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CRIMINAL COURT SERIES

THE BLIND GODDESS

By
ARTHUR TRAIN

Vol. 1

“—remembering above all to walk
gently in a world where the lights
are dim and the very stars wander.”

SIR GILBERT MURRAY

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TO
HELEN COSTER TRAIN

“The machinery of criminal justice, like every other production of man, is necessarily imperfect, but you are not therefore to stop its wheels. Because men have been scalded to death or torn to pieces by the bursting of boilers, or mangled by wheels or a railroad, you are not to lay aside the steam-engine. Innocent men have doubtless been convicted and executed on circumstantial evidence; but innocent men have sometimes been convicted and executed on what is called positive proof. What then? Such convictions are accidents which must be encountered; and the innocent victims of them have perished for the common good, as much as soldiers who have perished in battle. . . . Certain cases of circumstantial proofs to be found in the books, in which innocent persons were convicted, have been pressed on your attention. These, however, are few in number and they occurred in a period of some hundreds of years, in a country whose criminal code made a great variety of offences capital. The wonder is, that there have not been more.”

GILSON, C. J., in Commonwealth vs. Harman,
4 Pa. St., 269.

AUTHOR'S INTRODUCTION

The decision of my publishers to reissue, under the title of "The Criminal Court Series," a set of five volumes made up of three of my novels and two collections of "Mr. Tutt" stories, is proof not only of the perennial interest of the public in the administration of criminal justice but of the vitality of the books themselves.

This interest arises in part from our realization that not only is the distinction between crime and sin often highly arbitrary, but that, save for the Grace of God and the statutes, we might easily find ourselves being hurried away to the Tombs in the Black Maria. Moreover, the criminal courts furnish the bulk of authentic drama in protected modern life, and the otherwise tranquil burgher finds in what goes on there a vicarious substitute for the sabre-toothed tiger hunts among his stone-age ancestors and the skirmishes with hostile Indians of covered-wagon days.

Every one enjoys watching a well-conducted criminal trial—particularly if it be that of a prisoner fighting for his life, where the struggle between the prosecuting attorney and the defendant's counsel is a last vestigial reflection of Roman gladiatorial combat. We even derive pleasure from the pallid and usually inaccurate reflection of similar scenes upon the stage or screen. For like reasons persons of both sexes and of all degrees of intelligence eagerly devour mystery novels, detective stories and narratives dealing with crime and its punishment, which, whether factual or fictitious, offer essential elements of drama or melodrama,—crime, pursuit, capture, and retribution. Each has a villain and oftentimes a hero, with whom the reader inevitably identifies himself, whether the latter be a young Galahad of a district attorney attacking the dragon of corruption or an innocent defendant unjustly accused. It is a first-class entertainment if nothing more,—but it ought to be very much more.

No one studying the administration of criminal justice can fail to be impressed, first, by the care with which the law [x] ostensibly protects the liberties of the citizen, and second, by how valueless the law is if it be interpreted and applied by unjust or ignorant men.

That is the vital lesson to be learned in what we term "courts of justice." We may have the best laws in the world, positive guarantees of freedom, but any tyrant or ignoramus upon the bench, or any corrupt or overzealous district attorney, while rendering them lip service, can set them at naught as ruthlessly as a Hitler or a Mussolini. When that happens—when, under the technical guise of law or by means of subtle guile, a judge or a prosecutor in fact circumvents or overrides the safeguards which the statutes have enacted to preserve a defendant's rights, what is his lawyer to do? Must he tamely allow his client to be sent to the electric chair by a gullible jury who assume that every salaried officer of the state must be a white-robed angel, or is he not, under the circumstances, *ipso facto* released from his oath to support the laws which he took conjointly with them, and justified, to save his client's life, in fighting fire with fire? This is the question I posed in the first story of "Mr. Tutt and Mr. Jefferson," in the volume entitled "Old Man Tutt."

If I have suggested some of the many ethical problems presented by the administration of the law, when either honestly or dishonestly administered, and particularly if I have succeeded in demonstrating the fundamental difference between law and justice, and that some of our present statutes, including our supposedly sacrosanct rules of evidence, are in themselves palpably unjust, as well as often absurd, I shall be content.

Regarding the five volumes comprising this set I may say that, of the nine original books about "Mr. Tutt," the two [xi] included—"Old Man Tutt" and "Mr. Tutt Takes the Stand"—are probably the most representative. By the time they were written the old lawyer had been trying his cases nearly twenty years and had grown in wisdom and stature and in favor with man at least, if not with God.

"The Blind Goddess" is certainly my most comprehensive novel depicting the inner workings of the criminal courts and district attorney's office. In fact I know of no other book that attempts to cover the whole panorama from arrest to conviction in the same way.

"Ambition" has always been my favorite novel. While its emphasis is upon the civil side of the law rather than the criminal, it shows clearly enough the temptations to which a young lawyer is exposed in either branch and the vagueness of the line that separates what is regarded as ethical from what is denounced as crime.

“Manhattan Murder” is a story of the gangster era in New York City, now effectually terminated. It might well seem fantastic but for the familiar accounts in the press of the activities of such gory criminals as “Dutch” Schultz, Derringer, “Legs” Diamond, and “Al” Capone.

Taken together, these five books present in fictionized form a fairly complete and accurate picture of the procedure by which those indicted for crime are convicted or acquitted.

ARTHUR TRAIN

THE BLIND GODDESS

CHAPTER I

In that part of Cosmos men call "The Universe," and on the dust speck known as "Earth," a ray from the sun, now travelling in Aquarius, fell through ninety-three million miles of ether upon the gray wall of the Tombs prison, in which were herded several hundred human monads awaiting either trial or sentence by their fellows. The sunlight did not penetrate the wall, for it was enormously high and thick, designed to keep prisoners in at any cost, but its gleam was reflected to the other side of Franklin Street through the grimy windows of the Criminal Trial Term, dazzling the eyes of policemen, clerks, and court attendants, and crowning with a nimbus of red flame the head of a young girl who sat high above the spectators upon the dais beside the judge.

It was only three o'clock, yet already the electric cluster in the centre of the ceiling had been lighted, for darkness gathers early about those engaged in delving into human motives, and in assessing human responsibility, even when their deliberations are not already clouded by ignorance, cupidity, or vindictiveness. The blinding shaft of light which shot into the court-room beneath the partially lowered shades made the old judge blink.

"Pull down those shades if you please, Mr. Gallagher!" he said to the ancient officer who sat bowed in the corner [4] behind the jury box. "You gentlemen have the advantage of not facing the light!" he added with a smile to the twelve assorted citizens who sat there charged with the duty of according to the unfortunates brought to the bar of justice what is known to the law as "a trial by their peers." "Thank you!" he murmured as the officer, having carried out his instructions, tottered back to his seat.

The judge was a timorous, kindly man whose thin white hair was brushed in streaks over a pink skull dotted with liver spots. When he became angry or confused—which often happened, since he was slow of understanding—his skull grew red and glistened with a film of perspiration. "Thank you, Mr. Gallagher," he repeated. "What is next on the calendar, Mr. Dollar?"

The clerk, a pompous person with a horse's face, whose steel gray hair was waved to resemble whitecaps advancing upon a sandy shore, arose and bowed to the judge with ceremony, since in honoring the bench Mr. Dollar honored himself.

"A sentence, Yoronner. John Flynn for two convictions, murder in the second degree. You set three-thirty, you remember, at the request of Mr. O'Hara, his counsel."

The judge nodded, adjusted his spectacles, and reached for his sentence book. Then he looked over the clerk's desk to the row of chairs reserved for counsel, just inside the rail.

"Is Mr. O'Hara here, Mr. Quirk?" The man addressed got to his feet. He was a rickety figure, physically repellent, yet with something of attraction in his voice and manner. He was dressed in dusty ochre with a crimson tie; his face was yellow, cadaverous, and destitute of hair; he had pale green eyes, and an auburn wig which slanted across his forehead like an ill-fitting skullcap slipped awry. Yet his smile, except for his discolored teeth, was engaging. In [5] his hand, which shook as with palsy, he held a book.

"Yes, Yoronner," he replied. "Mr. O'Hara is just outside. I'll go fetch him."

"Very well. Send for the defendant, Mr. Dollar."

Mr. Dollar, elegant in a blue cutaway suit bound with braid, and with a heavy gold chain across his abdomen, resumed his seat, carefully dipped his pen, and inscribed something laboriously in a heavy volume. Then looking up at the officer

standing by the rail, he called cheerfully in a resonant voice slightly reminiscent of County Cork:

“Captain Lynch! Kindly have John Flynn brought to the bar for sentence.”

The captain, who wore a white goatee, turned to the rear of the room, where another and younger officer lounged beside a closed door.

“John Flynn to the bar!” he called across the intervening space.

The officer in the rear opened the door and thrust his head into the black abyss behind it.

“Bring up Flynn!”

Distance and indirection muffled his voice, as it did also the ultimate order of the sheriff’s officer in the pit below.

“Here you Flynn!”

Thus in inverse ratio to the square of the distance between the judge and the turnkey did the consideration shown to the prisoner diminish, until, indeed, had it extended across the Bridge of Sighs to the prison yard it might have vanished altogether.

“Are you going to sentence somebody for murder?” whispered the girl on the dais. “How terrible!” The white luminous spot of her face moved closer to the judge. “Don’t you hate to?”

[6]

The judge was a little afraid of her, for, besides the fact that she was rather imperious, her father was a very important person. He always strove to please everybody.

