to be binding in the House of Lords, so the intriguing evidence was called: Ann Cradock, who said she was present at the marriage to Hervey in 1744, though Ann seems to have been a too pliable witness in the hands of Evelyn Medows, as also was Judith Phillips, formerly the wife of the Reverend Thomas Amis, the celebrant of the 1744 marriage; Caesar Hawkins, presumably accoucheur to Elizabeth when her son was born in 1747 (and Caesar tried his best to avoid giving evidence, pleading his confidential position and the great lapse of time, some thirty years). Lord Barrington was chivalry personified (a lot of time was wasted in argument by, and with him, as to his confidential talks with his friend Elizabeth and little came of his testimony). A lady with the wonderful name of the Honourable Sophia Charlotte Fettiplace was the greatest "gentleman" of them all and she told the Court exactly nothing. But the incumbent of the church at Lainston, who succeeded the Reverend Mr. Amis, produced the actual register of marriage, and nothing could really be done after that but talk at large, and that is just what happened.

The Duchess then made her opening address, an admirable piece of pleading too, though how much truth it contained is another matter. Her witnesses do not amount to much; some cast grave doubt on the reliability of Ann

Cradock and Judith Phillips, but they cannot eliminate the written certificate of marriage. There were more addresses by the Attorney-General as well as the Solicitor-General, and finally the Lords found the accused guilty of the charge of bigamy. The accused promptly claimed the benefit of peerage; there was another long legal argument, but the Lords, as Lord Mansfield had long ago predicted, were compelled to allow the plea, and all that the Lord High Steward, who was the president of the enormous Court of the House of Lords, could say to the convicted woman, seeing that they had no power to inflict any punishment, was "Let me add that, although very little punishment, or none, can now be inflicted, the feelings of your own conscience will supply that defect. And let me give you this information likewise, that you can never have the like benefit a second time, but another offence of the same kind will be capital. Madam, you are discharged, paying your fees."

So being set free, as she had to be, Elizabeth, now undoubtedly the Countess of Bristol, and whose husband could not now divorce her because of his collusion in the ecclesiastical suit, Elizabeth promptly left England and she never returned. By so doing, she prevented Medows from serving her with any process, and she retained her wealth and the estates until her death twelve years later, after many more exciting and fascinating adventures and experiences. As was said at the very beginning: What a dame!

## THE DANGERS OF "IDENTIFICATION."

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### THE ADOLPH BECK CASE.

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Never in English legal history was there a case like that of Adolph Beck. It is most improbable that there ever will be another of its type in the future.

Imagine, if you can, the conviction of a man in an English Court for a series of offences of which he was utterly innocent, and for which he was sentenced to a term of seven years' imprisonment; and imagine again that the same man, within three years of his release after that sentence, being charged with another series of similar offences and again suffering conviction, though he was as innocent of the second series as he was of the first.

In each case the evidence was of two classes; firstly a procession of women who with the utmost positiveness identified the accused as the culprit; and secondly, an alleged handwriting expert, who swore that certain incriminating documents were all in the handwriting of Adolph Beck.

The recital makes so incredible a story that one might be excused for attributing it to the invention of a crime-novelist. But here are the main details, which show how the dreadful train of incidents came about.

From time to time in the years 1894 and 1895 a considerable number of women were accosted in the streets by a well-dressed man, who in each case suggested that he would call upon the accosted woman the next day or so. Usually a letter or telegram announced an intended visit; the visit would follow; and then, in practically every case the same scene would be enacted; the fashionable stranger would ask the woman to accept the position of his housekeeper in his home in St. John's Wood, in London; he would parade under the names of Lord Wilton or Lord Winton or Lord Willoughby; he would point out that his newly-appointed housekeeper should have better clothes for the position she was to undertake, and he would nominate certain shops for the purchase by her of the necessary garments. He would then write out what he purported to be a cheque for some large amount, vary-



ing from fifteen pounds to hundreds, and would then proceed to borrow the woman's rings for the alleged purpose of the jeweller's measurements, his suggestion being that he would buy expensive rings and other jewellery to take the place of the borrowed articles. The man would also borrow any small cash the deluded woman might have about her; and, if possible, he would abstract articles of any value which might be lying about the premises and which he could carry away.

That would be the last the victim would see of the lavish stranger.

It should be noted that in the year 1877 a similar series of frauds had resulted in a man who passed by the name of John Smith being convicted of those earlier offences and receiving a sentence of five years' imprisonment. A police officer named Spurrell was present at the trial of John Smith in 1877 and Inspector Redstone had had charge of the police enquiry in that Smith case.

In 1895 Adolph Beck was residing in Victoria Street. Beck was a Norwegian of somewhat strange antecedents. He had been interested in mining ventures in Norway and in Peru and had experienced varying periods of fair prosperity and comparative poverty. In the year 1895 Beck had been receiving good sums of money as the outcome of apparently quite legitimate business.

On the 16th of November, 1895, one Ottolie Meissonier was undoubtedly defrauded of some valuable articles of jewellery by a man whom she met in Victoria Street. On the 16th of December following she met Adolph Beck in Victoria Street and immediately professed to recognise him as the offender, with the result that Beck was arrested and charged with defrauding Mlle. Meissonier.

Thereupon a long string of similarly defrauded women was brought forward by the police; many of these women also identified Beck as the thief and defrauder in their cases, though we are not informed (and would probably be interested to know) how many women failed so to identify him; but we do know that one woman at least most positively stated that Adolph Beck was certainly not the man who had defrauded her in exactly similar circumstances.

It is to be noted that a stranger wrote to the police reminding them of the remarkable similarity of the crimes disclosed in 1896 with those charged against John Smith

in the year 1877. Constable Spurrell and Inspector Redstone, who have already been mentioned, immediately and positively identified Adolph Beck as John Smith, though neither of those officers had set eyes on John Smith for eighteen years.

At this first trial of Adolph Beck a particularly deft and pertinacious and unbending counsel, Horace Avory (subsequently Mr. Justice Avory) led for the prosecution. Eleven women identified Beck as their defrauder before the jury and judge, who was Sir Forrest Fulton, the Common Sergeant. The incidents deposed to ranged from December 1894 to November 1895. The descriptions given by the respective women before they made their presumed identifications were curiously different and mostly very meagre; and this was all the more remarkable because the cheat and rogue had generally spent a considerable time with each of the women, sometimes extending to two or three hours.

A man named Gurrin, who dubbed himself a handwriting expert and had made a name for himself in that new profession, had had placed before him the written lists of articles of clothing, the series of bogus cheques and a number of the letters received by the defrauded women, together with some undoubted writings of Adolph Beck himself. So clearly different are the handwritings of Beck and Smith that it is astounding how anyone, even an expert, could possibly believe or declare that they were the same. The briefest inspection will demonstrate that this was the most outrageous portion of the evidence adduced. Nevertheless, Gurrin unblushingly swore that all the exhibits were written by the same person and that the handwriting on them was that of the unfortunate Adolph Beck. Yet the police officers who purported to identify Adolph Beck as John Smith, the women who identified him as the man who had systematically defrauded them and the petty expert Gurrin who asserted that the produced writings were in the handwriting of Beck—all these people were utterly mistaken in their testimony. For Beck had not committed any of the crimes of 1894 and 1895; the letters and lists and cheques were not in his handwriting, and he was not the same person as John Smith.

But Avory, the prosecuting Counsel, was convinced that Beck was identical with John Smith and was therefore the guilty criminal. There is no doubt that the judge held the same opinion. Yet though Gurrin had inspected similar documents which formed exhibits in the Smith case in 1877, and Gurrin made a report to the effect that those

documents were in the handwriting of the documents produced in the Beck case of 1896, C. F. Gill, who led for the defence of Beck in 1896 was not allowed by the Court to cross-examine the witness Gurrin in order to prove that the accused man of 1896 was not the offender of 1877; and above all that the 1877 writings were in the same hand as that of the real culprit of 1894 and 1895; which proof would have conclusively proved also that Adolph Beck, who could show conclusively that he was in Peru in the year 1877, could not have committed the crimes either of 1877 or those then charged against him in 1896 .

Avory objected to the admission of the evidence Gill desired to submit, on the ground that evidence directed to proving such facts as would thus be disclosed might possibly also disclose to the jury the fact of a previous conviction of the accused. It was true, of course, that by law neither the prosecution nor the judge was permitted to mention any previous conviction of the accused, but that prohibition did not apply to the defence; and it was no business of Avory if the defence was prepared to take any risk which might result from such disclosure by the defence itself. Avory's excuse was paltry and unfounded, and when he repeated it later it seemed to be quite ungenune. The cause of his raising the objection, which of course was upheld by the judge, was probably Avory's belief that Beck was indeed John Smith, and that as the trial had lasted for three days already, he did not want to waste any more time over it.

The judge, as so often was the case, seems to have ruled in favour of the Crown because it was his habit to accept the contentions of the prosecution almost blindly, and also because it saved him the trouble of thinking for himself. So Adolph Beck was deprived of his real and true defence, without appeal or any means of redress, and he was convicted of the charges laid against him, and he was sentenced to seven years' penal servitude.

Adolph Beck protested his innocence and petitioned the Home Office for reconsideration of his case. Though evidence found its way on to the official files clearly showing that Beck was not John Smith, Beck remained in gaol from 1896 to 1901.

In the year 1904 another series of exactly similar offences was committed. The police took one of the defrauded women to the street in which Adolph Beck then lived, and she immediately identified him as the culprit; and Beck



was once more arrested. Three other women likewise identified Beck when in custody as the man who had robbed them in similar circumstances. Beck was again put upon his trial and he was again convicted of the series of crimes charged against him. In addition, he was compelled to plead guilty to another charge laid against him, that he had been previously convicted in the year 1896; for it was an obvious and undeniable fact that he had been so convicted. But on this occasion the decision as to the sentence was postponed until the next session of the Central Criminal Court, and Beck went back to gaol on the 27th of June, 1904.

Ten days later, on the 7th of July, the man John Smith, the perpetrator of the 1877 frauds, the 1894 and 1895 frauds and also of the frauds of 1904 was caught red-handed and charged with and convicted of the perfectly new series of exactly similar offences, which he had just committed while Beck was actually in gaol awaiting sentence.

An intelligent officer had taken an interest in Beck's case; this man, Inspector Kane, had felt grave doubts as to the justice of the conviction. It may be remarked here that even in 1896 another police officer, Inspector Waldock, who was originally in charge of the enquiry in the first case, had had his serious doubts as to the propriety of the prosecution; Waldock had carefully examined Adolph Beck for the distinctive marks of John Smith which were set out in Smith's official crime record, and had found that those marks were not present. As a glaring example, Smith's eyes were brown while Beck's were blue. But most startling and conclusive was the fact that Smith was circumcised while Beck was uncircumcised. Inspector Waldock was promptly superseded by another police officer to take charge of the enquiry in 1896. If this conclusive proof of Beck's non-identity with Smith, and of his complete innocence, deriving directly from that proof had been allowed to be put forward, there would have been an immediate end of the hideous woes of this singularly unfortunate man. But the only real result of the discovery of that latter all-important fact was that the mark on Beck's prison clothes, which indicated that he was a second offender, was removed from them; though another result doubtless was that he was looked upon still more keenly as one of those persistent gaol-nuisances who were always protesting their innocence of the crimes for which they were serving sentences.

In 1904 Inspector Kane took up Beck's case with vigour. When the arrest of the man John Smith occurred in July of that year the authorities were at last awakened to a sense of danger; the public were naturally appalled. Beck was pardoned and released from prison. "Pardon" seems a curious word to apply in respect to a man who had been convicted of crimes which he had never committed, but it seems too that the authorities could not think of another word. Even yet they have not been able to coin a substitute for so inappropriate a term.

A Committee of Enquiry was set up. Sir Forrest Fulton, the judge who had presided at Beck's first conviction in 1896, was foolish enough to write a letter to the "Times" in a misplaced endeavour to answer the naturally severe criticisms. The Committee found, as of course they had to, that the judge's exclusion of Beck's true and sound defence in 1896 was wrong and unjustified; though, also of course, there was no censure of his conduct, and Ivory seems to have been completely absolved of all blame. Any responsibility was fastened only upon an inexperienced Home Office subordinate.

Beck was granted the sum of £5,000 as compensation, though the authorities had tried him out at first with a proposed *ex gratia* payment of £2,000. But the "Daily Telegraph" had advised Beck not to accept so paltry a sum, assuring him publicly that that paper would secure the same amount for him by an appeal to its readers, and without any official haggling.

It is indeed a terrible story; and the blame for the unpardonable errors and outrages should be awarded fairly among those truly responsible for them.

# THE GREATEST AMERICAN MURDER MYSTERY.

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## THE TRIAL OF LIZZIE BORDEN.

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There is always a temptation to fasten adjectives on famous murders and their perpetrators. Often those adjectives sound quite inadequate; it is the story that tells. However "the stupendous horrors of the murders" is an expression that has very fairly been used of the doing to death of the elderly couple Mr. and Mrs. Andrew Borden, in the city of Fall River in Massachusetts, on Thursday, the 4th of August of 1892. In June of the next year, the trial of Miss Lizzie Borden for the murder of her father lasted for thirteen hectic days. Lizzie was never brought to trial for the murder of her mother.

Andrew Borden was seventy years of age and had been an undertaker. He was a rich, close-fisted and narrow-minded business man with large financial interests in the city of Fall River. It is said that his fortune amounted to a quarter of a million dollars at the time of his death. It was probably much greater, because the combined fortunes of his two daughters when they came to die thirty-five years later was nearly three times as much. To give a little insight into the character of Andrew Borden, it is stated that when an officer of his church, who happened also to be the local assessor of property, increased the Borden rates, Mr. Borden in an icy rage left the church.

With Andrew Borden in his home at No. 92 Second Street there lived in 1892 his second wife, Abbey Duffree Borden, and his two daughters, Emma and Lizzie, the only surviving children of his first marriage. There were no children of the second marriage. Emma was forty-two and Lizzie thirty-two years old. Their mother had died when they were respectively twelve and less than three years old. Lizzie, though the younger, was the active one in speech and action, and Lizzie took prominent parts in church activities in connection with both the Christian Endeavour and the temperance branches. Bridget Sullivan was the only servant of the family.

On the 4th of August of 1892 Emma Borden was away from Fall River on a visit. In the middle of the night of



Tuesday, the 2nd of August, Mr. and Mrs. Borden were attacked by a severe vomiting illness. Lizzie Borden stated that she also was taken ill, but there was no corroboration of that. On Wednesday night, the 3rd of August, Lizzie paid a visit to a friend and neighbour, Miss Alice Russell. Part of Lizzie's talk to Alice Russell that night is reported as follows: "I am going to take your advice and go to Marion. But I feel depressed . . . I feel as if something was hanging over me that I cannot throw off . . . Father has so much trouble . . . He and Mrs. Borden were awfully sick last night . . . Sometimes I think our milk might be poisoned . . . I feel sometimes that father has got an enemy . . . I am afraid somebody will do something . . . I don't know but that somebody will do something . . . I feel as if I wanted to sleep with one eye open—for fear they will burn the house down over us."

On the Thursday morning, the 4th, Mr. Borden left the house at about a quarter past nine for a few business calls downtown, leaving only his wife, his daughter Lizzie and Bridget the maid at home. Now the house was known as a "frame house" and almost any sound in any room would have been noticeable in any other room. On the ground floor were a hall leading from the treble-locked front door, and a parloꝛ in the front, and behind were a dining-room, a sitting-room and a kitchen; from the kitchen a small passage led to the side entrance, which held a second door of wire which was fastened with a hook when in use. The bedroom of the old folk was on the upper floor and only reached by a staircase from the back; the other three rooms on that upper floor being the bedrooms of Lizzie and Emma and a guest room above the parlour. Those three rooms were only reached by a staircase opposite the front door. Bridget's room was in the attic on a small third floor at the back.

Well, Andrew Borden left home at about a quarter past nine. Mrs. Borden did some dusting on the ground floor, went upstairs and straightened up the guest room and then told Bridget to wash the downstairs windows outside and inside; and off Bridget went for her paraphernalia for that job. At about nine thirty a.m. Mrs. Borden said that she would go upstairs again to put fresh pillow slips on the guest room bed, using the front staircase for that purpose. That was the last seen alive of Abbey Borden.

Bridget started her window cleaning outside and then the only persons inside were Lizzie and her stepmother, towards whom there was good evidence that Lizzie had hostile feelings. Lizzie started to iron some of her hand-

kerchiefs. Mr. Borden arrived home about ten forty-five a.m. By that time, indeed an hour or more before that, Mrs. Borden had been brutally murdered.

Mr. Borden could not get into his house by either door, and Bridget had to undo the locks and fastenings of the front door to let him in. When the father entered the house Bridget heard Lizzie Borden emit a laugh from the upstairs. Then Bridget heard Lizzie tell her father that Mrs. Borden had received a note saying that someone was sick and that Mrs. Borden had gone out to see this mysterious sick person. Bridget finished her windows, and then Lizzie asked her if she was herself going out and that if she did go out she was to be sure to lock all the doors. Next Lizzie told Bridget about the sick person Mrs. Borden was supposed to have gone out to see. Lizzie said too that she might also go out, and Lizzie suggested that Bridget might like to go to a cheap sale of dress goods at Saunders' haberdashery. Bridget had been up since six o'clock and she also had been sick and so Bridget went up to her attic room to have a rest; that was before eleven o'clock, for in her room Bridget heard the City Hall clock strike that hour. Suddenly Bridget heard Lizzie calling her: "Come down here; father's dead; someone came in and killed him."

Lizzie would not let Bridget enter the sitting-room where Andrew Borden lay dead, stretched out on the sofa with his feet in his elastic-sided boots resting on the floor. Bridget asked Lizzie where she (Lizzie) was when the awful thing happened. Lizzie said: "I was out in the yard and heard a groan and came in and the screen door was wide open." Lizzie sent Bridget for the doctor, who was not in, and then Lizzie sent Bridget for Alice Russell.

Mrs. Churchill, a next-door neighbour, looked through her kitchen window and saw something was wrong and came in to help. Mrs. Churchill asked Lizzie where she was when the tragedy to old Mr. Borden happened. Lizzie answered: "I went to the barn to get a piece of iron." The police were informed of the murder of Mr. Borden at a quarter past eleven that morning. Lizzie expressed an opinion that Mrs. Borden might also be dead as she said that she thought she had heard Mrs. Borden come in. Bridget and Mrs. Churchill went up the front stairs together and before they reached the top of the stairs they saw the dead body of Mrs. Borden lying on the floor in the guest room. The head of each victim had been hacked about unmercifully and almost beyond recognition. Each must have died instantly.

Lizzie Borden's story was multiple. At one time it was a piece of iron she wanted for a screen; then she had gone to the barn and the loft for some lead for sinkers for a fishing line. Lizzie insisted that she had gone up into the loft and had looked for whatever she was looking for and had eaten some pears in the almost unbearable heat and stuffiness of that queer place for some twenty minutes or more, and certainly according to her at the very time when Andrew Borden was being brutally murdered. No one, it is true, noticed any blood about Lizzie's clothes or person, but it is also true that on the Sunday Lizzie burnt a dress of hers in the kitchen stove, and it was thought by many, and not unreasonably, that the dress Lizzie burnt was the blue bedford cord she had worn on the morning of the murders. There was never a proper explanation of the sacrifice of that dress. Lizzie had tried to purchase prussic acid from the chemist the day before the murders on the excuse that she wanted that deadly poison for preventing moths from attacking a seal-skin garment. The chemist refused to supply the prussic acid to her.

Lizzie gave lengthy evidence at the inquest; her statements there were highly dangerous testimony against herself. At the trial for the murder an extraordinary bench of three judges excluded both the poison evidence and Lizzie's testimony before the coroner, which was Lizzie's only sworn testimony; for she declined to go into the witness box at the trial. That trial was a long and sensational affair. Church feeling (or at any rate the more egregious part of the church feeling) was passionately and quite senselessly entirely on Lizzie's side. The prosecution was magnificently conducted by men of great ability and eloquence. The leading counsel for the defence had the reputation of being an able jury lawyer. As to his other attainments, one of the counsel for the prosecution's comment upon one legal argument of his opponent was that it was magnificent but that it was not law.

Counsel for the prosecution was right and the public attacks upon him by the senseless partisans of the accused whom they insisted on referring to as "that poor unfortunate girl" (though they knew, as we do, that Lizzie Borden was then thirty-two years old and an efficient battler for her own) were baseless and cowardly. However, much of the armoury of the prosecution was useless after the exclusion of the poison evidence and Lizzie's own coronial depositions, and the jury acquitted Lizzie Borden. For many years since, many of the thoughtful have been wondering why.



## CIRCUMSTANTIAL EVIDENCE.

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### THE TRIAL OF WILLIAM BROOME.

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A very great authority deliberately chose the case of William Broome as a prime example of the force of an accumulation of moral and mechanical facts, and with the utmost lucidity presented that combination for our appreciation.

William Broome was tried for the murder of Mrs. Isabella Wilson in the year 1910. Mrs. Isabella Wilson was a widow, seventy years of age, and she lived alone at No. 22 High Street, Slough, where she was a second-hand clothes dealer. Mrs. Wilson was found in her sitting-room behind her shop on Friday, the 15th of July, 1910; the door of the room was closed though it was her habit to leave it open so as to give her a view of the shop. Mrs. Wilson's condition when found is thus described:—A sofa cushion was tied tightly over her face with an antimacassar, and she had died of suffocation; she had marks of violence on the left side of her face between the ear and the chin. Her hands were tightly tied over her chest and the lower part of her face with strips of some silk material; her fingers and nails had some slight marks of blood upon them and one of the thumb nails was broken and partly torn from the flesh.

Then we are given some interesting evidence as to the probable time of Mrs. Wilson's death. Medical evidence showed that death had probably taken place between 12 and 4 p.m. and the evidence of a milkman made it clear that it must have been before 4 o'clock. Other very material details of the murder on this and other points are as follows:—On the table in the sitting-room was part of a loaf of bread, some cheese and a table knife. The rest of the loaf was in a cupboard, and the two pieces of bread joined perfectly and made the whole loaf. It was Mrs. Wilson's custom to take lunch between 1 and 2 o'clock and about 2 o'clock to lie down on her sofa and get a sleep, lying on her left side so as to be able to see into the shop. It was clear, therefore, that she had got her lunch ready but had not begun to eat it, so it was concluded that the murder was probably committed be-

tween one o'clock and half past one. Mrs. Wilson was in the habit of carrying most of her money in a satchel or purse, sometimes under her apron and sometimes under her skirt, and she was in the habit of wrapping the money in pieces of paper. The skirt had been turned up and the purse was on the table, open and empty. Several pieces of brown paper were on the table and some partly consumed paper was in the fireplace. Nothing seemed to have been disturbed otherwise, and thirty shillings was found in her bedroom upstairs.

William Broome was an army reservist whose parents had lived until recently next door to Mrs. Wilson at No. 20 High Street, Slough. William Broome had left his parents a short time before the 15th of July, 1910, but had not obtained regular employment. Indeed, Broome was very hard up in this month of July and had pressed for the £2/5/6 due to him for his reservist pay owing to his urgent need for money, and two days before the murder he had tried to sell a brooch for a small sum. Broome had also left the girl he was living with in London to pay his last three weeks' rent.

Possibly Mrs. Wilson did not know William Broome, but she certainly knew his sisters. Broome was not shown to have been in Mrs. Wilson's house more than once, and that five or six weeks before the murder. Two days after the murder William Broome made a long statement to the police in which he purported to account for every hour of the Friday. In that statement Broome declared that he had not been in Slough recently. Broome's face was marked with two parallel scratches which he said he had got on the Saturday morning in a scuffle at Camden Town. A surgeon described the marks on Broome's face as exactly similar to those which two finger nails would make and he considered them to be two or three days old. Five witnesses saw Broome in Slough on the Friday. A publican fixed the time Broome left his public house at ten minutes to one that day and Broome was then within a few hundred yards of Mrs. Wilson's shop. When Broome was told by the police that his lodgings would be searched, he told them that in the pocket of his waistcoat they would find £20 in gold in an envelope, and said that sum was the balance of £50 or £60 he had when he left his father.

In Broome's waistcoat pocket the police found a perfectly clean envelope containing nineteen sovereigns and two half-sovereigns. One of the pieces of brown paper on Mrs.

Wilson's table had marks exactly such as would have been made by nineteen sovereigns made up into a rouleau, in which they lay not at right angles to the paper but somewhat sloping. No other coins similarly placed would occupy the same space, and there were on the paper minute yellow specks which had the appearance of gold. There were also marks of two smaller coins which might have been either sixpences or half-sovereigns, but could not be anything else.

It was proved that in the afternoon on the Friday, Broome had had the scratches on his face dressed by a chemist in Praed Street, in London, Broome then stating that he had got them from the wing of a motor car and that he wanted them covered up. Broome had also gone later to another chemist to get the marks covered up so as not to be seen. Broome also betrayed great anxiety to his landlord about these marks, saying that anybody might think he had been robbing someone.

No weapon was found, but Mrs. Wilson's injuries could have been inflicted with fist and boot. No blood was found on any part of the prisoner's clothes.

Broome gave evidence at the trial and it is said that he contradicted in almost every material particular the story he had given to the police on his arrest. Broome stated in evidence that he had gone to Woolwich on the 15th of July, and that he then went to Slough. He admitted that he was at the bar of the public house and had left about the time the landlady had said that he did. Broome said too that he went into High Street, that he had walked up and down there and that later he passed both No. 20 and No. 22 High Street, and that then he had gone to the station and returned to Paddington in London. In the witness box Broome explained the marks on his face as being injuries he had received in a difference with a betting man, and he admitted that he had called on the chemist to dress them as alleged by the prosecution. He declared that he was drunk when he made the statement to the police, and that from having been in the army he was "so used to these official things that he took no notice of it." Broome stated that he had had the £20 for over three months and that his apparent shortage of money was only "a way of telling," whatever that may mean. He said that the young woman was lying about the payment of the rent by her.

But William Broome was convicted, and was executed for the murder after giving a full confession of his guilt.



The distinguished authority referred to remarks that this case is a singular instance of how very cogent facts, insignificant in themselves, may be. Probably it would be difficult, he adds, to find anything more apparently trivial than the presence on Mrs. Wilson's table of a small piece of brown paper, and yet of what vast significance it became when it had been demonstrated that marks upon it must have been made by nineteen sovereigns and two smaller coins, and nineteen sovereigns and two half-sovereigns had been found in the prisoner's coat pocket; and how significant was the clean envelope in which they were contained; the freshness was unaccounted for. This episode, with the two parallel scratches and the anxiety displayed that they should not be noticed, had there been nothing else, would have made a most formidable case against the prisoner. The cut, but untasted loaf, in conjunction with the old lady's habits as to lunch is not without interest as enabling one to fix within a very few minutes the time at which the murder must have been committed.

## CONCLUSIVE EVIDENCE OF INK.

### THE CASE OF RICHARD BRINKLEY.

The case of Richard Brinkley seems to have escaped the rapid and avid eye of most lovers of crime tales. Yet it is an outstanding piece of infamy with double claim to notice; for the accused man, having forged a will, proceeded to the crime of murder in an attempt to silence a witness who declined to support the forged will with perjury, which the prisoner was anxious to suborn.

Richard Brinkley was a carpenter by trade, and he was fifty years of age when he developed into a kind of confidence man, for he certainly gained the complete confidence of old Mrs. Blume, to whom, we are told, he had made himself an indispensable business adviser, and from whom he had extracted a considerable portion of assets before she died in the early part of 1906.

A will purporting to be the last testament of Mrs. Blume, and produced by Richard Brinkley, gave her house and the whole of her estate to him. Brinkley promptly entered into possession of the house and thereby increased the angry feelings of the old lady's daughter and granddaughter, who had been bitterly hostile to Brinkley's strong and evil influence over Mrs. Blume. Urged by their quite understandable animosity, those relatives of the deceased entered a caveat against the will produced by Brinkley, though they had at the time no solid ground to justify such a course.

This action set Brinkley the unexpected legal task of proving the document in the Court. For this purpose the attesting witnesses to the will were essential witnesses for its required solemn proof. One of the attesting witnesses, named Hird, had drawn up the will; and so he was, as it is termed in sporting circles, "a safe bet" for Brinkley.

The other alleged attesting witness was an extremely difficult problem for this sole beneficiary of the deceased lady's estate. For this man, whose name was Parker, refused to commit perjury for Brinkley's sake. No persuasion would move Parker. For, as a fact, Parker knew

only that he had signed a sheet of paper one night in a public house at Brinkley's request, which paper Brinkley had told Parker at the time was merely a petition, and Parker had no knowledge of the actual contents of the document he had signed. When Brinkley presented it for his signature, the upper part of it was carefully folded over. Realising the hopelessness of moving this obstinate dupe, Brinkley determined to dispose otherwise and completely of the awkward obstacle.

And so Brinkley purchased some prussic acid on the pretence that he required it for the purpose of destroying a dog. Next Brinkley bought a bottle of oatmeal stout which he took round to the lodgings of Parker in Croydon, and placed it (now fortified with the prussic acid) in Parker's sitting-room.

The bottle was observed by Parker's landlady, Mrs. Beck, in Parker's sitting-room, Parker, fortunately for himself, being away from the house at the time. Mrs. Beck did not wait for the return of Parker or for his permission, and Mrs. Beck and her husband consumed most of the stout, though their daughter also partook of a small share. Mr. and Mrs. Beck died the same night, but Miss Beck, though she endured much suffering, survived to give evidence against the poisoner.

At first poor Parker got the blame for poisoning his landlady and her husband, but he succeeded in satisfying the police of his complete innocence, and Brinkley was arrested and charged with murder; for, it is clearly the crime of murder if, having the deliberate intention to kill one person, you unintentionally kill another.

On the way to the police station in custody, Brinkley made the strange remark, "If anyone says I put poison in stout, he's got to prove it." No one could doubt the cogency of that argument, but, curiously enough, up to that moment no mention had been made by anyone of either poison or stout.

A strange and impressive scene is reported on the opening day of the trial at Guildford before Mr. Justice Bigham. A heavy thunderstorm passed over the town of Guildford just as the trial commenced, and for some minutes such blackness filled the interior of the hall where the Assizes were held that it was hardly possible to distinguish even the faces of those who were trying a man for his life, except when they were lit up by the vivid



storm. R. D. Muir, who was leading for the prosecution, continued his opening address in his clear incisive but unemotional tones in words that could be heard plainly across the noise of the thunder, marshalling his array of deadly facts from which there could be no escape for the prisoner sitting motionless in the dock. Not many folk nowadays take such exhibitions of nature's ways as signs or portents, but everyone is affected by the weather; and the awful scene in the Court on the opening of that trial must have had its dramatic effect on every auditor. A pressman's comment however was that the outburst was ill-timed and that it was a pity that it had not happened when the sentence of death was being passed.

The purchase of the poison by Brinkley and the deaths from the effects of that poison were duly proved, as also was the purchase by Brinkley of a bottle of stout in a West Croydon public house, and Brinkley was proved to have been seen at Wandsworth waiting for a West Croydon train.

One interesting piece of evidence was the expert testimony as to three different kinds of ink appearing on the will of Mrs. Blume. The signature of Parker was shown to be written with one kind of ink, which was similar to that used in the public house where Parker stated he had put his signature to the document produced by Brinkley, the contents of which he did not see. That ink was readily recognisable from its particularly brilliant blue pigment. The body of the testamentary document and the signature of the witness Hird were in another kind of ink, and the executing signature of the testatrix was in still a third kind of ink. To test Parker's statement, he wrote his name on a sheet of paper in the Court with the ink obtained from the publican. A new instrument, called Lovibond's tintometer, was employed by the expert for testing the ink of Parker's signatures on the will and on the sheet of paper used by Parker for the test, and we have the advantage of being told the story of the test by that expert himself in his own words.