“Yes, of course it’s unpleasant—but one gets used to it. One gets used to everything, Miss Moira.”

“I should never get used to sending men to prison. I think all prisons ought to be abolished!”

The judge smiled at her tolerantly, thinking—in spite of the flaming glory of her hair that swept so low across her white brow—how much her intense blue eyes, her short, straight nose, her capable mouth with its full red lips were like the “Old Man’s.” He did not recall ever having seen her mother.

“That is easy to say, my dear! You must have been reading Bernard Shaw!”

“I haven’t. What does he say?” she inquired.

“That so long as we have prisons it doesn’t make much difference who occupy the cells.”

“Well, that’s just what I think!”

The judge fidgeted and pretended to examine the book before him. He wished that they would hurry along with Flynn. The girl was already becoming something of a nuisance. She made him uneasy. And she might so easily ask him a question that he couldn’t answer! So very easily! Still, he couldn’t very well have refused her request to be allowed to see him administer justice, for the all-powerful Richard Devens, her father, was one of his staunchest backers. Another thirteen months, and the judge would be up for re-election, going around soliciting campaign contributions, with his hat in his hand, if he were fortunate, or, if he were not, trying to enlist influence for a renomination—but in either case with his hat in his hand.

Moira Devens leaned back in her chair, leaving the judge momentarily in peace. Although she had never been in a court-room before, much less elevated upon a dais in full view of several hundred spectators, she was not in the least embarrassed. On the contrary, she rather enjoyed being there. As her father’s daughter she was used to receiving attention wherever she happened to be, and that she should be given a box seat at this particular drama seemed wholly natural.

[7]

Yet the performance was not at all like what she had expected. From what she had read in the newspapers she had always supposed a criminal trial to be a sort of gladiatorial combat, where wild beasts in the shape of bull-necked prosecutors and shyster lawyers fought with one another amid frenzied roars from the onlookers and bloodthirsty growls from the pens below; not a quiet, decorous affair like this, where if a juror coughed he covered his mouth with his hand, and where the only sound was the crackle made by Mr. Dollar as he turned the stiff leaves of the court record. So quiet and decorous, in fact, that she almost wondered if they were alive, these motionless figures in jury-box and on the benches.

One face in particular—a woman's on the front bench—staring at her. A dead woman—or did she move? Out there—above—beyond—in the sunlight—there was air. But here——!

“May I?” she asked faintly, and filled a tumbler from the frosted silver ice-water pitcher beside the judge.

What a relief! Her forehead cooled. The blur lifted and the faces on the benches became definite. She could see the individual jurymen now—which of them had beards and which were bald—and the group of lawyers at the table outside the rail, with their books and brief-cases, and the rows of benches, one behind the other, filled with witnesses, relatives of prisoners, law students, persons waiting to see the judge, semi-respectables of all sorts, idlers, and “bums.” Some of the faces were grotesque, others jovial and mirth-provoking, some honest and direct, some cynical, crafty, and shifty-eyed—a haphazard collection of human animals. And all silent—all waiting for something. [8]

It is getting darker. From outside at irregular intervals comes the clanging rush of an electric car, the distant roar of the elevated, the rumble of a mail-truck—inside only the soft rustle of papers and the murmur of the judge as he speaks to Mr. Dollar. The Quick and the Dead!

Somewhere in the subterranean caverns of the building a door bangs, and the woman on the front row of benches stifles a cry.

The judge looks up.

“Order there! Please see that there is quiet, Mr. Officer!”

The woman looks at him fearfully, one trembling hand covering the lower part of her mouth. She is emaciated, her lower lip sagging; but her face holds traces of beauty and she carries herself with a certain distinction. The judge beckons to the officer. “Who is that woman?” he asks curiously.

“Never saw her before, Yoronner. She's a hop-head. All shot to pieces. Shall I put her out?”

The woman gives them a look of agonized appeal.

“Poor thing! Please! Oh, please don't put her out!” Moira intercedes for her.

The judge hesitates and at that instant the door in the rear opens, and Flynn, the little murderer, enters, shambling along between two stalwart officers. They are so far away that they make no sound—mere moving figures on a film—as they skirt the edge of the room along a sort of runway. [9]

“Order in the court!”

A burly, red-faced man with side-chops steps to the bar beside the defendant, who clutches the rail, cowering like a dog awaiting the lash. A murmur weaves along the benches. The Dead are coming to life. They sway forward in unison. The judge regards the prisoner almost affectionately. He feels sure that the defendant can harbor no personal animosity against him.

“Mr. Flynn,” he says in a soothing tone, “have you anything to say why judgment should not be pronounced against you?”

The prisoner appears dazed.

“Didn’t you hear His Honor’s question?” asks Mr. Dollar.

Still, Flynn makes no reply, and his counsel bends over and whispers in his ear.

“He has nothing to say, Yoronner,” replies Mr. O’Hara.

The judge gives a propitiatory rap with his ivory gavel. The Dead are harkening.

“James Flynn, you have been twice convicted of murder in the second degree, for the killing of William Fox and Arthur Brady, both police officers, in the performance of their duty. You are to be congratulated that the jury, in their mercy, did not find you guilty of murder in the first degree. There is nothing for me to say. The law gives me no discretion. The sentence of the court is that upon the first indictment, number 949,671, for the killing of William Fox, you be confined in the state’s prison at hard labor for the term of your natural life, and upon the second indictment, number 949,672, for the killing of Arthur Brady, that you be confined in the state’s prison at hard labor for the term of your natural life—the second sentence to begin immediately upon the completion of the first.” [10]

Nobody apparently sees anything peculiar about the affair. Mr. O’Hara steps back, the officers take the prisoner by the shoulders, steer him into the runway again, and they start away rapidly. “They are hanging Danny Deever, you can hear the quick-step play!” As they reach the door in the rear there is a little disturbance. Two men are shaking hands with Flynn—now civilly dead—bidding him good-by. There is hardly a pause. “Good luck, Jim!” The door closes without sound. Presently, from the depths below comes the muffled clang of iron. The officer on guard leans over and spits into a cuspidor. For an instant it seems to the girl upon the dais as if all the lights had grown dim. She forces herself to appear calm.

“Are there any other sentences, Mr. Dollar?” inquires the judge, smiling at his fair *amica curiæ*. “If not, call the next case.”

The Goddess of Justice, pictured upon the wall above the judge’s dais as a beautiful and stately woman, holding in her right hand a crystal ball representing “Truth,” and in her left the scales in which guilt is balanced against innocence, gazes fearlessly over the heads of the spectators in the general direction of Sing Sing prison. The artist, a justly celebrated painter, has seen fit to depict the lady without the customary bandage across her eyes, in order to indicate that Justice no longer needs to be blinded to insure her impartiality. It may be that he is quite right, and that in this respect modern differs from ancient justice, but if his taste for originality has, perchance, outrun his accuracy, those who have a fondness for tradition may solace themselves with the reflection that blindness may exist without blinders, that the most beautiful of eyes are sometimes sightless, and that by light alone may the vitality of the optic nerve be tested. There is little light in the Criminal Trial Term of the New York Supreme Court. Who dare say whether the goddess upon the western wall be blind or not? Let us be satisfied to note that her eyes are apparently fixed upon distance—and not upon the crowding suppliants beneath her—no, nor upon any one of them. [11]

It was this fact that had always filled Hugh Dillon with such a smouldering resentment and induced a cynical wondering upon his part if, after all, she personified anything more “just” than the figures of the Parciæ—the inexorable Clotho, Lachesis, and Atropos—who spun, and measured and cut the thread of life, upon the panel to her left; or, even than the muscular male figures of Liberty, Fraternity, and Equality upon her right. It was, he thought, as he sat there waiting beside his associate, O’Hara, rather ironical that the last vision of the poor wretch Flynn, just sentenced to jail for life—for two lives!—should be that of a joyous athlete bursting his chains while his two robust companions, representing the Brotherhood of Man, and obviously bursting with the Milk of Human Kindness, beamed upon him with such delight. Sympathy? A joke! Justice? There was no such thing! At best it was nothing but a haphazard human makeshift; at worst, a cant phrase, like making the world “safe for democracy.”

Who were these tax-eating judges and prosecutors that they should play fast and loose with human life and liberty! He hated all of them—self-seeking political sycophants like that curly-haired loafer Redmond, the assistant district attorney, pusillanimous time-servers like that fat-headed judge, with their rascally crew of fawning attendants and process-servers feeding out of the public crib, police officers and detectives looking for promotion and a “record,” ready to swear your life away for a flat bottle, doddering clerks and henchmen pensioned off at the municipal expense [12]

“for services rendered”—the whole machine grinding along, “knock down and drag out,” hit or miss—one man sent up for life while another, more guilty, went free—the public money poured into the gutters to make a Roman triumph for any ambitious prosecutor who might hope to leap to political eminence from the corpses of his electrocuted victims—a spectacle for the idle and favored rich like that hard young fool upon the bench beside the judge.

“Paul Renig to the bar! Hoyle and O’Hara—Mr. Dillon.”

His case. Sullenly he arose and took his seat at the counsel table beside the pallid young German he was to defend. What business had they to stick a flossy young girl up there as if she were at the opera? God, but she must be callous!—And of course, the judge was introducing Redmond to her! They were shaking hands. Bah! He need expect no mercy from Redmond now! They would turn a solemn trial involving a man’s liberty into a joust—a tournament for a lady’s glove.

“Is the jury satisfactory?”