At the trial Brinkley was shown to have a knowledge of poisons and he had specially selected a poison on this occasion which would to his knowledge rapidly disappear from the body after death. Brinkley was sufficiently hardy to enter the witness box to give evidence on his own behalf. He gave a ready but unbelievable answer to the question as to how he accounted for the three different kinds of ink being on the will and he declared that

Mrs. Blume had three different kinds of ink in her house. Through Brinkley's familiarity with the house, its contents and its former owner he should have known all about such matters, but when he was faced with the fact that only one kind of ink was discovered on the premises when searched, and he was asked to account for that difficulty, he had to make another quick answer, and so he declared that he had given two bottles of ink from Mrs. Blume's house to a little girl. Brinkley lost, of course, in his desperate gamble, but he died protesting his innocence. That was, after all, what one might have expected from such a gambler with people's lives.

## A SENSATION OF THE FIRST CENTURY B.C.

### THE CASE OF SEXTUS ROSCIUS.

Though the trial now to be dealt with took place over two thousand years ago, it is believed that the facts, which are as clear as if the case had been heard only yesterday, coupled with the amazing drama of the story itself, will hold the attention as firmly as any modern legal contest. For the date of the case is the year 80 B.C. and the place of the trial is the city of Rome. And further, the modern reader may well find a striking comparison between the conditions imposed by the all-powerful Dictator of that day and those under some modern dictator, and also between the methods employed by each.

For the dictator in Rome in that year was Sulla. Sulla had driven out the bloodthirsty Marius and one quoted sentence may give us a lightning view of the Italy of that time: "Nothing could have been more cruel than the victory of Marius, had it not been for the victory of Sulla." And again: "The first two years of Sulla's dictatorship were a reign of terror; anyone suspected of even being in sympathy with the defeated party might find his name on one of the lists of the proscribed. Day after day these lists were added to; men fell victims to the false accusations of private enemies, or the greed of creatures who hoped to share in the plunder of confiscated estates."

But Sulla had also decreed that all proscriptions should cease on the first day of June of the year 81 B.C. Now some months after that first day of June, Sextus Roscius, a well-to-do and distinguished citizen of the town of Ameria, some fifty-six miles from Rome, was murdered in a street in Rome on his way home from a banquet. This man Roscius had himself fought in the armies of Sulla and could hardly have been regarded as an opponent of the Sulla Party. But two men, related to Sextus Roscius, Capito and Magnus, were secret enemies of his and doubtless coveted the thirteen fine farms and other possessions of the wealthy Amerian.

These men, Capito and Magnus, were most closely associated with one, Chrysogonus, the powerful freedman and the favourite of Sulla himself. The greed and corruption



of Chrysogonus were characteristic of the time and of the nature of the man. Magnus was at this time in Rome, Capito in Ameria. We are told that after the murder of the elder Sextus Roscius, the news was brought to Ameria and conveyed not to the son, young Sextus Roscius, but to his enemy Capito, and that, though the murder was committed after sunset, the news reached Ameria by daybreak. This meant that the messenger had driven in a relay of light vehicles the fifty-six miles' journey to bring the anxiously-awaited information and also to display the very dagger used in the crime, still reeking with the blood of the victim. Four days later Chrysogonus too was informed of the murder. Although the lists of the proscribed had been closed on the first of June, now long gone by, the name of Sextus was inserted in that list, enabling the trio of marauders to seize the lands and possessions of the murdered man, which were situated at Ameria, and these were sold by infamous means and bought in by Chrysogonus, who paid the paltry sum of twenty pounds for property that was actually worth sixty thousand pounds. Young Sextus Roscius, who had been managing his father's estates, was driven penniless from house and home.

These violent proceedings created great anger in Ameria. A deputation of leading citizens of the town was sent to make an appeal to Sulla, but Capito was himself a member of that deputation and with Chrysogonus he succeeded in sidestepping the direct appeal to the dictator so that Sulla himself was never interviewed, but solemn promises were palmed off that the proscription of the dead man should be lifted and that restoration of his father's estates should be made to the young Roscius.

These avowed intentions were never carried out. Three of the best farms were handed over to Capito, while the other ten farms were put under the management of Magnus on behalf of Chrysogonus. The continued presence of the young Roscius was a constant menace to the criminal partnership of the three men. The usual methods were attempted to remove that menace. Two efforts were made to murder the young Roscius, who at length took refuge in Rome with a noble lady, Caecilia, who was an old friend of his father and who also held some influence with Sulla himself.

Foiled so far in their aims, these implacable creatures then devised a new plan for the security of themselves and their booty. This was none other than to have young

Sextus Roscius accused of the murder of his own father. Witnesses were bribed to give evidence against him and evidence in his favour was deliberately suppressed. The accusers felt that they had the further advantage that no person, and indeed no Court, would have the courage and daring to risk the displeasure of Sulla by attacking his favourite Chrysogonus or to challenge the methods of proscription and of the confiscation and sale of the estates of the proscribed. All Rome it is said, lay crushed and silent at the feet of Sulla. It was believed too that as the services of an advocate on behalf of the accused would be unobtainable, sentence of death or exile would be inevitable and so complete immunity would be secured for the conspirators.

The ordinary traditional penalty for parricide, it may be remembered, was that the criminal's face was covered with a wolf's skin, wooden shoes were put on his feet, he was beaten with a blood-red rod, and then sewn in a sack together with a dog, a cock, a viper and an ape and the sack was then thrown into a river or the sea.

The eminent and established advocates of Rome did indeed hold aloof, in fear of the power of the prosecutor and the possible resentment of the dictator. But one man braved all and undertook the task of the defence. That man was none other than Marcus Tullius Cicero.

This was the first public cause or, as we should say, criminal prosecution in which Cicero had taken part. He was then twenty-seven years of age. And now also for the first time he displayed his supreme powers as one of the world's greatest orators. Fortunately for us, practically the whole of his speech for the defence is preserved, and it may be read and studied with the greatest delight and advantage.

Cicero must have realised that here he met the finest opportunity an aspiring young advocate could desire, for Cicero was representing a completely innocent man and was appearing before one of the highest courts of the land. It was true that he was young and unknown, but as a Frenchman has said, these were two great advantages to him in undertaking his bold strokes, for obscurity diminishes the danger which a man runs, and youth prevents the seeing of it. Cicero too, held weapons in his hand which, used with skill must defeat his panoplied foe. Cicero proceeded to demolish that foe and also to overwhelm the tribunal itself. His agile avoidance of implicating the

mighty Sulla in his charge, his fearless attacks upon the true criminals, his exposure of their violence and frauds, and his stirring appeals to the tribunal to do justice and rid the state of terrorism and fear, may be perused by any who may desire to pursue this story further.

But to-day and now, these last words of Cicero's speech are so appropriate and so moving that they merit quotation.

"You men of wisdom, endowed with the place and power which you occupy, you are in duty bound to apply the appropriate remedies for the disease of which the State is sickening. There is not one of you but knows that the Roman people, once famous for their mercifulness towards their enemies, labour to-day under the curse of inflicting cruelty upon their own children. Remove this bane from the land; suffer it no longer to haunt our minds. It is a vice which is pernicious, not only because it has swept away so many of our citizens under every circumstance of horror but through familiarity it has made the tenderest hearts callous to the very senses of pity and compassion."



# A TRIUMPH FOR ENGLISH JUSTICE.

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## THE ARCHER-SHEE CASE.

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Absorbed as we are with our own new problems we naturally forget the old ones which have been either settled or shelved; and still more naturally are forgotten the smaller difficulties of even the most recent days; but the recalling of some of them in unoccupied moments may still be of fascinating interest.

Here is the tale of a dispute that once glowed largely and brilliantly in the public mind. It is the Archer-Shee case, and the date of it is the year 1908. The leading figure was only a boy, George Archer-Shee, and his age was then thirteen years. He was a cadet in the English Naval College, Osborne, now no longer in existence.

That ancient and vital institution, the British Admiralty, was never a bureaucracy in the modern and unpleasant meaning of that word. Its traditions of honour and honesty are rooted in the past and have grown into the fabric of the present. It certainly appeared abundantly clear, at first sight, that the young cadet Archer-Shee had lamentably broken those traditions. When the distressing case commenced its ramifications in the year 1908 all the circumstantial evidence certainly seemed to show that the Admiralty was overwhelmingly in the right. As a strong contrast to the conduct of similar institutions in other countries in circumstances not dissimilar, when the true position was finally disclosed two years later, England's Attorney-General, on behalf of the British Admiralty, most handsomely acknowledged the error, and reparation and re-instatement were the proper remedies speedily applied.

For a start let us imagine a prosecuting counsel opening the case for the Crown against George Archer-Shee. Such prosecuting counsel might quite properly state the facts in allegation as follows:—Here we have a boy of thirteen, admittedly of excellent parentage and of good education, having spent his later school days in a college of such high estimation as Stonyhurst. At the age of twelve he became a cadet at the Osborne Naval College. A year later Archer-Shee and another cadet, Terence Back,

were in the same class and occupied adjoining beds in the same dormitory. At breakfast on the 7th of October, 1908, Terence Back received a postal note from his parents for the sum of five shillings and informed his fellow-cadets at breakfast of the receipt of the postal note, which Back subsequently placed in his writing case and secured in his own locker. In the afternoon Back took part in a rowing race, and on his return at about 3.45 that afternoon he discovered that his locker had been broken into and that the postal note for five shillings had been abstracted. Back reported his loss to the chief petty-officer. That officer had earlier given leave to George Archer-Shee and another cadet to go to the post office that afternoon. The postmistress, an experienced official, will state that shortly after 2 o'clock on the 7th of October a cadet named Arbuthnot bought a postal order and that about an hour later another cadet came to the post office and cashed a postal note for five shillings endorsed "Terence H. Back." This lady will further state that immediately after cashing the five shilling postal note that same cadet asked for and purchased a postal order for fifteen shillings and sixpence. As a fact it was George Archer-Shee, as will be proved, who purchased this postal order for fifteen shillings and sixpence. Archer-Shee had previously told his best friend, Cadet Patrick Scholes, of his intention to buy that fifteen shillings and sixpence postal order for the purpose of obtaining a model steam engine which he had seen so priced in a London catalogue. Though the postmistress has failed to recognise either Arbuthnot or Archer-Shee in a parade of seven cadets, it is clear that the evidence of the postmistress identifies without question the unhappy boy George Archer-Shee as the boy who cashed the five shillings postal note. To complete the evidence against George Archer-Shee the Commander asked him to write Back's name on a piece of paper, and Archer-Shee at once wrote down Terence H. Back, the exact form of signature on the endorsement on the five shilling postal note. This writing together with the postal note have been submitted to Mr. Gurrin, the noted and highly experienced expert on handwriting; and though the endorsement on the five shilling postal note is a clumsy imitation of the real signature of Cadet Back, Mr. Gurrin will inform you that he pronounces the two writings to be in the same hand. However distressing the conclusion may be, this evidence completes the proof of the guilt of this boy George Archer-Shee of the mean and contemptible theft and forgery, and the ordinary penalties must and should follow the crime and its exposure.

Assuredly such a presentation of the facts cannot be other than fair and justifiable and the fact that a public court did not have to deal with the seeming-culprit looked to be a great advantage to him.

But young Archer-Shee stoutly maintained that he was innocent of the charges and he impressed his relatives and friends with the truth and honesty of his protests. The Admiralty however, as seemed their only proper course, wrote to the boy's father a confidential note requesting the father to remove his son from the Naval College, and he, of course, had no alternative but to comply with that request. The Stonyhurst authorities were impressed with their knowledge of the boy and his manner of contesting the allegations against himself and took the boy back to their school.

The next incident was the vital one of engaging the redoubtable Sir Edward Carson to undertake the cause of the lad. Carson seems to have become satisfied of the innocence of his youthful client and took up the matter vigorously. But the course of procedure presented embarrassing difficulties. An invitation to the authorities to criminally prosecute the lad naturally resulted in a refusal, and a proposed collusive prosecution was impracticable. But some useful evidence was collected on behalf of the boy.

Young Archer-Shee had money of his own in the school bank and the post office savings bank. The time of Archer-Shee calling to purchase his postal order for fifteen shillings and sixpence, as deposed to by the postmistress, was challenged by his friend Patrick Scholes, but a departmental investigation by a capable counsel and an enquiry by the Judge Advocate of the Fleet did not change the views of the Admiralty. So Carson lodged a Petition of Right. This Petition of Right experienced vicissitudes too. The Crown, through the Attorney-General, Sir Rufus Isaacs, later Lord Reading, took up the attitude that it was the absolute prerogative of the Crown to dismiss the cadet from its service. If legal questions were to be argued first, it meant the likelihood of the shelving altogether of the presentation of the facts. The Court of Appeal settled that issue, and so at length the matter came before a Judge and a special jury in the High Court of Justice, and little George Archer-Shee was able to take the witness stand and to face his accusers in the open.

Here we meet admirable examples of how to carry out two most important and difficult exercises, the first being



that of how to ask a question and the second that of how to answer it. The first is shown in the expert advocacy of a very accomplished counsel and the second in the instinctive capacity of a mere youth to tell the truth both ingenuously and impressively. For two days the lad stood his ground finely. Carson had boldly put to the jury the one simple issue: Is this boy a thief and a forger, or is he not? And Carson concluded with the equally bold submission, "Whatever the result may be, we will rest satisfied that we have had an investigation by an absolutely independent tribunal."

It transpired that about sixty cadets as well as the cadets' servants might have seen Back's postal note at the breakfast table in the College. Archer-Shee's own locker had also been broken open. There had been a number of other thefts at the College both before and after Archer-Shee's removal and no culprits had been found. The evidence of the postmistress and her cross-examination by Carson were obviously the conclusive points in the contest. It became clear that if this lady's recollection of the incidents of the disastrous day in October two years before was not entirely and absolutely correct and reliable, if there was the smallest ground for suspecting error or suggestion or even uncertainty, the case against the lad was gone. The handwriting expert, Gurrin, upon whose testimony, it may be remembered, the grievously wrong conviction of the unfortunate Adolph Beck had largely been founded, was not called as a witness after all, perhaps fortunately for him; for Carson's cross-examination of Gurrin would doubtless have been both worth hearing and highly damaging to that expert.

Sir Rufus Isaacs on the fourth day of the hearing rose in the Court and stated that the Court and jury would not be troubled with the issues of fact. For, said Rufus Isaacs, "I say now, on behalf of the Admiralty, as a result of the investigation which has taken place, that I accept the declaration of George Archer-Shee that he did not write the name on the postal note; that he did not take it, and that he did not cash it; and that consequently he was innocent of the charge which has been brought against him. I make that statement without any reservation of any description, intending it to be a complete acceptance of the boy's statements. On the other hand, my learned friend, Sir Edward Carson, accepts the statements of the Admiralty as to their action, and agrees that those responsible for all that has happened were

acting under a reasonable and bona fide belief in the truth of the statements that had been made to them."

The jury's view was clearly similar to that of the Admiralty; for it is stated that they clambered out of the jury box to congratulate the boy's father and Edward Carson. Later, the sum of £7,120 was paid over by the Treasury as compensation by the Crown. Such were the happy conclusions of a very unhappy period in the life of this cadet.

Only four years later young George Archer-Shee, at the age of nineteen, was one of the first British officers to be killed in the Great War.

## TRIAL FOR TREASON.

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### THE ROGER CASEMENT CASE.

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At four o'clock on the morning of Good Friday, the 21st of April, 1916, John McCarthy, a farmer at Curraghane on the West coast of Ireland, was returning to his home after saying his prayers at a holy well a mile away. As McCarthy came to the wild rough sea on his way back, he observed a heavy, empty rowing boat drifting with the tide, the four oars floating in the sea. The boat had not been there two hours earlier when he was on his way to the well. Three sets of footprints were clearly seen in the sand pointing away from the boat and in the direction of McCarthy's house. Then McCarthy found a tin box partly in the sand, and later his little girl was seen playing with three revolvers.