Mr. Dollar was bowing as usual. Hugh nodded without looking at them. It made no difference. They were nothing [13] but sheep! The jury would do exactly what the judge intimated they should do. Old fox! It was the emphasis, not the words that he used—the way in which he said, “Naturally, gentlemen, if you *have* any reasonable doubt of the defendant’s guilt you must, of course, give it to him!”—was enough to send any man straight to the chair. It was the practical equivalent of: “Nobody but a moron could have any question but that this defendant is one of the guiltiest men alive, and I shall expect you promptly to convict him.” Justice!

He raised his eyes to the beautiful face of the goddess. She was looking away from him—from all of them—far over their heads. A lot she cared!

Mr. Dollar had sworn the jury, who were settling back into their seats. Redmond got up and half turned to the bench—a handsome devil.

“If the Court please—Gentlemen of the Jury. The defendant, Paul Renig, is indicted for assault in the second degree, for attacking Wilhelm Ganz with a dangerous weapon. The assault was unprovoked and the complainant severely injured before he could do anything to defend himself. The simplest and quickest thing is to let him tell his own story. Mr. Ganz, take the stand.”

The foreman of the jury signified his approval of the assistant district attorney with a glance. That was the way to do things—smartly! No use wasting the time of busy men. How was it that Redmond always succeeded, somehow, in taking them all into his confidence, in making them feel that the unfortunate necessity of keeping such important citizens as themselves away from their much more important affairs really worried him?

The girl on the dais seemed to have forgotten her resentment against the prison system in her admiration for Mr. [14] Redmond’s technic and, like the rest of them, clearly to understand that everything could be safely left to him. Certainly he was very handsome! He made Hugh think of one of those outline sketches of the Olympians in the back of an Allen and Greenough’s Latin Vocabulary—a curly-haired Hermes in a blue suit, lounging gracefully against Mr. Dollar’s desk—a complementary figure to those upon the wall—only superior! “Order in the court!”

The judge thought he had better show a little more attention to Miss Devens.

“I’m afraid this won’t amuse you much. It’s just an ordinary assault case, sent in from another Part—the calendars are so crowded,” he apologized.

But he need not have worried. The girl had become a woman in the last ten minutes. The sentencing of Flynn had done something to her. She had been brought face to face for the first time with the realities of life. There was a movement of general relief throughout the rows—a scuffling of feet echoing those of the complainant against Renig, as he sought to find his way to the witness-chair. Mr. Gallagher rescued him in the maze behind the jury-box.

“This way, sir.—Name?—William Ganz?—Mr. Wilhelm Ganz. Face the jury, please.” Mr. Dollar swore the witness: and Mr. Gallagher retired once more to his obscurity.

The girl shifted her glance. What a horrible looking man! She could not remember ever having seen anybody with such a face—like a chimpanzee. When he answered he bared his teeth in a gummy grin.

Suavely, ingratiatingly, Mr. Redmond began to question him:

“You are employed by the Eureka Gas Company of Richmond?”

[15]

“Yeh. Claim adjuster.”

“Do you know this defendant?”

“Yeh. He used to be one of our pay clerks.”

“Did you see him on Friday, October 8th?”

“Yeh.”

“Tell the jury what occurred.”

The chimpanzee turned to the jury and pointed to an angry red line along his temple.

“I seen this feller on Franklin Street. I was lookin’ fer him, see? He owed the company money.”

“*Object!*”

The word came like a musket shot. The target rang:

“Sustained!——”

“Of course, if you object, Mr. Dillon——”

“I object.”

The girl saw now where the shot had come from.

“If that is to be brought out I will bring it out myself!”

The speaker seemed needlessly contemptuous of Mr. Redmond—quite ill-mannered, in fact.

The assistant district attorney lifted his eyebrows to the jury as if to indicate that one had to be patient with these young cockatoos.

“Proceed, gentlemen!”

But the girl was no longer listening. She only saw the tall, straight youth in shabby clothes, whose black eyes were fixed in scorn upon the human monkey in the chair. A red spot burned in both his cheeks, his chin quivered—a bundle of nerves—Passion incarnate!

“And then?” inquired Redmond politely of the chimpanzee.

“He grabbed a pistol out of his pocket and floored me with the butt. Eleven stitches!”

He pointed to the still bright scar.

[16]

“Your witness.”

The jury with one accord turned to the youthful avenger at the bar.

“You’re an adjuster?” he asked indifferently.

“Sure.”

“Why were you looking for Renig?”

The chimpanzee bared his teeth and shot out his jaw.

“This here Renig was short seventy-two dollars fifty. Took it out of the collections, see?—I was looking fer that—the company’s money.”

“Was that all you were looking for?” The voice was insinuating with a hidden threat.

“Sure.”

“Did you ask him to sign a paper?”

The chimpanzee hesitated.

“A paper?”

“I said a paper!”

The threat had become apparent. The jury showed signs of interest.

“Answer the question!” admonished the judge.

“Yeh. I showed him a paper.”

“What was it?”

“A release.”

“Let me see it!”

“It’s in me coat.”

“Get it!”

Redmond looked slightly bored. The heart of the girl on the dais fluttered.

“Is this paper material?” inquired Judge Barker. “If not—in the interest of time—why not ask him what was in it?”

“The paper is very material.”

“How can it be?”

“I should prefer to bring that out in examination.”

[17]

“Very well. Try your case in your own way.” The judge spoke impatiently, and the girl suddenly hated her father’s old friend. Dillon took the document and flung it open with a gesture of disgust.

“Did you ask the defendant to sign this?”

“Sure, I did!” retorted the witness aggressively.

“It is a full release and acquittance to the gas company, is it not, for any damages he may have suffered through its negligence in occasioning the death of his wife and child!”

The jury stiffened to a man.

“Wha-a-at!” ejaculated Redmond. “Let me see it!”

“You will have your chance!” retorted Dillon.

“Well, what if it is?” sneered the witness.

“May I see that paper, please?” requested the foreman.

“One moment!”

Dillon’s arm hovered over the witness like a flaming sword.

“Is it not the fact—look at me!—is it not the fact that your company installed a defective stove in Renig’s flat, as a result of which his wife, who was going to have a child, became ill, and that he stole from the company in order to pay for a doctor to save her life? Is it not a fact that she and her three-day-old baby died from gas poisoning? And is it not the fact that you”—he choked in spite of himself—“that you tried to compel him to sign a release under threat that if he refused you would have him arrested for larceny?”

He paused, his lips trembling.

“Well, what if I did?”

Life stopped in the court-room.

“You cur!”

[18]

The words cracked like a whip.

“Bang!” went the judge’s gavel. “Mr. Dillon! Mr. Dillon! That is grossly improper! I must admonish you! I do admonish you!”

“Oh!” moaned the woman on the front bench. “Oh! The poor baby!”

“I beg the court’s pardon!” said Dillon. “I apologize for the word—but not for the thought behind it.”

“I’ll show you whether I’m a cur or not!” snarled the chimpanzee, half rising from the chair.

Redmond stepped quickly to the bench.

“I had no idea—” he began in an undertone. “Fasset sent this case in from Part I, without my knowing anything about it. Rather a low trick of him! I suppose the complainant insisted on a trial. Of course the jury won’t convict, but technically there’s no defense. After all, this fellow Ganz was working for somebody else. He was only carrying out his orders. What would you suggest?”

The judge’s scalp had turned a glistening crimson. He loathed being put in such a position.

“Why do you bring cases before me until you have looked into their merits, Mr. Redmond?” he complained, yet with extreme politeness.

“There was absolutely no time to examine the witnesses, judge! I had to send over to Part I for something to keep the court going. Otherwise our calendar would have broken down. You know how the press howls when that happens.”

He smiled confidentially at the girl.

“Well, you better finish it, I suppose!” muttered the judge uneasily. “Why doesn’t your office keep its eyes open? I hate

these cases! The Grand Jury ought never to have indicted. Get through it the best way you can!”

Dillon stood with his eyes fixed on the witness, who lowered back at him defiantly. Mr. O’Hara had entered the enclosure and had bent his head to that of the boy, who nodded. [19]

“One more question,” he said, resuming his examination. “When you made this proposition to Renig and he struck you—in your opinion was his act rational or irrational?”

“Oh!—I must object! This witness isn’t an expert!” smiled Redmond. But he caught no answering gleam from the jury.

“Allowed,” murmured the judge wearily.

“I guess it was pretty irrational to crown me that way for nothing!”

“That is all!”

“That is all!”

Redmond waved the unfortunate Ganz from the stand. The jury watched him menacingly as he made his way to the seat.

Mr. O’Hara arose and addressed the court:

“If Your Honor please,” he said, in a rich voice full of deep cadences, “we desire to withdraw our plea of not guilty heretofore entered by us, and to substitute for it the plea of not guilty on the ground of insanity.”

“Insanity!”

The judge stared at him as if the word had more relevancy to the conduct of the lawyer than to that of his client.

“We plead insanity.”

Mr. Dollar thrust his silver coiffure over the edge of the dais.

“The Code allows them to do that, Yoronner.”

“Very well,” said the judge uncertainly. [20]

Mr. Dollar sat down again, and the only sound in the court-room was the careful scratching of his pen. Presently he got up.

“Paul Renig, you desire to withdraw the plea of not guilty heretofore entered by you, and to substitute the plea of not guilty on the ground of insanity?”

“We do!” assented Mr. O’Hara.

Mr. Dollar sat down.

“Proceed, gentlemen.”

Mr. O’Hara had wandered out of the court-room again.

“The People rest,” said Redmond indifferently.

“The defense rests,” returned Dillon.