The Adfert police were called. Little Mary Gorman too had seen three strange men passing the gate of her master's house at half past four that morning. One of those three men was Sir Roger Casement. Casement was discovered hidden in an old ruined fort. On challenge Casement made a number of childish and lying statements about himself to the police. A very damning piece of evidence was a partly written and partly typed code, obviously compiled by a German; this code was a very detailed one and was stated to be only good for the period from the 22nd of April to the 20th of May. That limitation and those two dates were very significant indeed. Casement was observed to throw away this code on the roadway, but his possession of it conclusively indicated that Casement could, by its use, call for all kinds of armed assistance as well as give full warning of any danger.

Where had Roger Casement come from, how did he reach the coast of Ireland, and what was he doing there under those exceedingly strange circumstances? Those were matters of conjecture only in the month of April of 1916.

Sir Roger Casement was a tallish, broad-shouldered man, fifty-two years of age at the time, who had spent twenty-one years of his life as a British consul in different



parts of the world. Casement had a sad and somewhat dreary expression and he lacked impressiveness, but he had done courageous and humane work in his official capacity during enquiries into the horrifying conditions of the rubber industry, particularly in Putumayo, South America, and for that work he had received his knighthood. Casement had retired on a pension in August of 1913. The pension had ceased in September of 1914. The cessation of his pension was due to his own activities now to come to light; for Roger Casement had undoubtedly at some time at the end of the year 1914 gone to Germany, which was then in the earliest stage of the war with England.

The North Ireland volunteers had begun their activities in protest to the proposed Home Rule regime at the end of the year 1913.

The Southern Ireland volunteer movement in opposition to the northern, and in support of the demand for Home Rule started in the following year, 1914, before the outbreak of the war. Roger Casement was a vehement supporter of the Home Rule Party and above all he was an active participant in the southern volunteer movement, as transpired later when he came to trial for high treason.

Treason is a very ancient crime; we need not attempt to define it; but we must realise that certain acts are necessarily catalogued as crimes of treason by all enclosed nations. Soviet Russia recognised that fact and Russia rid herself of traitors in the real sense of both words before the war of 1939, as may be remembered by any student of the trial of Radek which is to be found also in this volume.

One remarkable fact about the trial of Roger Casement for high treason is that English justice was compelled to appeal to a statute of the year 1351, a statute of the reign of King Edward the Third, for the purpose of dealing with the indictment of Casement. That law of 1351 was written in the Norman French language, and it was the parsing and the syntax of its translated wording that formed the basis of the argument for the defence of the accused man.

The charge was confined to the accusation that Roger Casement "did traitorously adhere to and aid and comfort the enemies of the King of England in parts beyond the seas without the realm of England." No charge was laid against the prisoner that he had committed any crime in the land of Ireland.

Nearly thirty years after this startling and sensational event we may certainly calmly consider the facts as well as the tribunal that heard the charge. As to the tribunal, the judges were the Lord Chief Justice, then Viscount Reading and formerly Rufus Isaacs, Mr. Justice Avory and Mr. Justice Horridge. Leading counsel for the Crown was the Attorney-General Sir Frederick Smith, who piquantly enough had stood with Sir Edward Carson in encouraging, in fiery speech, the proposed illegal methods of the protestors of Northern Ireland against the establishment of Home Rule. Smith later became Lord Chancellor under the title of the Earl of Birkenhead. Also to become a Lord Chancellor was Sir George Cave, the Solicitor-General, who appeared with Sir Frederick Smith. Leading counsel for the accused was Mr. Alexander Sullivan, K.C., and second Serjeant of the Irish Bar.

The cross-examination of the prosecutor's witnesses by Mr. Sullivan is an admirable example of the art of "whittling down" evidence; though the axe of cross-examination could not destroy the formidable tree of the testimony for the Crown. The trial was taken before the King's Bench in London. Casement's moral objection to his trial in England was not supported by his counsel, for no legal objection to the tribunal was supportable by argument.

It is clear now that Roger Casement had somehow reached Germany in the latter part of the year 1914, that about two thousand five hundred Irish prisoners-of-war had been collected by the Germans at a prison camp at Limburg Lahn, and that, in that camp at least, Casement had gone about with the most perfect freedom in his confessed endeavours to recruit for the Irish volunteers. Promises of special uniform and of the most considerate treatment of such volunteers as guests of the German government only brought about half a hundred apparently willing recruits. Series of speeches and placards, pamphlets and book appeals achieved no more.

When the dreadful Easter week of Dublin in 1916 approached, Casement and two other men were carried in a German submarine to Irish waters and reached and landed on the west coast of Ireland in the boat that McCarthy discovered on that Good Friday morning. That very same morning, not a hundred miles from Tralee, the British sloop Bluebell, patrolling the Irish waters, came upon a ship flying the Norwegian ensign. Before that ship reached Queenstown, on the orders of H.M.S. Bluebell, it was sunk by the German crew, who then flew the Ger-

man ensign. The German ship had signalled that it was a Norwegian ship on its way from Bergen to Genoa. A diver discovered that that ship was filled with rifles and ammunition, though the rifles seem to have been Russian weapons manufactured in 1905.

So, in the middle of that great war it is clear that with material German aid Casement presented himself to assist the southern Irish volunteers and this position was later set out by the Lord Chief Justice to the jury thus: "You have to determine whether the prisoner was contriving and intending to aid and assist the enemy. If what he did was calculated to aid and assist the enemy, and he knew it was so calculated, then, although he had another or ulterior purpose in view, he was contriving and intending to assist the enemy. It is necessary that you should pay particular attention to this direction, which is a direction of law to you. The question of fact upon it, of course, you will determine for yourselves, but it is necessary that you should understand that if what he did was calculated to assist the enemy, and if he knew or must have known that it was so calculated then he would be contriving and intending to assist the enemy, notwithstanding that he had another or ulterior purpose in view. Let me put it to you in another way. If he knew and believed that the German authorities were taking the steps they did in collecting the Irish prisoners into one camp, distributing literature amongst them, forming an Irish brigade, and providing them with uniforms, etc., for their own purpose and to serve their own ends in the war, and he in concert with them was promoting the enterprise, then he was contriving and intending to assist the enemy, although he had another purpose to serve. If he knew or believed that the Irish brigade was to be sent to Ireland during the war with a view to securing the national freedom of Ireland, that is, to engage in a civil war which would necessarily weaken and embarrass this country, then he was contriving and intending to assist the enemy."

And that direction and declaration by the Lord Chief Justice was not challenged by the very able and learned counsel for the defence, even when the case was taken by him to appeal.

So Roger Casement was convicted and sentenced to death and executed.

It has been suggested that when Casement actually came to land on Irish soil his final intention was to stop



the Easter Monday Dublin horror, on account of adverse conditions of which he had become aware, but that he was too late for that purpose. But it is to be observed that this sad-eyed actor of his own tragedy did not himself enter the witness box to put forward this or any other defence or claim, nor indeed did Casement in either of his own long rhetorical addresses suggest that such was his aim and object. Poor Roger Casement achieved nothing, but his career and his fate make memorable little corners in history.

## A ROYAL TRAITOR.

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### THE TRIAL OF HIS MAJESTY KING CHARLES THE FIRST OF ENGLAND.

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Drama of different kinds is to be met with in trials of the most ordinary persons for what seem quite ordinary crimes; tragedy, tragl-comedy, comedy and farce, they are all to be found by the diligent seeker. But there are other trials with scenes even more dramatic which have been singularly neglected by the tellers of such tales. And one of them is the trial of His Majesty King Charles the First of England.

There is no need for us to attempt to decide between the partisans who have labelled that unfortunate monarch the "royal martyr" and "the bloody tyrant" respectively; we can allow the historians their battlefield of controversy and listen to a story, too brief now perhaps in the telling, but certainly hardly ever either read or told, which provides us with scenes as impressive and moving as many much better known.

First let us look at the tribunal appointed for the judicial task of trying the King of England. All the King's efforts to escape had failed, and he was a prisoner at St. James awaiting his trial. The House of Commons had been duly purged by Colonel Pride; and though the former House had agreed by 140 votes to 104 that the King's answers to the propositions made to him at Newport were satisfactory, the emasculated Parliament of Colonel Pride, a House which had elevated itself to supreme power and excluded both the House of Lords and the King from its decisions, had by the narrow majority of twenty-six to twenty passed an alleged Act of Parliament setting up a High Court of Justice, consisting of 135 members, the peers formerly included being perforce now excluded. This was the Court which was to try the King. One John Bradshawe, a little-known lawyer and not a member of the House, was appointed Lord President. Oliver Cromwell and Henry Ireton were, of course, members of the Court and these two sat throughout the trial. At no sitting were more than seventy of the 135 members

present. The public proceedings took place in Westminster Hall; the deliberating room of the Court was the Painted Chamber.

Lady Fairfax, wife of the General, who took no part himself in the trial, interrupted the preliminary proceedings; but she was more fortunate than Lady Anna de Lisle, who called out that only traitors and rebels were making accusations against the King. She was branded on the head and shoulders in the presence of the Court and the King; to his horror, it is said. Before the charge was read the King put out a silver-headed staff which he was carrying and laid it upon the shoulder of the newly-appointed Solicitor-General, bidding him: "By your favour, Hold!" The head of the staff fell off and the King stooped for it and placed it in his pocket. This incident was accounted an evil omen.

The President commanded the charge to be read; it declared that the King had been a tyrant, a traitor, a murderer and a public enemy to the Commonwealth of England. The Lord President called upon the King, and added: "The Court expects your answer and is willing to hear it." Then the King stood up and answered: "First of all I must know by what power I am called hither before I will give answer. I was not long ago in the Isle of Wight. How I came there is a longer story than I think fit, at this time, to speak of, but there I entered into a treaty with the two Houses of Parliament, with as much public faith as is possible to be had with any people in the world. I treated there with a number of Lords and gentlemen, and treated honestly and uprightly. I cannot say but they dealt very nobly with me; we were upon the conclusion of a treaty. Now I would know by what authority (I mean lawful, for there are many unlawful authorities in the world, robbers by the highway, taking men's purses by illegal ways) but I would know by what lawful authority I was carried thence and was since brought from place to place like I know not what till I came hither. That I would fain know. When I know a lawful authority I will answer. Remember I am your King, your lawful King, and what sin you bring upon your own heads, besides those other judgments you bring upon the land. Think well upon it, I say, think well upon it, before you go from one sin to a greater. I know no authority you have. Therefore let me know by what legal authority I am seated here and I shall not be unwilling to answer. In the meantime, now I will not betray my trust. I have a trust



committed to me by God, by old and lawful descent. I will not betray that trust to answer to a new unlawful authority, for all the world. Resolve me in that and I will answer."

The Court pressed for a direct answer of guilty or not guilty, but could not get any satisfaction from the King; and Bradshawe at length said: "The guard are commanded to remove the prisoner." Whereat Charles said: "The King!" The Court adjourned, but a similar scene took place. It makes a stirring scene; King Charles, still apt and eloquent, would not budge from his attitude of enquiry. The King said: "Well, sir, remember that the King is not at liberty to give his reasons for the liberty and freedom of his subjects." And with that a great shout came from the people, crying: "God save the King!"; but there was an awe upon them that they could not express themselves as they would have done. "Under favour, sir," said the King, "then it was the liberty, the freedom and the laws of the subject that I took—defended myself with arms but never took up arms against the people but for the laws."

And so the Court, again baffled, again met and for the third time, on the 23rd January. The Solicitor-General made his speech and took the point that default of answer was equivalent to confession; yet the Court met in the Painted Chamber and took evidence from twenty-nine witnesses, though the King was not allowed to be present. On that 23rd of January, Colonel Hewson, urged by lofty contempt of the King, stepped across the Court and spat in the King's face. The King, it is said, smiled at this dreadful incident, took out his handkerchief and patiently wiped the venom off his face, saying: "Well, sir, God hath justice in store for you and me."

For the last time the Court met on the 27th of January, Colonel Hewson being absent; a graceful act on his part, perhaps. John Downes was moved to some protest; and Cromwell turned to him and asked him: "What ails thee? Canst thou not sit still and be quiet?"

And then came the sentence. Bradshawe spoke at very great length; the King interrupted but seldom. The sentence was death by beheading. The final scene in the Court is as moving as any. "Will you hear me a word, sir?" "Sir," says Bradshawe, "you are not to be heard after sentence." "By your favour, sir, I may speak after sentence is over." "Guard, remove the prisoner,"

was all that Bradshawe would answer. And then the King, as he went forth of the Court: "I am not suffered for to speak. Expect what justice other people will have!" The King at least had never lost his majestic dignity.

And so on Tuesday, the 30th of January, 1648, His Majesty King Charles the First of England stepped out from the Banqueting Hall of the Palace of Whitehall to say his last words and to lay his head upon the scaffold.

## A NINETEENTH CENTURY PIRATE.

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### THE TRIAL OF WILLIAM LEWES.

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Novelists have sometimes claimed that their devised plots are unmatchable in real life and that their inventions have exploited all the horrors of pirate knife and pistol. And a genuine pirate making his dreadful plans in our very recent nineteenth century seems an unbelievable figure. Yet this story deals with such a one, and the hair of the reader may perhaps now be asked to rise with an unexpected thrill.

The blackguard's name is William Lewes and his age was only twenty-five. He is described as a tall determined-looking man. Lewes was tried at the Old Bailey before Mr. Justice Coleridge and Mr. Justice Crowder in December of 1856; and he was represented at the trial by that great old advocate Mr. Hardinge Giffard, who subsequently blossomed into the famous Lord Halsbury, four times Lord Chancellor of England.

The ship with the awkward name of the "Stebonheath," an English vessel belonging to the port of London, left Melbourne on Sunday, 17th of February, 1856, with a crew of 36 and 22 passengers, eight of whom were women. Some of the crew were first recruited in Melbourne, and William Lewes was one of them. Two other such seamen were Walter Bolitho and Thomas Whittington. The day after the "Stebonheath" sailed from Melbourne, and when Walter Bolitho was at the wheel, William Lewes came on the poop and asked Bolitho if he would like "this here." By the words "this here" Bolitho understood Lewes to mean to be the master of the vessel. And Lewes seems to have then left it at that. The next day, the 19th of February, Lewes asked Bolitho if he had ever been in Peru. Bolitho had never been in Peru, and Lewes then told him how he (Lewes) had knocked about there for the Peruvian government and had made a bloody fine thing of it, and had had eight and forty hours of glorious plunder after they took the town. Lewes told hair-raising stories of mutiny on a ship and of shooting the sentinel aft, of stealing gold from the skipper, of being caught and imprisoned, of breaking out of gaol and seizing a schooner,



of going to sea in the schooner and then seizing the money on two small craft and sinking them on the coast of California. Then, boasted Lewes, they waited for a California money vessel and fell in with one carrying seven thousand ounces of gold and sank her. They lost the seized schooner at Callao and Lewes then shipped for England and finally came to Port Phillip. "How would you like to be at that game?" asked Lewes of Bolitho. Bolitho, doubtless by this time impressed, if not overwhelmed, answered that it would do him very well if he could always get clear. Lewes said that the "Stebonheath" would be a fine prize and that Bolitho should have his share of the gold in her, for he believed that she was carrying two and a-half tons of gold. As a fact the "Stebonheath" was then carrying sixty-one thousand ounces of gold worth about a quarter of a million pounds. Bolitho doubted success, but Lewes declared that it could be done very easily if Bolitho would stick to him and that he, Lewes, would have her in forty-eight hours, for he had come on board for that very purpose.

Bolitho still doubting, Lewes urged that there was no one on board to care about, only a lot of old fellows (though "fellows" was not the word he used) who ought to have been out of the world and in hell long ago. For there was not a man on board, said Lewes (and he was very likely right) who would refuse a glass of grog, and he, Lewes, would give them a dose to keep them quiet. Lewes proposed that the man on the look-out was to be thrown overboard and the first mate and the other officers to be called forward and also thrown overboard. "Are you afraid to take a life?" asked Lewes. "There's no one to care about but the boat-swain and the carpenter and a small bit of steel will settle them." Mr. Bolitho asserted that he had never yet taken a life and asked not to be given that job and Lewes assured him that he would do all that himself. Then Lewes asked if there were any other likely assistants and Bolitho tells us that he then "pitched" upon Thomas Whittington who was to take over the watch from him. Lewes continued by saying that the captain and mate being got out of the way by shooting them (which would leave Lewes with twelve shots in his pistols) they would go aft and haul up the ladder and lay it across the hatch so that no one could come up from below. The arms-chest was to be seized and the passengers told that the ship was in the hands of the crew.

Bolitho, like a true sailor, wanted to know if Lewes would kill the women. Only the old ones, decided Lewes,

and they would keep the young ones till they got to the coast of Peru, when they would remove the gold from the ship, bury it in the sand and then scuttle the ship and let the balance of the women go down in her. "It was only a bold stroke for the vessel to be theirs." Lewes produced a keg of brandy from the forecastle and braced Bolitho with a couple of noggins when four bells struck and along come Tom Whittington. "We shall be a fine prize for the Russians," began Lewes to Whittington. "Wouldn't you like to have a share?" And the brandy keg was again broached as a certain persuader, though it made poor Tom sick. "There is a way for us to get gold if you are honest with me and I will sign the contract with my heart's blood," said Lewes. "Will you join? If the captain and the mate are out of the way I will have charge of the ship in two minutes." Whittington was dubious too; he thought at least half a dozen men were wanted and not one could be depended upon. "The ship shall never carry me round the Horn on to London," declared Lewes, "I shall load my revolvers and not unload them until they have some execution. You need not be afraid of a pistol," he said to Whittington, "for you have been in the Ballarat riots," which statement was true and Whittington answered haughtily that he was no more afraid of a pistol than Lewes; which saying heartened Lewes to say: "I knew that, and that was why I put it to you."

The following morning Lewes beckoned Bolitho to his bunk. Then Lewes showed the reality of his boasts and his intentions and produced two six-chambered revolvers and two single-barrelled pistols (the fourteen shots, you see) and also two daggers. "What do you think of the revolvers?" asked Lewes, and Bolitho, impressed, answered: "They're stunning." "I'm well prepared," said Lewes, "by God, they never deceived me yet and they are not going to do it either. I am a dead shot with either of these pistols," and he showed Bolitho how the pistols worked and said he could discharge every barrel as quickly as he could work his fingers. Then Lewes produced a bottle; the bottle was full of laudanum. The next day, on coming from the wheel to Bolitho, Lewes seemed afraid Whittington was going to renege and asked Bolitho if he did not think the two could manage the matter together at the next watch. Bolitho did not think so. Lewes thought he had another useful convert in another seaman they called Jonathan. Lewes seemed not to care if Whittington joined or not. "What do you think of to-morrow night?" said

Lewes. "We are far enough to the southward; she is just under the canvas I want and she will do until we get to the coast of Peru. There cannot be a better time and they are all sick in the cabin. If I can depend on you we will have it to-morrow night." Bolitho replied that he did not funk; and Lewes explained how he would mix the laudanum with the brandy and would have a birthday party and give the crew an extra dose.

The next day when Bolitho was on the look-out in the evening, Lewes came up and said: "Well, my chief officer, what you think of it now?" "As much as ever," replied that difficult man, Bolitho. "If I could depend on you and Tom the ship will be in my hands before Saturday morning at four o'clock or else I will be a corpse in the cabin," was the hardly encouraging response of Lewes. Thomas Whittington admitted that he had stated that he would like the scheme if he could see how it could be done. "Never a better ship," declared Lewes to Whittington. "Never a better ship for the purpose sailed out of Hobson's Bay," and Whittington admitted too that he had said that he himself could have run the ship down to the coast of Peru once the pirate plan was completed. But the next morning, the 22nd of February, the captain called Bolitho and Whittington into his cabin. Captain Serjeant had got the news of the foul piratical project, not from either of those half-hearted conspirators but from the chief mate, who doubtless had it from Hughie Kemp, another seaman, and the skipper promptly had William Lewes put in irons, and under arrest. Lewes remarked that Whittington should be in his place but he (Lewes) supposed he should have it for life. Inspector White of the Thames Police found all the pistols and the bowie-knives and ammunition as well as the bottle of laudanum in William Lewes' berth; so the boasts of Lewes were by no means the idle talking of a crazy fanatic.

Mr. Justice Coleridge flung a few compliments at Mr. Hardinge Giffard for his able, ingenious and most of them well-founded observations in his defence of the prisoner. There used to be a bit of palavering and kow-towing between the Bench and the Bar in those days—as sometimes occurred in later times—but the judge agreed with the verdict and expressed himself as grateful that a humane legislature had recently abolished the capital penalty for such an awful planned crime. So, with a few homilies on piratical practice and as William Lewes himself had expected, the judge sentenced the desperate would-be pirate to transportation for life.



## A GREAT MAORI LEGAL CONTEST.

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### WHO WON THE BATTLE OF TAUMATAWIWI?

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In the year 1830 a great battle was fought in the Waikato district of the North Island of New Zealand, the principal opponents in which were the Ngatihaua on the one side and the Marutuahu on the other. This was the Battle of Taumatawiwi. Forty years afterwards the Ngatihaua claimed about two hundred thousand acres of land at Te Aroha, on the ground that they had won the Battle of Taumatawiwi and as a result of that conquest had acquired these lands, previously, as they admitted, the property of their foes. The issue came, in the form of a legal contest on this occasion, before Judge Maning of the Native Land Court—"A Pakeha Maori" as he called himself when he wrote that well-known story of "Old New Zealand." Maning was a master of both the English and the Maori languages, and in his judgment in that great claim he gives the following description of the state of affairs between the combatants just prior to the famous battle.

"The fierce and encroaching Maruatuhau commenced a series of aggressions on the Waikato people, plundering their villages, driving them from their cultivated lands and doing everything possible to provoke war, in which they hoped, no doubt, to oust the Waikato tribes from their large and fertile country. The Ngatihaua, against whom these aggressions were chiefly made, were justly famous for their valour; no tribe in New Zealand had ever, or has ever, outshone them in barbaric courage or warlike ability, not excepting even the formidable Ngapuhi; but they had no name for patience under injuries. Fierce reprisals were commenced; murders, skirmishes, battles and massacres became ordinary and common events; and so this state of things continued without either party having gained any marked advantage over the other, until at length the Ngatihaua, by what is stigmatised by their enemies as a treacherous stratagem or *kokuru*, succeeded in surprising a Marutuahu chief named Takurua in his village and massacring him and nearly all his people—men, women and children—to the number of about two

hundred persons at a place called Kaipaka; where, deceived by the artful pretences of the Ngatihaua and their chief Te Waharoa, that they were tired of war and anxious to enter into terms of peace and reconciliation, the Marutuahu chief and his people had relaxed that incessant vigilance which was necessary to the preservation of life. Furious at this loss, and if possible still more by the disgrace, most deeply felt, of having been outdone in deception, the Marutuahu sought revenge by isolated murders, in night attacks, in open battles and skirmishes, by every effort of force and stratagem; and notwithstanding some reverses, unprejudiced Maori authorities have held that, previous to the Battle of Taumatawiwi, the Marutuahu had balanced the loss and obliterated the disgrace.

The end was, however, drawing near, at least on that stage, and the final conflict on which this claim is founded.

No human flesh and blood, however hardened, could endure much longer the excitement, privation, danger and unrest which the equally balanced force and ferocious courage of the contending parties had now protracted to several years duration on that small spot of the earth's surface, and between two petty divisions of the human race. War had attained its most terrible and forbidding aspect; neither age nor sex was spared; agriculture was neglected, the highest duty of man was to slay and devour his neighbours. Whilst the combatants fought in the front the ovens were heating in the rear; the vigorous warrior, one moment fighting hopefully in the foremost rank, exulting in his strength, laying enemy after enemy low, thinking only of his war boasts when the victory should be won, stunned by a sudden blow, instantly dragged away, hastily quartered alive, next moment in the glowing oven; his place is taken in the ranks, his very body can scarcely be said to exist. While his flesh is roasting the battle rages on, and at night his remains furnish a banquet for the victors, and there is much boasting and great glory."

Later Maning gives us a vivid description of the very battle of Taumatawiwi itself, that was by common consent to decide finally between these ferocious peoples:—

"The Marutuahu, being informed that the Waikato tribes had arrived at a place not far from Haowhenua (their fortress) marched out early in the morning, nothing daunted, and took up a strong position at Taumatawiwi, firing guns as a challenge to come to the attack. There was small need for the call to arms. At the first gun the Wai-

katos swarmed forth from their camp and rapidly formed their order of battle in divisions of tribes, the whole under the command of the celebrated Waharoa; the left was composed of the Ngatihaua, Te Waharoa's own tribe, Ngaiterangi in the centre, and the Waikato on the right. The left was close to the Waikato River, and Te Waharoa having sent forward a strong body of skirmishers, advanced slowly and in good order to the attack of the enemy's position, the skirmishers in front being already hotly engaged. Soon afterwards, however, a hasty messenger from the front came to Te Waharoa to say that the advanced parties had been almost exterminated and that the few survivors required immediate aid. Te Waharoa then ordered a rapid advance of the whole line, and as the armies closed he called to the tribe or division of the enemy between whom and the Ngatihaua a particular rivalry seems to have existed: "O Ngatipaoa, I am Te Waharoa; I fight on the left, by the river of the Waikato."

"The Marutuahu, well aware of the advantage of their position, awaited the attack and defended it with great vigour from an early hour in the morning until late in the afternoon, inflicting on the Ngatahaua, who seem to have borne the whole brunt of the battle, a loss probably equal to four times what they had suffered themselves. The Ngatihaua, notwithstanding, encouraged by the voice of their war-chief, and furious more than dismayed at their loss, pressed on and stormed the Marutuahu, who finding now their ammunition beginning to fail and retreat unavoidable, and after having, for want of lead, fired gravel and stones in their enemies' faces at hand to hand distance, unwillingly fell back upon their post at Haowhenua, closely followed by a strong party of the enemy. This retreat was not, however, a rout; the Marutuahu retreated fighting, slaying and being slain, until they arrived at the pa, where having obtained a fresh supply of powder, they immediately made a sortie, driving back their pursuers as far as a place called Te Reiroa, in sight of, but out of gunshot from, Haowhenua, and where the main body of the Waikato forces were now assembled in their original order of battle, in divisions of tribes. The Marutuahu in returning from this sortie took with them the body of one of their pursuers whom they had killed in the last affray, and claimed the honour of having killed the last as well as the first man in this battle. The fight had lasted from early morning, before either party had partaken of food, till late in the afternoon; and when the sun went down, the Marutuahu were secure, though discom-



fited, in their pa; and the Ngatihaua, the heat and elation of battle departed, decimated, bleeding and utterly exhausted, horrified at the loss of many of their best warriors, their chief Te Waharoa wounded, the reaction from over-exertion and physical excitement weighing them down and giving rise to a thousand unwonted apprehensions and alarms, the Ngatihaua remained the masters of the battlefield, and held in their hands the bodies of the enemy. They had won the Battle of Taumatawiwi."

This battle took place in the year 1830. The issue of it was therefore now settled. But that settlement did not conclude the legal contest, much to the surprise of perhaps both sides. For the Battle of Taumatawiwi took place not on the lands of the defeated but on the country of the victors, who, as Judge Maning held, had never acquired the great Te Aroha block by their victory in that battle; and they never even seem to have made any claim to it until the advent of the European showed that it might be well worth having a fine Native Land Court battle for.

## THE NAZI IN EXCELSIS.

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### THE REICHSTAG FIRE TRIAL.

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Do you remember the Reichstag Fire of 1933? In case you do not, or are hazy about the facts, here they are in brief.

The fire broke out in the Parliament House in Berlin on the night of Monday, the 27th of February, 1933, and destroyed the Assembly Chamber and other parts of the building. Who prepared the fire and who set it alight? These questions have been answered by authorities who have closely studied all that can be known of the individuals controlling the Nazi Government, which had that month come into real power for the first time, and whose power was to be tested by an election to take place only six days later, on the 5th of March. So time was the essence.

The word power has been used; that is the word that sums up the whole situation. Scheming and plotting have been the methods of politicians and statesmen through the ages, sometimes with good results, sometimes with bad. But never was there prepared so extraordinary and so complicated a scheme and one so disastrous to the world at large and to the reputations of the devisers as that of the Reichstag Fire.

Hitler, Goering and Goebbels at this time led the Nazi host; Hugenburg and von Papen were the Nationalist heads, intriguing with Hitler. As usual, an immediate cry, a slogan, was needed to secure the still uncertain power they had just acquired. As usual, it was found. This time it was to be "A Communist Plot!"

Now to deal with the outstanding incidents of the fire itself. Parliament was not in session, but some of the rooms were in use by members. The building itself was huge and the ways of it tortuous, and its geography complicated. Only those long acquainted with it could be expected to be familiar with that geography. On the night of the fire, the building was fully staffed and four of the five entrances were locked and any user of the fifth would

have had to pass official attendants who would challenge and observe with care. But there was a subterranean tunnel or passage, described as being a perfect labyrinth and therefore also requiring familiarity for the use of it. This tunnel led to the palace of the President or Speaker, who was Goering, and to the power-house a hundred and fifty yards away. The only possible method for unobserved entrance or exit that night was by way of this passage. That was the way the incendiaries went to the Reichstag.

The very great quantities of material needed and employed, and the number of persons required to set up the piles of furniture and other inflammable articles used, could only have passed through that tunnel; and the time was very short. These facts were known to Goering and his fellow-leaders, who were parties to the scheme, a scheme which was deliberately devised for the purpose of framing that slogan "A Communists' Plot."

A vagrant Dutchman, semi-imbecile and half-blind, named Marinus van Der Lubbe, who was the Nazi leaders' tool, set light to materials stacked for the fire, which had been prepared by other hands. van Der Lubbe was allowed to enter the building through a window. Within a few minutes of the outbreak he was found half-clad in the Assembly Chamber, which was ablaze in a dozen places. He was then about to set fire to some curtains, and he there and then stated that he alone had set the fire alight. Doubtless this was strictly true; there was no time and it was far too dangerous for the real culprits to remain on the scene, though one of the gang was almost caught in the blaze and dashed out only just in time for his own safety. This undoubted party to the scheme was allowed to disappear, and to have his identity suppressed, temporarily.

The fire, originally planned for the 26th and postponed to the 27th because the former was a Sunday when there were no newspapers published, commenced about 9.14 p.m. The three Nazi leaders were on the spot almost immediately. Goebbels prepared a statement at once and then suppressed it, because so instantaneous an expression would have looked awkward, and it was only released some hours later. There were many journalists from other nations in Berlin that night. Hitler and Goering made themselves clear; they intended the extermination of Communism and the destruction of the Communists.



The immediate results were the arrest of van Der Lubbe, and later of Torgler, the Communist leader, and of Dimitrov and Popoff and Tanec, three exiled Bulgarian Communists. These five were tried. Of course thousands of other people, Communists and non-Communists, were also arrested and murdered, tortured, imprisoned, sent to concentration camps, disappeared entirely.