“Do you desire to sum up?” inquired the judge.

“I see no need of saying anything further,” replied Dillon. “If the district attorney desires this case to go to the jury, I am willing to submit on Your Honor’s charge.”

“That is entirely satisfactory to the People,” agreed his adversary.

“Order in the court!”

The judge pulled his silk robe about his shoulders, fumbled among the papers before him for his “Charge Book,” and, having looked up “Assault” in the index, read to the jury several ungrammatical and hopelessly confusing pages, then turned over to “Insanity” and proceeded to give them ten or twelve pages more, which no human mind could possibly make head or tail of, much less twelve well-meaning burghers drawn out by lot from barber shops, abattoirs, and delicatessens, and who never read anything but the comics in the Sunday supplement.

They paid no attention to him, and would not have understood what he was talking about if they had. So far as they [21] were concerned the plaintiff was a dirty dog and that was the end of it.

“. . . And so, gentlemen, your verdict will be either ‘guilty’ or ‘not guilty on the ground of insanity.’ You may retire!”

But the jury showed no disposition to retire. Instead, the foreman whispered to the man beside him, who in turn communicated with his neighbor, who did likewise, until the circle had been completed. Then the foreman looked up at the judge and said:

“Unless the law requires us to go out we don’t need to leave the box.”

“I will receive your verdict,” said His Honor, who felt positive that under the circumstances nobody could possibly criticise his conduct of the case.

The foreman stood up.

“We find the defendant ‘not guilty—on the ground of insanity’—and,” he added with asperity, “we would like to find the gas company guilty of manslaughter, if that is correct.”

“I will receive the first part of your verdict—and treat the rest as a recommendation,” smiled the judge. “I congratulate you, gentlemen. I thank you for your attention. I think that is all for the day?—The defendant is discharged.”

“. . . With the thanks of the court!” murmured Mr. Redmond as they all arose. Then stepping to the dais he asked humbly: “May I take you home in a taxi, Miss Devens?”

And so the monads who composed the jury, and who had neither heard nor listened to the law, and who neither understood it nor could have understood it, nor applied it if they had got it into their heads, these twelve monads, being human monads, did what the human emotions within their bosoms directed them to do.

The judge nodded to Mr. Dollar.

[22]

“Adjourn court,” he directed.

Captain Lynch lifted his goatee ceilingward.

“Hear ye! Hear ye! This court stands adjourned until Monday morning at ten o’clock!”

As if a stop-cock had been pulled in the bottom of an aquarium, the contents of the Criminal Term began to run out—at first sucking away only those nearest the entrance, then as the current strengthened, pulling them all into the aisles and leaving only the lees upon the benches: Mr. Wilhelm Ganz, the woman in chinchilla, a punctilious drunk, and a “nut” with a package of papers tied in a newspaper who wanted “to speak to the judge just for a minute.”

His Honor, now at last relieved of all official responsibility, shook hands cordially with Miss Devens.

“Sorry we couldn’t give you a more thrilling afternoon. Look in on us again. Remember me kindly to your father.” The shining pink spot of his cranium bobbed down the three steps of the dais above the flying carpet of his gown and disappeared into the robing-room. At the other end of the aquarium the fish were wriggling in a solid mass through the big doors.

“Quiet there!” admonished the officer. “Stop your shoving!”

A cold shaft of air pierced the sickly-sweet atmosphere. A sallow law clerk, with an armful of books, hunched his shoulders to light a cigarette.

Miss Devens was looking past the gallant Mr. Michael Redmond at the group clustered around Renig and his attorney.

“Take me home?” she repeated. “Oh, my own motor is waiting, thank you.”

[23]

“May I come to see you sometime?”

“Oh, do.” She was barely polite. “What is the name of that young lawyer?”

“Dillon—Hugh Dillon. He is with Hoyle and O’Hara.”

From the counsel table Dillon saw the girl pull her sables about her white round neck. He also noted, with unconscious satisfaction, the dismissal in her gesture, and how Mr. Redmond imperceptibly dissolved into the group about Mr. Dollar. But his mind was occupied with Renig. The fellow was a nervous wreck, and another family had already moved into his flat. He might lend him a blanket and let him sleep on the sofa in the office for a night or two. Then he saw the reporters step aside to allow the redheaded girl, who had been sitting beside the judge, to approach. Why should she come hanging around? It annoyed him even more than her gratuitous presence. Why couldn’t she have the decency—having paraded her vulgar curiosity all the afternoon—to take herself off? Still, he was not unconscious of the fact that she was pretty in a bizarre, theatrical sort of way. He could see “Deacon” Terry of *The Tribune* extending a wicked ear, and Charley White of *The Sun* drifting innocently in their direction.

“Mr. Dillon?”

A wisp of auburn hair had escaped the rim of her small toque, the rich color in vivid contrast with her pellucid skin and the strange blue of her eyes. Somewhere, when on leave in Paris, he had seen a picture of a woman with that sort of coloring, and it had taken his fancy—in the Louvre, maybe, or was it the Luxembourg? He got to his feet.

“My name is Devens—Moirra Devens. I would like to do something for Mr. Renig.” Her voice was low, her manner contained.

[24]

He felt somehow impelled to do as she wished. Without replying, he turned to the ashen face of the man beside him, who was staring vacantly at the Blind Goddess.

“This lady wants to talk to you, Paul!”

“I don’t feel like talkin’!”

Miss Devens sat down on the other side of the table and leaned forward on her arms.

“Mr. Renig, I want you to let me help you.”

Renig, for the first time since his trial had begun, stopped the slow rhythmic movement of his jaws.

“That’s all right, miss. I can make out.”

“But I— Oh, please, isn’t there anything I can do?” The reporters made a semicircle behind her.

“Speak up, Paul!” urged Charley White. “Don’t be bashful. We all know you’re broke.”

The muscles of Renig's face twitched. Then he muttered something to Dillon, studiously looking away from the girl meanwhile.

"Mr. Renig tells me," said Hugh, "that if you really want to help him, there is one thing he feels very deeply about—he owns only the old yellow suit he has on. He would like to wear black for his wife and child."

"Oh, my God! Oh, my God!" suddenly sobbed Renig, dropping his face in his hands. "Oh, Jesus!" he rasped, as he searched in his pocket for a handkerchief.

Dillon put his arm about him.

"Buck up, old man!"

The girl opened a bag of gold mesh and took from it a roll of yellow bills.

"Please take this!" she said, pushing it under Renig's sleeve. "It will keep you going for a while."

Renig fingered the money in bewilderment.

[25]

"Five hundred dollars!—My wife and baby are dead from a leak in the gas, and you give me five hundred dollars? Is that straight?"

"Sure, she's a rich woman!" interjected "Deacon" Terry, with a prophetic vision of a full column on the morrow's front page.

"But why—should you give me five hundred dollars?"

The girl closed her bag with a snap.

"Because," she answered half whimsically, "because—well!—for one thing my father happens to be a director of the gas company."

"Holy Mike!" ejaculated Charley White, searching quickly for his hat, which had rolled under the table. "Let me get to the 'phone!"

At that instant Mr. Wilhelm Ganz, who had been listening attentively, shouldered his way into the group.

"Listen here!" he declared, "if there's money going 'round how about the seventy-two fifty he owes the company?"

The "Deacon" turned on him with a snarl.

"Get out of here before we boot you out!"

Ganz lowered his head belligerently.

"Keep your hands off me! Even if the jury did acquit this feller, he stole seventy-two dollars, didn't he? I can have him arrested for that, and I'm goin' to. There's some justice left!"

"Justice! Bah!" roared White. "You baldheaded baboon!—Try it!"

"I will see that the money is repaid!" said Moira coldly. "Mr. Renig, here is my address. Come and see me if you need any more help. May I speak to you outside, Mr. Dillon?"

She nodded to the reporters and to Mr. Dollar, and turned confidently to Hugh—a self-possessed young person with a well-developed histrionic sense.

[26]

The court-room was already nearly empty. The "nut" who wanted to speak to the judge for a moment had followed him

up-stairs, and the decorous drunk had been officially awakened and cast out. The only spectator left was the woman in chinchilla, who had crept nearer and nearer as the little scene inside the rail was being enacted. Now, as Captain Lynch held open the gate for Moira to pass out of the enclosure, the woman swayed toward her with an almost imperceptible forward movement of her hands.

“Go over and wait for me at the office, Paul,” directed Dillon, following the girl into the lobby. In spite of what he regarded as her ostentatious largesse his heart was still hardened against her. Nevertheless, this did not exclude a certain curiosity as to what she might prove to be like on further acquaintance. She was quite different from any girl he had ever met before. Neither of them noticed the woman who was lurking in the shadow between the outer and inner doors.

“Won’t you drive uptown with me, Mr. Dillon? I want to talk to you.”

To Hugh it was an astounding suggestion. What could she want of him? Was she worried about the case, perhaps?

“About Renig?”

“Yes—partly.”

“What do you want to know about him?” he asked, without moving further.

She gave a gesture of impatience.

“I can’t talk to you here. I—I’ve got an appointment uptown.”

He looked at her, frowning. She could not be peremptory with him, whatever prerogatives might be accorded to her by others. [27]

“I have one myself at my office, Miss Devens. I’m sorry.”

An angry gleam came into her eyes.

“Perhaps you’ll take me to my motor, then?”

“Delighted.”

From the shadow the woman in the chinchilla boa watched them disappear down the stairs. The voice of O’Hara at her elbow startled her so that she almost screamed.