The trial commenced on the 21st of September. The accused had been in custody for seven months—for five of those months they had been needlessly chained on legs and arms, this brutal treatment causing horrible pain and infinite discomfort. But though van der Lubbe, in his few lucid moments, could only be induced to reiterate that he alone was guilty of the offence and that the other accused had nothing to do with it, the other four held throughout to their claim of utter innocence, notwithstanding the awful treatment that they were undergoing. Dimitrov staggered not only the listening world but the thoroughly venal tribunal, and also the two arch-conspirators who actually had the courage to give evidence, Goering and Goebbels. Goering indeed lost his head and his temper completely and threatened Dimitrov, who ignored him. Any suggestion of Nazi association with the fire was promptly suppressed by the Court, but Dimitrov held on sternly and determinedly to the end. Pitiable and tainted counsel were assigned to the accused. Dimitrov ignored them too. He shattered the testimony of a long parade of perjured and trumped-up witnesses. Dimitrov's speech in his own defence and also in that of his fellow-prisoners was striking, bold and unanswerable, though the Court would not let him complete it.

On the 16th of December, after three months' trial, the Court adjourned for a week to consider and pronounce its decision. The world held its breath. A world-opinion had been formed of the nature and objects of the trial, and an impressive International Committee of notable and impartial authorities was set up to enquire into and to endeavour to determine the truth. This Committee's findings, which echoed the world-opinion, and that opinion constantly and freely expressed must have considerably affected the final judgment of the Leipzig Court which tried the accused. On the 23rd of December the Court found van der Lubbe guilty and sentenced him to be beheaded, by virtue of a statute passed after the occurrence of the fire, and it acquitted the other four. That four were immediately re-arrested—for protective custody, forsooth!

Another tool of the Nazi leaders, who was murdered in one of Hitler's purges, left behind him, in the care of the noted Swedish statesman, Dr. Branting, a full confession as to the employment by Goering of himself and others, whom he named, for the act of setting fire to the Reichstag. This confession was not published by Dr. Branting till December, 1934, but inside Germany it is still a crime to assert that the Nazis burnt the Reichstag.

These are the barest outlines; but it may be seen that the Reichstag Fire Trial was a very different signal to that given by the fall of the Bastille. This Reichstag Trial, which has been termed a crime of provocation, was the signal for the concreting of the vast and hideous power of the Nazi party; it has indirectly led to the awful contest launched by them against helpless hordes and also against enemies more determined than they themselves, and as sure as their own steady advance towards absolutism, to defeat this world-menace at long last.

## THE CASE FOR PHILOSOPHY.

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### THE TRIAL OF SOCRATES.

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A modernist may express surprise on hearing that there is hardly a trial in history more absorbing and thrilling, of more dramatic and human interest, than that of Socrates.

That trial was held in 399 B.C. in Athens, and the principal actor was what we would now call merely a philosopher. But let us consider for a moment the personalities and the issues involved. What was the charge? One historian purports to give it to us in actual detail; these are his words:—"Socrates offends against the laws in not paying respect to those gods whom the city respects, and introducing new deities; he also offends against the laws in corrupting the youth."

On first impression, that indictment may not sound very thrilling. Socrates, now seventy years old, had lived in Athens all his life, save for brief periods of amazing bravery and fortitude in her wars in foreign parts. No less a supreme master in judging men than Rabelais has given us a portrait of him:—"To have eyed him outside, you would not have given an onion-peel for him, so deformed was he in body, so ridiculous in gesture. But opening his box (of Silenus) you would have found within it a heavenly and inestimable drug, a more than human understanding, an admirable virtue, matchless learning, invincible courage, inimitable sobriety, certain contentment of mind, perfect assurance, and an incredible disregard for all that which men commonly do so much—watch, run, sail, fight, travel, toil and turmoil themselves."

And who were the accusers? They were three, the chief being Meletus, a poet. Poets, even in those days, had their prejudices as well as the politicians and theologians. Meletus was very bitter and demanded the death penalty, the extreme penalty for the offences alleged.

The tribunal was a body of five hundred and one citizens of Athens; in modern language a large jury panel, to endeavour to decide on the evidence and the issues. The



intensity of the interest for the modern is increased by the fact that one can study the whole story with the most completely detached and impartial mind, for the Greek gods and theology will never again be treated with serious reverence, nor will Greek political or judicial methods be again employed, so that no religious, political or legal convictions or susceptibilities can be aroused or affected by the records.

We are faced with a kind of trial resembling a Parliamentary impeachment and we know how Parliaments often make defective legislatures as well as lamentable tribunals. However, the existing procedure was followed, and we have two priceless records of the actual scenes, one by the mighty artist Plato and the other by the accomplished observer Xenophon. If the trial is indeed faithfully reported to us, says a modern writer, "it becomes to us a living picture; it brings us nearer to life than the best literature; you hear the voices; it is life itself."

One must remember that, as this authority tells us, "399 B.C. was a time of unrest, uncertainty, instability and rapid changes; it was a time of reverses, of falling power, military, naval and economic; there was a memory at once of vanished supremacy and of recent disasters; it was a time of the entry of new beliefs and ideas, and as incident to such a juncture, there was a feverish desire to preserve the Hellenic life, the traditions of the past, the belief in the gods of men's fathers, and the old rules of life; a time of sensitiveness and suspicion."

And so we come to the trial itself; Socrates undertakes his own defence; the three prosecutors speak; evidence is given of the language and habits of Socrates and of his other ways and general attitudes.

And then we arrive at the defence. This immortal presentation of the man's mind and courage has been given to us by Plato in his "Apology." Let us assume that the "Apology" holds the essence of what the self-doomed philosopher actually said to his accusers and judges. First, he apologises for his colloquial style of address; then he deals with that public opinion which he knows has been hostile to his views and his declaration as to what is to him right and wrong and what is the proper conduct of life. As for those persons and also his direct accusers that day, he sums up the accusations, as Jowett says, in a formula: "The first says Socrates is an evil-doer and a curjous person, searching into things under

the earth and above the heaven, and making the worse appear the better cause, and teaching all this 'to others.'" The second says: "Socrates is an evil-doer and corruptor of the youth, who does not receive the gods whom the state receives, but introduces other new divinities."

Socrates admits that he has no specialised scientific knowledge, as we should now term it; he asserts that he has a peculiar mission to question and argue, and to endeavour to discover what is knowledge, or in other words, what is virtue. Next he corrects the view that he does not receive the local contemporary divinities but presents new gods to the people. He is a genuine believer, in fact; even, with a seeming presumption, he would assert that he is one of the few genuine believers; his whole life has been passed in a profession of faith and in the preaching of the necessity of virtue and improvement; if this means the corrupting of youth, he will not cease to follow in obedience to the god, even if a thousand deaths await him. He would not, indeed, be put to death; not for his own sake, but for the sake of his accusers, for he is their heaven-sent friend, the gadfly who sets the generous steed in motion; though not a public man he has passed his days in instructing the citizens, and that, mark you, without fee or reward; that was his mission; and he will not demean himself and make an appeal for mercy by producing his children to the tribunal, his three sons, which might result in an acquittal based on pity; for the duty of the judges is not to make a present of justice but to give judgment.

Of course he is condemned; by a majority, though not a great one. One can picture the anxious friends listening in wonder, in delight and the gravest apprehension to his self-defence, realising its fatal trend and that even in those critical and supreme moments he would not desert the guiding thoughts of his long and consistent life.

Now came the question of penalty; death is proposed by his accusers; Socrates has the right to propose an alternative and the judges must then decide between the two. Socrates would suggest that his judges should award to him the highest honour in the gift of the State, his life-maintenance as a State benefactor at the expense of the State. He knows, he says, no more than they whether death be a good or an evil thing; imprisonment he is certain is an evil and so is exile. Loss of money might be no evil; but he has no money, or very little, but he says that his friends desire to make up together a money

penalty; he himself would offer a mina, all he can offer, which would mean three pounds odd; his friends would make up thirty minae, about a hundred guineas;; so let it be a hundred guineas.

Such a defence and such counter propositions, couched in such phraseology, could only mean rejection by the tribunal and the certainty of the death penalty. And so that is the sentence.

But Socrates makes a short final speech to his condemners. He is an old man already, and the Athenians will gain nothing but disgrace by depriving him of a few years of life. Perhaps he could have escaped, if he had chosen to throw down his arms and entreat for his life. But he does not repent of the manner of his defence; he would rather die in his own fashion than live in theirs. For the penalty of unrighteousness is swifter than death, and that has already overtaken his accusers, as death will soon overtake him. He will prophecy that others will arise to reprove them in harsher terms than he has used to them; they have put him to death in order to escape the necessity of giving an account of their lives. To those who would have acquitted him he would say that never did his divine sign that he was doing right desert him during his defence; for that reason he must assume that the death to which he is going is a good, and not an evil. Nothing evil can happen to the good man either in life or in death; and as a last request he would urge those friends of his to trouble his sons, as he has troubled them, if they appear to prefer riches to virtue and to think themselves something when as a fact they are nothing.

And so Socrates lay in chains for a month; his friends constantly seeing and conversing with him on the momentous things he has yet to say to them, his charm and felicity of speech never deserting him. He refused the offer of escape; that would be a greater crime than the acts of his accusers. And so at last, on the thirtieth day of his imprisonment, his tongue was stilled by the deadly hemlock which Socrates had to drink; but the waters of life which are his teachings remain for all eternity to drink.



# TWICE CONVICTED OF MURDER.

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## THE MAREO CASE.

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### I.

At half past three in the afternoon of Monday, the 15th of April, 1935, Thelma Mareo, in a state of complete unconsciousness, was taken in an ambulance to the Auckland Hospital, and at half past five that same afternoon Thelma Mareo was dead. The cause of death was veronal poisoning.

Those are the central facts of a case probably the most intriguing of any that has occurred in the Dominion of New Zealand for many a day. It is a case of sordid and repellent features, hardly redeemed by any signs of appealing humanity. But the interest of the case is not confined to the details; there are other factors that make it outstanding.

Let us begin by noting certain important dates and circumstances that should be retained in the memory for the full understanding of the whole drama. The death took place on Monday the 15th of April, 1935. Eric Mareo, the husband of the dead woman, was arrested on the 2nd of September, 1935, and charged with the murder of his wife. His trial at Auckland commenced on the 17th of February, 1936, and lasted nine days. Mareo was convicted on the charge of murdering his wife and was sentenced to death, the jury adding a rider to its verdict recommending the prisoner to mercy. An appeal to the Court of Appeal was dismissed by a full and unanimous bench of judges in April, 1936. Then the authorities were induced to grant a new trial to Mareo, on the ground that fresh evidence was available, both in Australia and New Zealand, evidence which, it was claimed, might materially affect the whole case against the prisoner, and which evidence was also stated to have been unavailable to the defence at the first trial. We may pause here to note that thereby the prisoner obtained an advantage unique in the whole of English legal history; for, so far as has been ascertained, no person accused of murder has ever been granted a second trial after a conviction has been

recorded against him for that murder. A number of witnesses for the defence were brought from Australia at the expense of the Government, which also paid the defence costs of that second trial in order that there should be no question as to complete provision for the procurement of justice to the accused man. The second trial of Mareo took place on the 1st of June, 1936, and lasted fourteen days. Mareo was again convicted of the murder of his wife and was again sentenced to death, no recommendation being made by the jury on this occasion. No appeal was lodged against this second conviction, but the sentence of death was commuted to imprisonment for life. It is also to be remembered that at the second trial there was a different presiding judge and there were different prosecuting counsel.

Our next course is to gather some details of the history of the parties up to the last three days of the life of Thelma Mareo.

It seems that the man Mareo, whose real name was Pechotsch, arrived in Australia from England with two children, Betty and Graham, in the year 1931. The girl was then about fifteen years old and the boy about ten. In the year 1933 Mareo and his future wife, then Thelma Trott, came to New Zealand with an inferior musical comedy company, of which he was the conductor of the orchestra and she was a playing member. In October of 1933 they were married in Wellington and then came to settle in Auckland, being joined there shortly afterwards by the two children. In Auckland Mareo took up musical engagements, and he produced a comic opera there, in which Thelma Mareo played the leading part and Mareo conducted the orchestra. That unsuccessful venture was in October of 1934. Then Mareo became conductor in a picture theatre, which position he lost in March, 1935.

It seems that Mareo had obtained from his wife on marriage a sum of about £400 out of her capital of £500 and that he had spent all of what he got. There were certain differences that occurred between the couple; we know of some that were deposed to by witnesses; for others we have only the statements of Mareo himself, of the reliability of which, seeing that they were not made under oath, one naturally has great difficulty in judging. Undoubtedly on the night of the 16th of February, 1935, Mareo came home intoxicated in the care of a woman who was playing in his orchestra and acting as his secretary

and also assisting him in preparing a picture scenario. Thelma Mareo resented some conduct of her husband in reference to this other woman, and Thelma Mareo left the Mareo home that night in the company of a second woman who was her own bosom friend, but she returned home the next night. An apologetic letter was written by the woman secretary of Mareo to his wife, and that woman never came to the house again until the day of Thelma Mareo's death, nearly two months later, though Mareo continued associating with her. Later Mareo asserted that his wife was addicted to drink and habits of perversion and that the two did not live together as husband and wife, though they occupied the same room. Mareo's own conduct with regard to liquor was notorious, though on one occasion he stated that he was a tea-drinker until he met his wife. Unquestionably in April, 1935, Mareo was in great financial straits, being by then without occupation and having the slenderest prospects.

On the night of Friday, the 12th of April, 1935, the real story of the tragedy begins. Thelma Mareo had been suffering from some uncertain illnesses, and she had recently consulted a doctor, who had prescribed a tonic and soothing medicines for her. This doctor stated at the trials that he would not have been surprised to have heard of her suicide, such was her mental condition when he saw her. She had complained to the doctor of allegations of perversion made against her by her husband, which allegations she had indignantly denied. But for the whole week up to that Friday her health seemed to be normal and she was up and about. On that Friday, the 12th of April, Thelma Mareo went to bed. This was the immediate prelude to her distressing death on the following Monday, the 15th of April.

Let us now briefly review the incidents of the story, so far as they can be gathered from the evidence. But one more fact should here be placed on record, for this fact is undeniable, and indeed undenied; the cause of the death of Thelma Mareo was poisoning as the result of the partaking of upwards of 100 grains of veronal. On this matter all witnesses capable of giving an opinion were agreed, and all parties accepted that conclusion.

Shortly before the 1st of April, Mareo had admittedly purchased three considerable lots of veronal tablets, though of course he may have obtained more than he admitted to. Mareo gave as his reason for such large purchases that he



knew that after 1st of April, 1935, new regulations would come into force in New Zealand restricting the open sale of veronal. According to Mareo himself he could not have consumed at the outside more than 21 out of the 57 tablets of veronal proved to have been purchased by him. The tablets were five grain tablets, so that he could have taken himself only 105 grains, leaving 36 tablets or 180 grains; and as only 11 tablets, or 55 grains, were still in his possession after his wife's death there were 25 tablets, or 125 grains, unaccounted for.

On the night of the Friday, the 12th of April, Betty Mareo, who had left home a few weeks before for some reason, came to the house for evening tea. Thelma Mareo was then in bed. Mareo took the opportunity to go into the bathroom of all rooms to write a letter to Betty informing her that she was not his daughter, as she had always supposed, but the child of a wealthy Englishman. This information was quite untrue, as of course Mareo well knew; the melodramatic epistle was handed by him to the girl enclosed in an envelope on which Mareo had written the words: "Not to be opened unless you hear of my death."

After tea Betty Mareo left the house and she did not return there until after her stepmother's death. The woman friend of Thelma Mareo spent the evening at the house; she stated that Mrs. Mareo was quite conscious and spoke sensibly about many matters, such as dresses and sewing. The next morning (Saturday) the 13th of April, Thelma Mareo got out of bed twice; she was staggering and delirious and she seems to have babbled of curry and eggs; she had to be lifted into bed, on the first occasion it would seem by Mareo alone. Only Mareo and the boy Graham, now sixteen years old, were in the house in the morning. Thelma Mareo slept all day long without waking, Mareo himself being asleep in a chair in the bedroom, at least during the afternoon. The woman friend of Mrs. Mareo came to the house in the afternoon and went in to see the sleeping woman, and she said that she suggested to Mareo when he woke up that he should get a doctor for his wife but that he postponed the matter. At nine o'clock that night Mareo went for a drive with his woman secretary in her car, he being picked up by her outside the house. Thelma Mareo's woman friend again suggested the calling in of a doctor and was again postponed. After Mareo had left the house for the drive Thelma Mareo began to become conscious, and according

to the woman friend, Mrs. Mareo called out for her and she went into the bedroom and tried to get her aroused. Mareo came back and they both made efforts to rouse Mrs. Mareo by talking to her and telling her funny stories and by trying to get her to nominate articles in the bedroom. Still later, at the woman friend's suggestion, Graham was sent to the all-night pharmacy for some sal volatile, which was given to Mrs. Mareo in water, and she was also given a piece of toffee to eat. Then Mareo prepared some hot milk in a saucepan in the kitchen.