“Look here, Mrs. Clayton! I want to be as friendly to you as I can, but this isn’t treating us fair. If I told Mr. Devens he’d cancel his contract with you.”

She had shrunk away from him and stood with her handkerchief to her lips, whimpering.

“I know I shouldn’t have come. But money isn’t everything. Sometimes I feel as if I’d go mad unless I could touch her hand. But I won’t do it again. I promise you, Mr. O’Hara.”

“Well, see that you don’t.”

He lifted his square derby hat and stalked by her into the court-room.

“Hold on a minute, Jerry!” he called to the janitor, who was turning off the lights. “Got to find my bag.” His eye caught the Blind Goddess. “Why the devil don’t you clean up that picture? It’s that dirty you couldn’t hardly tell it was a woman—let alone Justice.”

The janitor suspended his labors, put his head sideways, and examined the picture critically.

“Is that Justice?” he inquired. “That’s one on me! I always thought it was supposed to be the Goddess of Liberty.”

Hugh and Moira, their footsteps lispings upon the marble flags, crossed the great hall of the rotunda, whose corridors rose tier on tier into a vast obscurity like the balconies of an empty opera-house. A chauffeur, warming himself within [28] the revolving doors of the Lafayette Street entrance, hurried out ahead of them to a gleaming cabriolet, where he stood at attention, one hand on the door-handle, with a mink robe draped over his right arm. They paused beside him.

“I wonder if you appreciate the drama of your life!” said Moira. “I suppose you don’t. People never do. You work in the midst of a *Comédie Humaine*—you run the gamut of the emotions every hour in the day.”

To the west, up Franklin Street, beyond Broadway, the sky was a riot of gold, scarlet, and saffron. Behind them the black bulk of the Tombs rose like a grim stage donjon against a back-drop of pale blue sprinkled with gold dust. A motorized hook-and-ladder, clanging an intermittent warning, backed snorting into the engine-house on the corner, like a fire-breathing Fafner retreating into his cavern.

Moira put one foot on the running-board, then glanced over her shoulder. He had made no accompanying movement. The wind flipped her boa against his cheek.

“Come along!” she urged.

“Sorry,” he answered, still distrustful, “but I have to go to the office. I’ve no end of work to do.”

She replaced her foot on the sidewalk and faced him.

“But *I* want you to ride uptown with me—escort me home!”

“Look here!” he said suddenly and not altogether gently, “I’d like to know what this is all about! Suppose I do ride uptown with you—what then!”

“Get in and I’ll tell you!—Don’t be a goose!” And she gave a little chuckling laugh—tantalizing, irresistible. For [29] some reason the acuteness of his resentment against her softened.

“Oh, all right, then!” he protested, getting into the car and sinking into the seat beside her. There was no harm in seeing what she was up to.

“You act as if you thought I were trying to kidnap you!” she declared as they glided off. “Most men would feel complimented.”

“Would they?”

“Aren’t you pleased that I want to make friends with you?” she demanded provocatively. “Don’t you want to be friends?”

He looked ahead through the plate glass. He had no intention of letting himself be vamped, but, on the other hand, he did not wish to misjudge her. Anyhow, she was worth being frank with.

“Look here, Miss Devens!” he said. “I have no idea of what you really want of me, but, to be frank with you, I can’t say I think much of your coming down the way you did this afternoon, as if the place were a zoo and you wanted to look at the animals!”

“But I am planning to do work in the Tombs, and I wanted to learn all about everything—so as to be of more service.”

“Service!”

“Yes—why not?”

“Good God!” he exclaimed. “What possible service do you think a girl like yourself could be to anybody in the Tombs?”

She looked at him for a moment as if doubtful whether or not to resent his remark. Then she laughed.

“You *are* frank!—Why couldn’t I—why couldn’t anybody—be of service to an unfortunate prisoner?”

“Because the trouble isn’t in the Tombs. That’s the last act of the tragedy. You’ve got to start earlier—with the prologue. When a fellow gets into jail he needs a lawyer, not a social-service worker. He doesn’t want perfumery, or flowers, or eclairs, or a Bible. He wants somebody to fight for him.” [30]

They were passing Police Headquarters. A platoon of officers was just descending the steps.

“And fight like hell!” he growled through his teeth.

“Good!” she echoed. “I like that. I like people who do things that way—your way.”

“How do you know it’s my way?”

“Because that was the way you fought for poor Renig.”

“Oh, that was just luck! Redmond pulled a bone. Fasset, the assistant assigned to Part I, happens to have a retainer from the gas company and has to do what Ganz says. He was afraid to antagonize him, and so he sidestepped it—dumped it on Redmond. It would have been a walkout in any event!”

“What is going to become of Renig now?”

“Shoot himself, maybe.” He spoke quietly.

“Oh!” her breath came sharp through her teeth. “Don’t let him! You mustn’t!”

“He’s part of that melodrama of yours!” he retorted. “I should have thought what you saw and heard to-day would have given you a jar. How can you girls from uptown know anything about life? Look at this car! It’s like riding in a feather bed! You live in cotton wool. What can you possibly know about how to help people? How can you help them? All you do is dance and dine at restaurants and go to the opera.”

“I don’t blame you much for thinking so,” she admitted. “But I’m sick of the kind of thing you speak of! I’m tired of the men I meet out everywhere. They’re all the same! I prefer somebody real!” [31]

She did not vocally append the words “like you,” and he was too absorbed in his diatribe against her class to notice her look or her intonation.

“Let me tell you something else!” he swept on. “It’s the rich people uptown that need the missionaries—not the folks below Fourteenth Street. Why should you assume that because a family lives east of the Bowery its members are any less intelligent, or less moral, or even less cultured than if they lived on Fifth Avenue? They aren’t! I tell you the poor people of the East Side are better than the rich who look down on them. Don’t you know that only their money keeps a lot of millionaires out of jail?”

“Woe unto thee, Bethsaida! Woe unto thee, Chorazin!” she mocked.

He gave her a savage glance.

“I mean it! I tell you the morals, the ideals, the education are to be found downtown, not up! There’s more rough stuff on Broadway than there is in Chatham Square!”

“Why don’t you tell me I’m like the lady who said: ‘I live in the tents of the Philistines, where the conversation wears rubbers, and the people only *do* disreputable things. They draw the line at talking about them!’?”

“Just so! You live among a bunch of hypocrites!”

“Thank you!”

“Well, you know you do. They’re a lot worse than the poor because they have no temptations except those they invite themselves. They’re protected by the bulwark of their money. The rich woman never has to use her fists to defend herself. She’s never in any physical danger. It’s no credit to her if she keeps straight! If she’s afraid to cross the street all she has to do is to beckon to a cop. She makes use of the law as something she has paid for. She regards a policeman as a sort of servant, a little higher than a chore man and a little lower than her butler.” [32]

He did not see her smile.

“How did you guess it!”

“And a criminal lawyer as a cross between a stool pigeon and a confidence man.”

“Not quite. Some of them are rather nice. What a fire-eater you are! A sort of Savonarola!—And you make me think of Jack Barrymore in ‘Hamlet,’ too!”

“Thanks!” he grunted. “I suppose you mean that as a compliment!”

“No—not exactly! On the whole I think I prefer Mr. Hugh Dillon, barrister-at-law!”

Her tone was mollifying.

“I’m sorry to have shot off my mouth this way,” he apologized. “But these fashionable women who think they can show other people how they ought to live get my goat! When I think how they waste their opportunities, it makes me mad. Compare the life of a smart woman in society with that of one of these East Side girls who is trying to make the most of herself! Look at how she works and studies and saves to hear some good music or to buy a few books. And look at what she does make of herself! No! No! Keep your social welfare work uptown. Do it among your swell friends!”

“Aren’t you a little hard on us?”

He shook his head.

“Not a bit!”

“Well,” she assured him, “I do want to help, and I don’t care whether I work in the Tombs or outside. I can’t see myself trying to convert any of my fashionable friends into the idealists you have been describing. I think they would get bored very quickly. But I’m sure there must be things I could do in any part of the city—of any city. I want to do something, and—I want somebody to show me how.” [33]

It dawned on him that she might mean it.

“Is that true?”

“Certainly!”

He looked at her doubtfully, pondering her face under the winking electric glare of Fourteenth Street. Its expression was enigmatic, still——

“I wonder!” he mused.

“Give a poor girl a chance.”

She was laughing at him! He grew warm.

“I could give you chances enough.”

“Even if you don’t take them yourself!”

His impression of her frivolity was confirmed. He felt for the door-knob.

“If you don’t mind, I think I’ll take the subway back from here. I’m much obliged for the ride. Do you mind asking your chauffeur to stop?”

“Aren’t you going to help your poor little rich girl?”

Her curved lips were ironic but her eyes were pleading.

“Please!” she urged. She was damnably alluring!

“I’m sorry. I must go back,” he repeated resolutely.

“As you choose—Mr. Galahad!”

There was an angry flash in her blue eyes as she leaned forward to rap upon the window. There was another flash as her mesh-bag slipped to the floor. They bent for it together, and their hands touched under the fold of the robe. Their heads were close together. Something warm swept his cheek.

CHAPTER II

The Devens mansion first gained immortality as the original of the familiar *mot* that: “If architecture is frozen music, that house must be frozen ragtime!” Richard Devens, selecting his architect for no better reason than that he had found himself sitting beside a confident young man at a sheriff’s jury banquet, had bidden him go as far as he liked, with the result that the latter had taken him at his word.

On the theory that it pays to advertise it had been a huge success, resembling nothing else created by the hand of man except possibly a gigantic cake of marzipan, whence one might expect to see a flight of Easter rabbits come leaping through the windows, and where the pantheon of shameless gods and goddesses who shouldered the upper stories, amused themselves by nonchalantly tossing stony fruits across the façade or carelessly lassoing one another with rococo garlands.

Its architectural extravagances, even had Hugh been qualified to appreciate them, were lost in darkness as the motor stopped beneath the porte-cochère, and the shaded windows looked exactly like any other windows, the door like any other door. Moira, having dismissed the car, ran up the steps. A white-haired butler received Hugh’s coat, hat, and briefcase, arranging them methodically upon a polished table that stood beneath a massive oaken staircase.

“There’ll be one extra for dinner, Shane.”

“Yes, Miss Moira.”

“Where’s father?”

“In the library, Miss Moira.”

[35]

“This way, Mr.—” she gave that same little cooing chuckle. “Dillon, isn’t it?”

“Dillon it is!”

The adventure was becoming queerer and queerer. He had never before been in a house like this, except once when billeted on the outskirts of Compiègne in a small château hastily stripped by the owner of everything of value in anticipation of the immediate arrival of the Heinies. The air was heavy with the scent of flowers. Everywhere he caught the glint of gold frames, of marble, of carving. Cotton wool! She led him up one flight, then along a passage lined with paintings to a closed door.

His brain was awhirl, his heart pumping. The same spots burned in his cheeks as had been there in the court-room. He would have followed her anywhere—as glamoured as if she had been a fairy princess leading him through subterranean passages to the treasure-chambers of a dream palace. What was behind that wall of oak?

“Dad’s den!” she explained. “Sound-proof!”

Without knocking she pushed it open.

Two oldish men were sitting under a shaded drop-light at a huge flat-topped desk strewn with papers. To Hugh they looked very much alike. Both were gray-headed, thick-set, smooth-shaven, and rather red in the face, and both had kindly and very blue eyes. Moira kissed each of them.

“Hello, Daddy! Hello, Uncle Dan!” she said.

The former, who was more heavily built as well as slightly younger in appearance than his associate, slipped his arm about the girl’s waist without getting up, and squinted inquisitively at Hugh.

“See what I found in the Criminal Court Building, Daddy!”

[36]

She beckoned Hugh with a lift of her chin.

“I want you to know my father——”

Devens extended his hand without removing his cigar. It was large and powerful.

“Glad to meet you, Mr.——?”

“Dillon. Mr. Hugh Dillon—barrister-at-law,” explained Moira. “And this is Mr. Daniel Shay.”

Mr. Shay arose with the slightly deprecating manner of an old retainer who is received on a footing of intimacy.

“I am very glad to make your acquaintance, Mister Dillon.”

“If you know the Devens you can’t help knowing Uncle Dan, can he, daddy?” Moira smiled at him affectionately. “Mr. Dillon is going to show me how I can help some of the poor people who are in—I mean outside—the Tombs.”

Her father studied them thoughtfully through the smoke.

“Is he, now!” he remarked finally. “You’ll have your hands full, I’m thinking. How about helping Uncle Dan and me a little! We have our troubles, haven’t we, Danny? They say ‘charity begins at home!’ And what are you going to show him in return?”

Moira’s eyes grew innocently large.

“I’m going to make him Mayor of New York!”

Uncle Dan grinned.

“I’ll say she will!” he muttered.

Her father eyed Hugh whimsically.

“If she sets out to she’ll do it!” he declared. “Are you Irish, Mr. Dillon?”

“Sure, he is!” retorted his daughter. “Can’t you tell it from his black hair and eyes? Now I’m going to give him a cup of tea and show him the family skeleton.” [37]

“Won’t you stay and dine with us?” inquired Devens. “Always glad to have any friend of Moira’s—particularly if he’s going to be our next mayor.”

“Thank you very much,” said Hugh, who felt entirely lost. “But I——”

“Of course he will!” she interrupted. “That was all settled long ago!”

“Dinner is served, miss.”

They had passed the intervening time in the great library overlooking Fifth Avenue, and, while Moira had exhibited no skeleton, she had shown him much that thrilled him—illuminated manuscripts, marvellous ivory carvings, priceless jades and ceramics, wonderful paintings, rivalling, he was fain to believe, those he had seen in the galleries of Europe.

He had speedily found himself at ease and entirely disarmed of suspicion. As hostess she was charming. The arrogance of her manner he now perceived to be due partly to her natural exuberance and impulsiveness, partly to her being a little spoiled, the independent mistress of so large an establishment while still so young, but also in large measure to a curious self-consciousness which led her to endeavor to conceal the warmth of heart and generosity with which Providence had endowed her. He concluded that he had been quite unjust; that there was, in fact, nothing insincere, patronizing, or tinsel

in her expressed wish to be “of service,” although it was, nevertheless, colored by an almost childish wilfulness and instinct for the theatrical, which at times tended to discolor it entirely. As changeable as a slip of litmus, she alternately annoyed and delighted him. Whenever he thought that he had found the real Moira, pst! she had slipped away from him again—and her little cooing chuckle was floating over the hedge from the other side of the conversational road.

Her father was standing with Mr. Shay at the sideboard as Moira and Hugh entered the dining-room.

[38]

“Have a drop o’ the cruiskeen lawn?”

And when Hugh declined:

“Then he’ll never be mayor; will he, Danny?”

“And never go to jail, either!” commented the older man approvingly.

Hugh had never eaten a meal so strangely commingled of the plainest fare and the most exotic culinary mysteries. It was a bewildering experience. Was it possible that less than two hours before he had been defending Renig on a charge of assault? How did he come to be sitting here at a Lucullan feast in this magnificent room, when only three months before he had been a homeless and almost penniless stranger in New York! Only a fairy’s wand could have done it! But there was the fairy right across the table watching him devour his dinner. Under the softly diffused light she was even more alluring than before. It made him a little uncomfortable. Had she really cast a spell upon him? And he liked Devens. Force, will power, the ability to dominate stuck out all over him. A man without pretense. Simple and kindly. He wondered what his business might be, but did not think it polite to ask. Was there a Mrs. Devens? His eyes wandered to the full-length portrait above the mantel.

“My wife,” explained his host. “She died when my daughter was two years old.”

To Hugh there was something slightly unpleasant about the picture, as if the artist had taken an unconscious dislike to his sitter. He concluded that Moira looked more like her father than her mother. Mrs. Devens had been a brunette of the darkest type. There was little resemblance to be detected between the warm coloring of his young hostess and the rather cold, classic beauty of the woman over the fireplace. No, the girl was not like her, either outwardly or inwardly probably; and he felt glad that she was not.

[39]

It was the pleasantest evening Hugh could remember, and for the first time in his brief career in New York he was made to feel entirely at home. Under the influence of the friendly atmosphere he was led to tell them the story of his struggle against conditions which nevertheless he discovered to his surprise to have been no more difficult than those faced by his host when he had landed forty years before, an uncouth immigrant boy, at Castle Garden.

Hugh Dillon had been the only son of a country lawyer in a small village on the Hudson, who all his life had fought a losing battle against ill-health and poverty, while striving gamely to give his boy the opportunities which his abilities deserved. Hugh had got his schooling from such teachers as the town, and later the county, could afford, supplemented, as he grew older, by lessons from his father and mother. They had managed to send him first to Williams College, and then to the Harvard Law School, from which he had been graduated a year before the death of his father, the junior partner in the local firm of Safford & Dillon, to whose place he had succeeded. Here he had begun the practice of his profession, chiefly in order to be able to live at home with his mother. It could, indeed, hardly be called a “practice” at all, and consisted chiefly of sporadic title-searches, the drawing of chattel mortgages, bills of sale, and an occasional will. Once or twice a year he might try a trespass suit arising out of the damage wrought by a wandering cow, a divorce case, or a claim for wages.

The war offered him the necessary excuse to escape from the narrowness of a life at which he chafed after three years in Cambridge.

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The armistice had found him at St. Mihiel, and seven weeks later he was back in his native place, wearing a wound stripe, to find that his mother had died only a fortnight before of pneumonia. The practice of Safford & Dillon had dwindled to nothing; and, owing to the debts which his mother had been obliged to incur by reason of his absence abroad, her estate yielded less than a hundred dollars. He spent the afternoon at the cemetery, and that evening took the

train for New York, with forty dollars in his pocket and a kit bag containing all his earthly possessions.

There he had tramped the streets for weeks in a vain endeavor to find an opening as a law clerk in some office of standing, sleeping in Mills hotels and Bowery lodging-houses, often more exhausted and worse fed than at any time while at the front. It was during this period that he acquired that sympathy for the outcasts who so often found themselves in the clutches of the law, which had led him, in default of other work, to undertake the defense of criminals in the police court. Here his ability, quickness, and above all, his pugnacity had quickly secured for him a following, and before long he was able to open a small office of his own. Meantime, however, his qualities as a fighter and his power of persuasive speech had attracted the attention of Ignatius O'Hara, of the well-known criminal firm of Hoyle & O'Hara, who had suggested a "connection," with an intimation that in due course he might expect to be admitted to the firm.

There were no junior partners in Hoyle & O'Hara, and young Dillon gladly accepted the offer. From that moment [41] his days, and generally his nights, had been crammed with every sort of experience—a practical training for an all-round trial lawyer such as, in all probability, he could have gained in no other way. Soon, under the astute coaching of O'Hara, he was defending most of the criminal cases in which the firm was retained; and gradually O'Hara withdrew in favor of the younger man, whose courage and almost Quixotic honesty made him a formidable rival of the most experienced prosecutors.