Two cups of hot milk were brought into the bedroom by Graham, one for himself and one for the woman friend. According to Graham, it was not unusual for him to have hot milk before going to bed; but, though the woman friend had frequently stayed with the Mareos, she had never had hot milk at night, or at any other time, for she did not drink it. The hot milk in the woman friend's cup was thrown out of the window by Graham before his father came in. Then Mareo brought in a third cup of hot milk for his wife. It is not unreasonable for us to express surprise that the first cup of hot milk should not have been given to the sick wife. That third cup of hot milk was prepared by Mareo when he was admittedly alone in the kitchen, and after Graham had taken the other two cups into the bedroom.

The evidence as to the taking of the hot milk by Thelma Mareo varies considerably. It seems that Mareo himself at first tried to give it to his wife but that he was not in a condition to hold the cup properly. Graham, who gave his stepmother some of the milk, and whose memory seems to have been uncertain and weakened a good deal at the second trial and who quite reasonably may have been endeavouring to help his father, declared that the hot milk was given to Thelma Mareo with a spoon; and he also seems to have thought that not much milk was consumed by his stepmother and that a good deal of it was spilt on nightgown and bedclothes. The woman friend, who also gave some of the milk, declared that no spoon was used but only the cup and that a considerable portion of the milk in the cup was drunk. This variation of testimony gave rise to extensive argument at the trials, when medical experts came to depose on the subject of the possibility of veronal being dissolved in milk and as to how much, if any, was consumed by the dead woman and as to how and when the drug becomes effective. It is to be observed that the directions on the labels of

the veronal bottles advised the taking of crushed tablets of veronal in milk. Before the giving of the milk a suggestion had been made that Thelma Mareo should go to the convenience and she was certainly almost carried there by the woman friend and Graham. At the first trial Graham said that this incident occurred after the giving of the milk, but at the second trial he could not remember whether it happened before or after. The woman friend asserted at both trials that it happened afterwards, and it is obvious that she must have been right in this conclusion; for when Thelma Mareo was almost carried back to the bedroom she was in fact fast asleep when put into bed, and there is no doubt that she never recovered consciousness before she died on the Monday.

That putting to bed took place some time from midnight up to 2.30 a.m. of the next day, Sunday the 14th of April. The woman friend stated that she again urged upon Mareo the advisability of calling in a doctor but that she was again postponed. The woman friend stayed all night in the bed with Thelma Mareo, and Mareo slept heavily in a chair in the bedroom. The woman friend stated that during the night she tried several times to waken Thelma Mareo and also Eric Mareo but without success. On the morning of Sunday the 14th of April, Mareo had to be wakened from his heavy sleep. He left his home at ten o'clock that morning and went away with the woman secretary, who picked him up in her car in an adjacent street. He was away from the house for about an hour and a half; he was strangely vague about his movements while so away when he came to make statements to the police about those movements. The woman friend, who had been at the Mareo house all night, stated that on his return she again and for the fourth time urged Mareo to call in a doctor and that she was again put off by him. She washed and changed and powdered the face of the sleeping woman and she arranged the bedclothes and she left the house that evening and was seen to her own home by Graham.

On the Thursday or Friday before these incidents, Mareo had obtained a bottle of mixture and some corrective pills from a chemist. According to Mareo these articles were purchased for the purpose of procuring abortion; but also, according to him, they were quite unneeded but were obtained by him at his wife's request because she was so terrified of pregnancy. The mixture, a dark liquid, contained quinine, and it must have been as unpleasant to



the taste as veronal. That bottle of mixture was thoroughly searched for but it was never found. It would seem that Mareo had some fears that he had committed a criminal offence in procuring these articles from the chemist, and he denied to the police that he had made such a purchase. It was strongly put forward too that Mareo had also a fear that these medicines had caused the death of his wife. The woman friend stated that when she made the last request to Mareo to get a doctor he declared to her that he had rung up the chemist from whom he had bought the mixture and pills and that the chemist had assured Mareo that his wife could sleep for two or three days without any ill effects. The chemist who supplied those articles denied that he had been so rung up by Mareo, and he stated that anyhow he had no telephone at his house and Mareo said that it was on Sunday that he rang up the chemist.

On the Monday, the 15th of April, the boy Graham did not go to school, for which incident no satisfactory explanation was forthcoming. Graham, as arranged the night before with the woman friend, rang her up early in the morning to report. Later on in the morning Mareo's woman secretary, who was waiting for him in her car in a nearby street and who had not entered the Mareo house for nearly two months, was called into the house by Graham on his father's instruction. Under the known circumstances Mareo could hardly have given that instruction unless he was certain that his wife would not be aware of this other woman's presence in the house. Later on Mareo told the police that he was first anxious about his wife on that Monday morning when he noticed that her face was blue. Graham and the woman secretary rang up a certain doctor but could not get in touch with him; it was suggested that the doctor to be obtained should be one who would not ask awkward questions in regard to the supposed improper medicines. No steps were taken to get another doctor, but the woman secretary cleared up the sitting-room as well as the bathroom, the latter in her view being the room that a doctor would want to make use of; the bedroom was not touched nor even entered, and so of course the woman in the bed was not attended to in any way by anybody, until the woman friend arrived about two o'clock in the afternoon, after being rung up for by Graham. On her arrival she immediately rang for a doctor; she said that she was shocked at the awful appearance of the unconscious woman and the terrible sounds of her stertorous breathing. The

doctor came very quickly and realised at once that Thelma Mareo's condition was hopeless and he ordered an ambulance and her immediate removal to the Auckland Hospital. The doctor diagnosed veronal poisoning and he asked Mareo if he had any veronal in the house. Mareo left the room and returned with an empty bottle which he had got from the queer spot in which, according to him, he had hidden it; namely a suitcase placed on a high shelf in the washhouse; and Mareo expressed surprise to the doctor that the bottle was empty and stated that when he had last seen that bottle it had contained quite a number of veronal tablets. At the hospital, which was reached about half past three in the afternoon, a blood transfusion was suggested and Mareo expressed himself as quite willing to supply the blood required; the suggestion however was useless, for Thelma Mareo died in the hospital two hours later, at half past five that Monday, the 15th of April, 1935, and without recovering consciousness.

Mareo's first thought seems to have been to ring up his woman secretary, who fetched him at the hospital in her car and took him straight to a hotel where he had some drink and bought a bottle of brandy. The police went promptly to the Mareo home, where they found the woman friend and Graham Mareo and questioned them. Later Mareo and his woman secretary arrived together and Mareo made a long statement to the police. Indeed, from that night until his arrest on the 2nd of September following, Mareo made a number of verbal and written statements to the police; these statements are sometimes very definite and sometimes very vague.

One of the first things the police asked of Mareo was whether he had any veronal in his possession, and he immediately produced from his hip pocket a bottle containing eleven tablets.

## II.

The important points in the statements of Mareo are as follows:—He commenced by stating that he was first married in England in 1915; that was not true, for he was not married to the mother of his two children, who was the wife of another man; but one can see an excuse for beginning with that untruth. Mareo stated that Thelma Mareo had suffered for a long time from some trouble with her appendix and that she had repeatedly declared

that she would rather die than have a child; he added that sometimes his wife drank alcohol to excess and that since October of 1934 she had consumed two bottles of sherry every day, but that she had given up alcohol for the last two weeks of her life in order to help cut down expenses, and that since then as far as he knew she had not had any alcoholic liquor, but that she had appeared to be under its influence on occasions; that on the Friday, the 12th of April, she would not get out of bed and that she looked intoxicated, and that she was asleep in the evening when her woman friend came to the house and remained so. (It is to be noted that the woman friend contradicted Mareo on that point, for she stated that Thelma Mareo was awake when she arrived at the house that night and discussed clothes and other matters with her quite rationally.)

Mareo admitted that the calling in of a doctor had been suggested on the Saturday, but he said that he was used to seeing his wife unconscious with alcohol and so he said that he would wait until the Monday to see how she was and if necessary ring up a doctor then; he admitted that sal volatile was obtained late on the Saturday night in order to assist in waking up his wife and that she then woke up and talked "common sense." He admitted that when the doctor arrived on the Monday afternoon he went to the washhouse and got from a trunk on a high shelf a veronal bottle, which bottle when he had last seen it contained between thirty and forty veronal tablets, and he suggested that his wife must have found them and taken them herself secretly in place of alcohol. (This large number of tablets seems to suggest that Mareo really possessed more veronal than he admitted to.) Mareo said that he had never bought any pills or other improper medicines for his wife, but that she had told him that she herself possessed some, and that he had never seen any of it though he had often looked for it. He denied that he had ever given his wife veronal. He said that since his wife had given up alcohol during the last fortnight she had been having a glass of hot milk before retiring at night, and that she had assured him that it made her sleep like a top and he had noticed that the milk did really make her more calm in herself. (It should be noticed here that no witness deposed at the trials to such a habit of Mrs. Mareo of taking hot milk at night or at any other time, nor was any question put to any witness in verification of that assertion of Mareo as to his wife drinking hot milk.)



Mareo stated that during the run of the musical comedy in October of 1934 he bought his wife a bottle of brandy every day, most of which she consumed herself. Some weeks later Mareo made another statement; he then said that he did not know if his wife had objected to his woman secretary coming to the house (though after the scene in February this woman had given the apologetic letter to Mareo addressed to Mrs. Mareo, which letter Mareo had handed to his wife and which was later discovered by the police among some rubbish under the house; and though as a fact this woman had not come again to the house until the day of the death of Mrs. Mareo, and then only when Thelma Mareo was quite unconscious.) Mareo said that he had never known his wife take any drugs and had never seen her take any. He said that he did not remember ringing up his wife's woman friend the day after the death and advising her to say that she had not been in a fit state to make a statement to the police the previous night and to be careful what she said to them; he only remembered the woman friend suggesting a doctor on the Sunday; he did not remember what his wife had said when she spoke "common sense" on the Saturday night; he could not remember whom he saw on the Sunday on business when he went out in the car with his woman secretary, though as a fact he had gone to see the author of a motion-picture story, a well-known authority on Maori folk-lore, with whom Mareo was necessarily in constant touch for the purposes of the new venture of the proposed production of this picture, on the scenario and music for which Mareo and his woman secretary were engaged; Mareo at that time having no other work to do. Mareo admitted that he did not show to the doctor on the Monday the bottle of eleven veronal tablets which he then had in his pocket and which the police took from him; giving as his reason for his failure so to do that he did not think of them owing to the necessity of getting the ambulance as quickly as possible (though he had nothing to do with the getting of the ambulance and though he went all the way to the washhouse to get the empty veronal bottle to show to the doctor when the doctor had asked him if he had any veronal in his possession). Mareo stated that his wife never had any argument with his woman secretary (though there was evidence of his wife's objection to that other woman washing Mareo's dress waistcoats and ties and so forth, and there was the other clear instance culminating in the apologetic letter of February). Mareo asserted that he and his wife had never at any time lived together as

husband and wife, though they occupied the same room and the same bed (and though he had obtained abortive and preventive articles for her). Mareo repeated his suggestions as to his wife's habits of perversion. He admitted that when he himself took veronal he crushed up the tablets. In Mareo's last statement to the police he denied that he had ever bought anything from the chemist, who swore that a day or two before the death of Thelma Mareo her husband had bought from him a bottle of tonic medicine and some corrective pills. Mareo admitted that the excuse he gave the chemist for the buying of veronal would be incorrect. He said that he had burned the nightdress which his wife wore at the hospital after her death for sentimental reasons.

There was an inquest on Thelma Mareo and she was buried on the Wednesday, the 17th of April, on which day Mareo gave his wife's woman friend nearly all her clothes, including a nightdress which his wife had worn during her last illness and which had been washed. Early on the Tuesday, the 16th, Mareo rang up the woman friend and said, according to her: "You have to be careful what you say to the detectives or you'll have a rope round my neck." On that Tuesday two lady acquaintances called at the Mareo house to express their sympathy; to those two women Mareo told a long story about his wife's death; among other things he told them that he had given his wife veronal on the Friday and that she had then gone to sleep; he also told them that when his wife was on drinking bouts he had given her brandy and veronal. Mareo told these women that he was glad that Thelma was not insured (a small life policy on her life was found later by the police among some rubbish underneath the house and half destroyed). When the women were leaving Mareo said to them: "They won't hang me, will they?" and the women laughed off that suggestion.

On Friday, the 19th of April, Betty Mareo removed the labels from a bottle of veronal and a bottle of medicine, and she gave as a reason for that strange conduct that she wanted to protect the chemist who had sold the veronal, and that she knew that if veronal had been found in the house the chemist would get in for a row (an explanation difficult to accept; probably there was no chemist's name on the veronal bottle anyway). Mareo and his son left the house on the Saturday after the death, and they took a room in the city, where they lived until the arrest of Mareo on the 2nd of September.

The evidence was of course purely circumstantial; much of the most important evidence was that of medical experts. The death having been proved and accepted as caused by veronal poisoning, the only question was as to how the deceased had come to partake of the poisonous dose or doses. Expert witnesses for the prosecution gave their opinions, based on the evidence of incidents, as to the times they considered veronal was probably partaken of, the whole period extending from the night of Friday, the 12th of April, until the very early morning of Sunday, the 14th of April. Much contest raged round that testimony. The experts suggested that Thelma Mareo had had a poisonous dose of veronal on the Friday night, another on the Saturday morning and the last dose on the Saturday night or early Sunday morning. At the second trial that evidence was challenged by one medical man who was called as a witness for the defence. The prosecution alleged that veronal was placed in the cup of hot milk prepared by Mareo for his wife when he was alone in the kitchen on the Saturday night, which cup of milk was at least partially consumed by Thelma Mareo, and which was the last food taken by her before her death.

It must be remembered that at the first trial no evidence was called for the defence; the defence therefore at that trial had the advantage of the last say to the jury. In the second trial witnesses were called for the defence. Fellow-women theatricals of the deceased were brought from Australia to assert that Thelma Mareo had been a consumer of alcohol long before her marriage; a male acquaintance of the deceased, who, according to him, had known her in Australia fairly intimately, and also long before her marriage, and who was also brought from Australia, declared that she had been in the habit of taking veronal in Australia for some rather indefinite period. Certain lay witnesses gave evidence as to what was termed "automatism," the unconscious automatic taking of additional quantities of veronal after the taker had once started the consumption of this strangely-working drug. This evidence was aimed at supporting the suggestion that Thelma Mareo might have consumed a number of veronal tablets unconsciously, thereby bringing about her death accidentally. And the medical witness also challenged the prosecution's expert witnesses in their conclusions as to the working of the drug veronal.

The result of the second trial was not different to that of the first trial, as already stated, and again the accused man was sentenced to death. Mareo's sentence was com-



muted to imprisonment for life. Some time later capital punishment was abolished by law in New Zealand.

Agitation has been constantly employed since the second conviction with the object of obtaining revision of the verdict or to secure still a further investigation into the case. The suggestion seems to be that a jury of medical experts should be summoned to decide, if they can, the questions raised as to the scientific evidence in the Mareo case and the working of veronal on the human system.

As to the juries in the two trials, no one would for one moment doubt that every New Zealand jurymen, whether the case is of a capital or any other charge, will do his duty conscientiously, fearlessly and justly. In the case of Mareo no one can imagine that any one of the twenty-four men who decided against the prisoner did other than, with profound grief but conscience-clear, individually pronounce the sentence of death upon Eric Mareo. But every citizen in a free country is entitled to question the correctness of any verdict. The tribunal of public opinion has been invoked by these advocates for revision. For the purpose of that mighty tribunal only the evidence given in the courts may be canvassed and considered. For this purpose, too, the fair and impartial jury of the public must discard all baseless rumours, all wash-line chatter, all drawing-room and bar-room conclusions. It is true that only the voice of the agitator has so far been heard, and it is also true that the utterances of those agitators have not always been based upon accurate statements of the evidence or the dictates of reason. And upon this point we have to commence consideration of the appeals to the public jury with a clear view as to what the agitator asks for and also what he is entitled to submit. For we must begin with the knowledge, which is of the utmost importance, that there cannot be a claim that a proven innocent man has been convicted, that this is not the case of a man to whom there can be no question but that he is guiltless.

It may be as well to interpolate here that a Parliamentary Committee sat for four days and carefully considered a claim for the review of the verdict, and that the Committee by ten votes to one decided that no recommendation was justified and the House of Representatives unanimously adopted the Committee's report. Four different tribunals have therefore come to independent and identical decisions, two juries, the Court of Appeal and the Par-

liamentary Committee, and we thus commence with that undeniably important knowledge.

### III.

Let it be remembered that Mareo did not go into the witness box at either trial, though in the second trial he lost the last say to the jury as the result of a series of witnesses being called for the defence. And let it be remembered too that at no time was evidence called by the defence for the purpose of proving that the prisoner did not administer the veronal to his wife. At the second trial evidence called by the defence was directed to the theory that the veronal could have been self-administered; that theory of course the second jury rejected. In the all-important matter of the partaking of hot milk on the Saturday night the prisoner was the only witness who could give testimony that the hot milk admittedly prepared by him when alone in the kitchen was innocuous. The investigator is entitled to consider, as perhaps indeed the juries also considered, that the failure of the prisoner so to depose was an important link, perhaps the last required link, in the chain of evidence for the prosecution; a link too forged by the prisoner himself. For, though we all know that by the New Zealand law no comment is allowable either by Crown counsel or by presiding judge on the failure of an accused person to go into the witness box (though in England the judge may, and often does, so comment, as he is entitled to do by English law) there is of course no law depriving a jury of its right, and its duty, so to comment when such absence from the witness box may be relevant to the issues entrusted to them for decision; and that right and that duty rest also with the jury of the public now appealed to. In truth, the defence in the Mareo case was not the innocence of the accused but the suggested failure of the prosecution to bring the crime home to him, the want of Crown proof; it was a challenge to the prosecution to prove the allegations, it was in effect a claim for a finding of "not-proven." And, though of course it is a matter of the purest speculation, the jury may well have said to themselves that they were quite able to dismiss from their minds all points of mere prejudice which might be brought up against the accused from a perhaps not too palatable past career, but that there was one other thing that they were also capable of, and that was that they were able to judge an innocent man when they saw him, and particularly when they heard him, if only by the very manner in which he declared his innocence.

The jury of the public which is now appealed to has all the rights of any tribunal whose decision is asked for, including the right to question the correctness of a former tribunal's decision. The main ground for claiming a revision in this case is a report by Sir William Willcox, the noted poison authority, who challenges the conclusions of the New Zealand experts given on behalf of the prosecution. But there are almost insurmountable difficulties in placing reliance on this report. It was made in July, 1941; four days after making it Willcox died. Thus this expert cannot be subjected to cross-examination; and it is not unjustifiable to mention that cross-examination (the value of which in the case of scientific witnesses was most carefully pointed out by the second trial judge) has in the past severely affected the evidence of that very expert Willcox and similar experts such as Sir Bernard Spillbury, on the rare occasions when they have given evidence for the defence. But the fatal defect in regard to the report is the admitted fact that Willcox had never seen the evidence adduced for the prosecution in the second trial; and it is, after all, the verdict of the jury at the second trial which is the verdict that stands and the only one open to challenge. This fact as to Willcox's want of knowledge of the evidence destroys any value the report might otherwise have.

Another very serious difficulty which characterises the submissions of Willcox and indeed practically all the other advocates for revision of the Mareo case lies in the grave errors in their factual presentation, thereby affecting the whole basis of their claim. Factual accuracy in this enquiry is essential, and such misreadings of the evidence, though assuredly innocent, make insuperable hindrances for the ordinary investigator who is appealed to; failure to present the facts accurately can only mislead him and breed both disgust and distrust. Willcox seems too to have assumed to assess the weight of the non-scientific evidence given in the first trial, and that was clearly not his province and for such a task he was obviously unfitted. Under the above circumstances such a name as that of Willcox is worse than valueless to the honest enquirer.

The contest between the experts is really narrowed down to the question as to the estimated times when veronal, admittedly consumed by the deceased, was partaken of by her. Even if there were errors on the part of the experts as to those estimated times, yet if the poison was,



as a fact, administered by the prisoner to his wife at any time at all with intent to murder, and with murder as the result, then the conviction of Mareo must undoubtedly be sound.

Attempts have been made (showing the hopeless looseness of some argumentators) to compare the Mareo case with the famous cases of Adolph Beck and Oscar Slater; there are no possible grounds for such comparisons. In the Adolph Beck case witnesses, undoubtedly honestly but lamentably mistakenly, presumed to identify the unfortunate Beck as the man who had defrauded them. Beck was proved conclusively and by the plainest evidence to have been completely innocent of the crimes charged against him. In the Oscar Slater case the conviction was set aside by the Appellate Court only on the ground of the misdirection of the jury by the presiding judge, and not because Oscar Slater was found or even considered innocent of the murder charged against him. Genuine investigators, eager only for justice, do not desire to be led astray by false analogies.

The enquirer is bound to return to one of the main points that tell against the convicted man, namely his absence from the witness box. And here we may perhaps advantageously quote the words of an experienced and capable American judge used by him to a counsel who sought his advice as to whether he should call his prisoner client as a witness on his own behalf. Judge Sherman replied: "Perhaps I can tell you what the rule and practice is among the best lawyers in such cases. If the attorney believes his client innocent, put him on the witness stand without hesitation. If however he believes him guilty, never put him on the witness stand. If the prisoner insists on being a witness and the attorney believes him guilty, the attorney should say to him: 'I advise you not to testify, but as you have more interest in the case than I have, I shall not interfere.' "

The highly experienced and noted (though perhaps over-noted) Sir Henry Hawkins has recorded in his reminiscences his conversion to belief in the value and the propriety of the change in the law when accused persons were at last allowed to give evidence on their own behalf. Hawkins employed this useful expression on the point:—

"A witness's evidence may deceive, but his manner is the looking-glass of his mind, sometimes of his innocence"; and Hawkins adds, as to the particular witness in the

particular case which confirmed his conversion:—"His tone, his language, could only be the result of conscious innocence."

This case of Mareo has exercised the minds and drawn the anxious attention of many different enquirers. The very grave questions are: Have the juries, each of twelve men, and the Court of Appeal and the Parliamentary Committee failed to do justice to Eric Mareo? Could the veronal partaken of by Thelma Mareo have been self-administered, by accident or design? Was Thelma Mareo the seasoned drug-taker and the drunken pervert suggested by the defence? It is fair to mention here that there were found and produced at the trials three letters which Thelma Mareo must have herself preserved which indicate that they were written to her by a female pervert doubtless some years before. Of course, the allegations against the character and habits of Thelma Mareo made a two-edged sword in the hands of the defence; and those allegations, coupled with the new evidence called at the second trial and Mareo's own statements about his wife made to the police and others might be looked upon as supplying or increasing the motives that might have weighed with Mareo; though otherwise there was abundant evidence of motive, undenied and undeniable. Several answers to a number of the points that told against Mareo were put forward at the trials. Every investigator is able to estimate the respective values of the general arguments for and against the prisoner. But it must not be forgotten that two separate juries had the very great advantages of seeing and hearing the witnesses who deposed at the trials and of directly estimating the respective testimonies. And the genuine enquirer must be warned against the improper tendency to confuse the number and the weight of both arguments and testimonies.

Here is not a pleasant task of investigation, and perhaps it may be said with some truth that the central remaining figure excites neither interest nor sympathy. But the tasks of enquiry and decision are duties of every citizen if there is sound reason for calling upon him. Every citizen passionately desires that justice shall be done in every case that comes before a New Zealand Court, even after the pronouncement of a verdict. Once the conviction arrives that a decision, of whatever gravity, is wrongly based, reparation would be immediately demanded by every individual in the community. The mere unthinking and uninformed agitator often harms a claim of this nature more than he assists it.

If any reader desires to undertake further personal investigation into the whole case and this claim and its merits, it is suggested that the long, able, careful and exhaustive summing-up of the second trial judge will well repay study, for it is a model of construction and of impartial presentation of a singularly difficult and perplexing case.



## AN OSCAR WILDE HERO.

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### THE TRIAL OF T. G. WAINEWRIGHT.

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There was a Wainewright once who was no relation of the notorious brothers Wainwright who carved up the murdered body of the lady love of one brother, but his career rivals even that of the dreadful pair.

This Wainewright spelt his name with an "e" in the middle. For over one hundred years writers of the history of poisoning have been vainly endeavouring to find suitable adjectives to use in regard to him and his activities. Readers may perhaps be able to strike the happy descriptive phrase for this undoubted master of the horrid art.

Thomas Griffiths Wainewright was no ordinary man. He had had a rich grandfather who had left a tidy sum of money in the hands of trustees for his benefit. He received a good education, and when quite a young man mixed on the friendliest terms with the most distinguished men of letters of his day, such men as Charles Lamb, William Hazlitt, Coleridge and Dickens. Charles Lamb had once referred to him as "kind, light-hearted Wainewright."

He painted pictures which were exhibited in the Royal Academy, and for a period he became a regular contributor to the most celebrated monthly magazine of its time. He used the weirdest of pen-names, "Egomet Bonmot" and "Janus Weathercock" were two of them. His writings received serious consideration from the knowledgeable ones. Dealing principally with matters of art and art criticism, his literary efforts anticipated in some degree more modern journalism on similar subjects.

Wainewright was a susceptible man, too, for he confessed to having wept tears of happiness and gratitude over the poems of William Wordsworth. He was a considerable dandy, also, and made a great display of colours in his clothes and of jewellery of all kinds about his person. But there was certainly something wrong, something twisted, somewhere. One contemporary said of him that he was overdressed, his white hands bespangled with regal

rings, and that he was on the bright side of thirty with a sort of undress military air and the conversation of a smart, lively, clever, healthy, voluptuous coxcomb.

Wainewright was born in 1794. His uncle George occupied the lovely family home known as Linden House, Turnham Green. Wainewright has attracted the attention of some of the big moderns. Algernon Charles Swinburne in speaking of him coined the phrase "pen, pencil and poison," and Oscar Wilde wrote a long essay about him using that phrase as the title. Oscar Wilde also coins a characteristic phrase of his own when he quarrels with others who seem to have had a low opinion of our hero as a writer. "Such denial of literary power," says Oscar Wilde, "seems to me a shallow, or at least a mistaken, view. The fact of a man being a poisoner is nothing against his prose."

In 1821 Thomas Griffiths Wainewright got himself married to one Fannie Ward. Fannie Ward's mother had married, for the second time, a penniless army officer named Abercromby, and by him she had two daughters, Helen and Madeleine. Fannie, we are told, was a good-looker; it has been constantly said that so was her half-sister, Helen Abercromby; but Wainewright has left a red-chalk drawing of Helen and to the modern eye she seems but a perky little piece of goods with very ordinary features. In 1826 Thomas George must have been in grave difficulty, for he forged, in the names of his four trustees, an order upon the Bank of England to pay to him between two and three thousand pounds, being part of the trust capital to the interest of which alone he was entitled. He was thus enabled to keep up considerable state, to provide a carefully selected cellar and to purchase the choicest and most-expensive objects of art of all kinds.

In 1828 he and his family went to reside with his Uncle George Griffiths at Linden House. Within a year Uncle George suddenly departed this world, leaving to the nephew Thomas the beautiful estate and its contents and other advantages. Then Thomas took his mother-in-law and the two Abercromby girls to live with him; Wainewright induced Helen Abercromby who was quite penniless to insure her life for some £16,000 and in policies for only two and three year periods.

Helen's mother seems to have obstructed some further similar transactions, and Wainewright referred to his mother-in-law's conduct as "obstinacy." It was clearly

fatal conduct, for Mrs. Abercromby very suddenly succumbed in August, 1830. In December of the same year Helen Abercromby was taken very seriously ill, and on the 21st of December Mr. and Mrs. Wainewright brought Helen some poisoned jelly and then went out for a walk. When the couple came back Helen was dead. A nurse, who knew all parties and was present, declared that Helen had died under exactly similar conditions to Uncle George and Mrs. Abercromby.

Thomas de Quincey, the famous writer, an acquaintance, claimed that Fannie Wainewright was not a party to the murder of Helen. It is to be remembered that Helen, who most certainly was murdered, was only a half-sister of Fannie. Thomas who most certainly was a partaker in the murder, was afterwards reproached for his action; he shrugged his shoulders and said, "Yes, it was a dreadful thing to do, but she had very thick ankles." This is really a very funny answer, but one cannot help thinking that Wainewright was trying to live up to his reputation as a man of wit for he actually took proceedings against the insurance companies under the policies, though he himself did not put in an appearance, having long before fled to France where he was well out of the way of the Bank of England.

One jury disagreed and the action was tried a second time. There was a splendid array of leading and distinguished counsel. The second jury reckoned that the deceased Helen had had no real interest in the insurance, so Lord Abinger's impressive warnings to them were duly and properly followed.

In 1837 Thomas Griffiths Wainewright had been for a number of years in France, where he had carried out the insurance trick once more with a new friend. It is reported that he wore a striking finger-ring which was fitted with a secret receptacle in which he always kept strychnine in case of need. He used that poison successfully one night after dinner in his friend's coffee, just after the insurance had been properly effected.

In this year 1837 he was rash enough to come back to London, it being suggested that there was a lady in the case. Wainewright cautiously kept the blinds lowered in his hotel-room but incautiously and out of mere curiosity he pushed one blind aside on hearing some street noise. A Bow Street runner immediately recognised him as the



Bank of England forger. So he was arrested and it is suggested that he was arraigned on two charges of forgery and three of murder and that the Bank of England (this being so like a bank) explained that it not wish to shed blood, and so was allowed to withdraw the capital charges and that Wainewright was sentenced to transportation to Van Diemen's Land for life on the forgery charge alone.

This is a delightfully amusing suggestion but it is founded upon a misunderstanding. In those days the capital penalty was attached to the more serious charges laid against the prisoner, so the Bank accepted Wainewright's plea of guilty to the minor charges, thus avoiding the hanging sentence. A biographer of the eccentric puts the sequel thus: "Ironical it was that for the nominal crime of appropriating his own money he should be condemned to permanent exile. Retribution had come with a peculiar logic of its own."

While waiting for his ship in Newgate, he was visited by chance by Charles Dickens and Dickens' illustrator Hablot K. Browne, Macready the actor and John Forster the author; Macready, who knew everyone and had been to everybody's home, and mostly to dinner, was horrified to recognise an erstwhile host.

As might be imagined, Wainewright must have been a bit of a nuisance both on the ship and in Tasmania. He could not get away from the idea that he was mixing with much inferior company, and it was the feeling that his muse was gagged and cramped, so to speak, that made him appeal to the governor for a ticket of leave, which was refused. After two quite unsuccessful attempts to continue his career as a poisoner in Hobart, he resumed, perhaps in despair, his old work as a painter of portraits, and he seems also to have been devoted to the welfare of his cat. He died in the settlement at the age of fifty-eight, and of apoplexy; one cannot help feeling that it was too easy a death for him.

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