"The boy's a wonder!" he used to say to Hoyle, after some unexpected acquittal. "I wish I knew how he does it!" O'Hara never perceived that the reason for Hugh's success lay in his love of truth and his passion for justice to the under dog. He only knew, to use his own words, that Dillon "got there." To Hoyle & O'Hara he was an invaluable acquisition—giving, to paraphrase Pooh-Bah, an air of respectability to an otherwise bald and unconvincing craftiness of which he personally had no suspicion. And, lest in some unexpected manner he might be lost to them, O'Hara persuaded his young associate to share his humble lodgings on Franklin Street, even though that necessitated thereafter relegating Quirk, who also dwelt there, to the sofa by the stove. Hence Hugh's sudden translation to Castle Devens had been all the more dazzling. Had it not been for Moira, instead of *risotto de volaille à l'orientale*, Hugh would probably have been eating sausages and bacon off a tin plate in O'Hara's kitchen.

Three hours later as, reclining in the Devens limousine, Hugh was whirled back to Franklin Street, he still told [42] himself that it could not have happened. The truth of what old Lawyer Safford had said to him had been demonstrated: "You never can tell who is coming around the corner, Hughey!" And this couldn't possibly have happened in any other city in the world.

The chauffeur had made Union Square in eleven minutes via Park Avenue, and now, after a moment's pause to allow the crowd from the neighboring movie house to cross, they swept on into the comparative darkness of Lafayette Street, where the only illumination was the entrance to Cesare Conti's Restaurant and the big clock on the façade of a new building at Great Jones Street. The blocks whipped by like telegraph poles past a car window. Would he ever ride in a limousine of his own? There was Police Headquarters again. And the office of the *Corriere della Sera*—there was Canal Street—and just beyond it the Criminal Court Building and the Tombs!

The chauffeur stopped the car by the fire house, opened the door and thrust in his head.

"What number Franklin Street did you say, sir?"

"No matter," answered Hugh, starting to get out. "It's just around the corner. I'll walk the rest of the way."

"Oh, no, sir!—I'll take you!" The chauffeur touched his astrakan cap.

Hugh sank back.

"Eighty-seven and a half, then!"

The car swept round the Tombs under the Bridge of Sighs and across Centre Street, hovered uncertainly at the Chinese laundry, and came to a stop in front of "Pallavachini's Italian Table d'Hôte for Ladies and Gentlemen."

"This is it," Hugh informed him. "Much obliged! Have a cigarette? Good night!"

“Good—*night!*” echoed the chauffeur, staring after his passenger as the latter disappeared into the side doorway. Then to himself: “What ever will she be doing next!”

CHAPTER III

Mrs. Clayton watched the motor containing Moira Devens and Hugh Dillon disappear in the uptown traffic of Lafayette Street, then tightened the chinchilla about her throat, and walked to the Worth Street subway station. Never before had she found it so hard to adhere to the letter of the contract which she had executed more for the girl's best good than for her own financial benefit.

As she felt her way down the iron staircase leading to the lower level the past arose as from an open grave. "Clayton"—the magic word—stared at her from a hoarding on the landing, and for a moment her heart fluttered. Could she have dreamed those last terrible ten years? If she only had! She strained her eyes at the billboard, but they refused to focus even upon that huge type. There was no need. The face below the name was that of a jolly-jowled pianist with a leonine mane!

The lights swam in the tunnel, but she managed to follow the pushing crowd into the train and clutch swaying at a strap. It was not so long ago that with her own brougham and snappy pair of bays she would have scorned the thought of putting foot to sidewalk. Only twenty years! Had she not been one of the most famous divas of the age? The operatic world had been at her feet. Only Ellie Yaw could rival her high F.

Forty-second Street! A pock-marked foreigner who had been sitting just in front of her arose and forced his way [45] past. She followed the smell of garlic and rank tobacco in his wake, and climbed the stairs to the street. She had been a fool to go down there and get herself all stirred up! Besides, she had broken her word. Suppose O'Hara had told Richard on her, and the monthly check had stopped? It would have been Ward's Island! The morgue! The Potter's Field for hers!

"Careful, madam!"

A policeman had taken her by the elbow and was piloting her through the tangle of vehicles. He had been in his cradle when she had made her *début* as Cio Cio San at the Metropolitan in 1901. Had she given him her name, the chances were that he would not have remembered who she was. *Sic transit gloria*—!

Eileen Clayton continued eastward toward the river, passing in course the gleaming windows of cafeterias, cheap movie palaces, and still cheaper cigar stores, until she reached the region of shabby respectability achieved through the accommodation of "paying guests." Her hotel, the Blackwell, had once been popular with the theatrical profession, upon whom it had lost its hold by reason of the management's insistence upon a ridiculously prompt payment of bills, and it was now in that stage of metamorphosis between habitability and collapse where it was useless to spend money on repairs. Outsiders could still get dinner at the Blackwell for eighty-five cents, which meant that they could really eat for a dollar net; and, as an added lure, the dining-room opened directly upon the sidewalk, the guests being concealed from the view of the wayfarer by a dusty collection of imitation palms and fly-blown rubber plants.

Mrs. Clayton entered the hotel by a side-door and started up a steep flight of oilcloth-covered stairs, beneath [46] which, behind a counter holding a case of cigars, cigarettes, chewing-gum, and "life savers," lolled a coffee-colored mulatto girl. The walls had once been decorated to resemble those of an Italian villa, but most of the veneer had fallen off, and the dirt had become so ground into the marble floor that it was no longer possible to discriminate clearly between which squares had once been gray and which white. A door opened from the dining-room broadside upon the counter, and directly opposite a cash register, where the mulatto made change for such of the waiters as had transient customers. "Fifteen off a one-spot, Tilly!" "Gimme a quarter and a nickel, gal. I don't want to give dat couple no chance to ingratiate me with a dime!"

As a matter of fact, cash transactions were few, most of the guests being permanent fixtures at a weekly rate, and the only transients, descendants of such rural visitors as, visiting the metropolis in the Gilbert and Sullivan era at the height of the Blackwell's popularity, had not yet learned of its decline and proximate fall. Mrs. Clayton herself had selected it as a place of residence less because of its cheapness than because, since nobody longer knew of its existence, she was completely hidden there. That was her main reason, but there were others of a sentimental and less humiliating character,

the chief of these being that she had been living there when she first sprang into fame—in the very room she now occupied. She was, in a way, a tradition associated with the Blackwell's history, and a colored enlargement of her as a flaxen-haired Marguerite—salvaged from the lobby of the Metropolitan Opera House, had once hung in the dining-room over the imitation palms, whence later on it had been shifted up-stairs to her bedroom. In addition, the Blackwell, while as inexpensive as a boarding-house, had the social advantage of an hotel. "I'm staying at the Blackwell," sounded much better than "I live at Mrs. Guinness's," and almost like "I'm staying at the Ritz."

The mulatto girl behind the cigar counter nodded to her.

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"Good evenin', Miss Clayton. How you feelin'? We got chicken 'sevenin'. I tole Moses to set off a po'tion of white meat for you."

"Thank you, Tilly. Would you ask him to bring it up to me in about fifteen minutes?"

"I sho will, Miss Clayton! I sho will!"

The staircase had never seemed so high and narrow as to-night, and her shoes kept slipping on the brass-bound treads. Her proximity to Moira for two whole hours had exhausted her emotionally and physically. She was obliged to lean against the wall for support before attempting to unlock her door, and once inside she sank down weakly on a chair without taking off her hat or turning on the light. The street lamps shone through the grimy windows upon her emaciated figure as she sat with her head in her hands under the portrait of the smiling and buxom Marguerite. A slowly travelling succession of white reflections chased one another across the yellow wallpaper as the surface cars clanged by outside, each drowning for an instant the snapping of the steam radiator beneath the window. Occasionally a crackle of blue flame from the slot between the tracks would illuminate the room and dim the streak of light beneath the door into the hall. For Eileen Clayton the room was as crowded with memories as it was with shadows. This had been her home for ten years. Presently she arose, removed her hat, and threw herself upon the bed.

There was a knock on the door.

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"Wait a moment, please!"

Mrs. Clayton got up, snapped on the electric cluster, and went over to the "dressing-table," as she called the bureau when speaking to the chambermaid. She had no need to ask who was at the door. No one—except the colored "help" and a certain regular monthly visitor—ever asked for admittance.

"Just a minute!" she added, as, having swiftly arranged her hair, rubbed on a dab of rouge, and powdered her nose and chin, she took a small, shining object from her top drawer, and pressed it to her wrist. Instantly her whole manner changed. "Come in!" she called cheerfully.

Moses Wellington, a very tall negro in a white duck jacket, opened the door with one hand while poising upon the other a japanned tin tray, on which was heaped a mountain of white crockery.

"Evenin', Miss Clayton. I got a lovely supper to-night fer you!" he said in the coaxing tone one would use to a child.

Mrs. Clayton dragged a small card-table into the centre of the room, and Moses, having placed the tray upon it, brought a chair and adjusted her ceremoniously at the table. Then with a flourish he handed her a napkin and, thrusting his thumb through the round hole in the cover, removed the inverted plate which protected five shrinking oysters from the contamination of the surrounding atmosphere.

Mrs. Clayton examined the oysters.

"I don't think I'll take oysters to-night, Moses," she said. "I've eaten so many!"

"You doan' want no oysters, Miss Clayton!"

"I don't believe so! Do you know, Moses, I can remember when oysters were regarded as a luxury? People used

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to go to the Hoffman House and the Broadway Central just on that account.”

“You doan’ say! Soup, Miss Clayton?”

Moses gallantly made another bull’s-eye and removed the target with his thumb, disclosing a thick white paste.

“What kind of soup is it?”

“I kinder guess it’s just soup, Miss Clayton.”

“I don’t believe I want any soup, Moses. I don’t seem to care much for soup any more.”

“Yes, ma’am. I doan’ care so much fer soup mahself. This here soup doan’ seem to have no particular individuality.”

“What else is there?”

Moses’ face showed sudden animation.

“I got a surprise for you, Miss Clayton!”

“Oh, how nice!” she played up bravely to the occasion.

“Chickun! Fried chickun! I kep’ out a nice piece of white meat for you! Dey was a feller asked me for another piece of white, an’ I tole him it was all out!”

“That was thoughtful of you, Moses! I love chicken—particularly the white meat.”

“Course you do, Miss Clayton.”

But after a few mouthfuls she shook her head and pushed away the plate.

“It’s no use, Moses. I can’t eat to-night!”

“Not eben de chickun!”

He gazed at it regretfully.

“No, not even the chicken!”

“Dat’s too bad! Doan’ you want me to leave it here so’s you could eat it in the night if you woke up?”

“I shan’t wake up, Moses. There’s no use wasting it—on me!”

Her lips quivered. Moses busied himself with the crockery.

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“Good night, Miss Clayton. Good night ’n thank you!”

Eileen closed the door after him and stood with her back against it. With one exception Moses and Tilly were the nearest approach to friends left her! Why should she have to go on forever paying? Why had she been such a fool! She turned to the dressing-table, where stood half a dozen framed photographs of Moira Devens: Moira in evening-dress at her coming-out ball; Moira in street costume taken in the “Easter Parade”; Moira in riding habit, showing her hunter; Moira as leading lady in the Junior League play; Moira as a bridesmaid; Moira in fancy dress as Peter Pan. She had bought them all at a shop devoted to “pictures of celebrities.”

She began to feel very tired again. She should have taken something to eat. She never had any appetite any more. The dope had done it; that was why she was so thin. Well, thank God for it! It was always there! Just one more shot——!

Eileen Clayton opened the top drawer. Feeling for the silver needle that was always in readiness for instant use, her fingers came in contact with something else—a tiny pair of baby’s shoes. She took them out and touched them to her lips.

A knock caused her to stiffen in her chair. Nine o’clock. She had been sitting there for two hours! The little shoes were still in her lap. She put them back and opened the door.

“Hello, Dan! Come in.”

Mr. Shay patted her hand as she led him to a chair.

“How are you, Eileen? You’ve put on no more weight, I’m thinkin’! First of the month——”

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He took out a red Russia leather wallet and handed her a check drawn to her order for a thousand dollars, signed with his own name as treasurer of the Associated Architects and Builders Corporation.

“You oughtn’t to moon around like this, Eileen. It ain’t good for you. Why don’t you try to amuse yourself? It’s bad to think too much. Let me take you to a play or a movie some night—Why not to-night? We can get there in time for the ‘feature.’”

“Not to-night, Dan. I’m not up to it. I’ve been through rough weather to-day.”

“Sometime soon, then! I don’t like to see you so down.”

“I’m afraid I’ll never be up, Danny! How’s Dick?”

“Fine and dandy.”

“And—Moira?” She strove to keep her voice calm.

“She’s got a sweetheart, I’m thinkin’—or will have!”

Eileen leaned forward eagerly.

“Who is he?”

“Oh, I know nothing about it. She brought a young fellow home to dinner with her to-night—a kind of Donnybrook lad.”

“What did he look like?”

Mr. Shay rubbed the white pin feathers of his chin.

“Whoever says women aren’t all alike now!—Not too tall and very black—as black as comes out of Donegal. You should see the hair and eyes of him!”

“I saw a young man like that this very——” She bit her lip. “And she’s well?” she hurried on.

“Prettier than ever—a real ‘Irish rose.’”

Silence came between them as their minds flew back over the years. A blue sputter came from the car tracks—a clang.

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“Dan!” said Mrs. Clayton. “I can’t stand this much longer. It’s killing me. I might better be dead. It seemed to be for the best once, but—but—Oh, Dan!”

She let her head drop on his shoulder.

“I know, my dear! I know!” he nodded, stroking the gray hair. “One can’t talk about such things. It’s hard. But it is for the best, Eileen.”

“It can’t be right!” she cried desperately. “Moira’s old enough to look after herself. I couldn’t do her any harm. Do you think I’d do her any harm, Danny?” she implored him.

Mr. Shay arose.

“Don’t ask me that, Eileen! It’s too late to discuss that question. You know how sorry I am for you. But after all, you gave her up.”

“But I didn’t need her then!” she protested. “And I had no time to look after her. How could I carry a baby about with me on tour? She’d have died of pneumonia. I didn’t mean to part with her forever! I miss her more and more every day. I can’t live without her any longer. I can’t! I can’t!”

The old man laid his hand on her shoulder, the bones of which were barely covered by the flesh.

“Do you think that she’d be better off if she knew who she was? Do you think she’d be happier to know you were her mother?”

Mrs. Clayton put her hands to her temples.

“Is she the only one? Ain’t I to be considered at all? Don’t you think it a crime against nature for a mother to be deprived of her own flesh and blood when—when she’s old and sick and hasn’t anybody else? Oh, Danny——”

He held out his arms to her, and she buried her face in them, sobbing.

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“Poor Eileen!” he said huskily. “Poor girl! It breaks my heart. But it’s no use. He won’t let you.”

It was at approximately the same hour at which Eileen Clayton bade good-night to Daniel Shay that Hugh Dillon, having been deposited by the Devens’ motor, began climbing the precipitous staircase leading to the dwelling-place of Mr. Ignatius Loyola O’Hara. A delicious odor of frying onions floated from above, which grew stronger and stronger as he ascended until he reached the top landing and threw open the door of the rear tenement, disclosing the palsied form of Jeffrey Quirk. The “ambulance chaser” crouched before a small stove, holding a sizzling frying-pan in one hand while apparently endeavoring to read a book in the other; O’Hara, stretched in his shirt sleeves on a broken-down horsehair couch and smoking a short black pipe, watched him through half-closed lids.

“Well,” announced O’Hara, “I got forty-five hundred out of the gas company. They were scared pink! Friend Renig is a rich man, now. And I only charged him fifteen hundred!”

“Supper’s ready!” interrupted Quirk, dumping the sizzling contents of the frying-pan into a dish in the middle of the table. “Come and get it.”

The lawyer swung his feet to the floor and pulled up a chair.

“Aren’t you going to eat anything?” he asked Hugh.

“I’ve had my dinner.”

“You have, eh? Where?”

Hugh, who had taken O’Hara’s place on the sofa, lit a cigarette with ostentatious indifference.

“With some friends of mine named Devens up on Fifth Avenue.”

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“Devens! Fifth Avenue! You can’t mean ‘The Old Man?’”

“I wasn’t aware that he enjoyed that title. I’m referring to Mr. Richard Devens.”

O’Hara laid down his knife and fork.

“You’re kidding me!”

“Not at all. I’ve just left there. He sent me home in his car. I’m going to dine there again next week.”

“If you’re telling the truth, will you kindly explain how you got to know him?”

“Through his daughter.”

“And how did you get to know her?”

Hugh blew a few desultory smoke rings.

“I met her—socially—in a way. She’s a friend of mine.”

O’Hara eyed him suspiciously from beneath his shaggy brows.

“I’ll wager she picked you up!”

“Well, what if she did? She was willing to make an honest man of me by taking me home to dinner.”

O’Hara reached over and pinched Hugh’s leg just above the knee.

“Do you mean to tell me you didn’t know that Richard Devens is one of the richest men in New York? That he is the organizer and president of the Associated Architects and Builders, with a capital of fifteen million dollars, and that he has nearly as much political influence as Murphy himself?”

“No,” answered Hugh. “I hadn’t an idea of it.”

“Well, that is the fact. They’re the people who build all the State capitols, and viaducts, and giant hotels, and railway terminals—they plant ’em overnight—work while you sleep. My boy, you’re in clover! Richard Devens could make you governor if he’d a mind to.” [55]

“I don’t want his money!” said Hugh. “And I don’t believe he could make anybody governor.” He glanced sharply at O’Hara. “Is the Associated Architects and Builders the corporation there was such a howl about last year—where the syndicate that marketed some of its bonds was supposed to have made such an unholy profit, and——”

“And where the syndicate and the board of directors looked so much alike you couldn’t tell ’em apart?—That’s it!” finished his partner.

“I also met an amiable ancient called Uncle Danny Shay. Who’s he?”

“Devens’ side partner and alter ego. They grew up together. Dick has the brains; Dan does what Dick tells him.”

“The voice is the voice of Shay, but the hand is the hand of Devens?”

“You’ve said it! Dick pulled him out of a hole one time, and since then Dan thinks he’s the voice of Almighty God.”

“How do you know so much about them?”

“Because we have a retainer from the A. A. and B.—we act as counsel to them in some things. Dan is secretary and treasurer. Devens is chairman of the board—’way out of reach. So if anybody gets into trouble it will be Dan. He won’t mind! He’d go to jail for Dick any time. I guess that’s fair enough too, considering Dick kept him out.”

He reached for his pipe and refilled it.

“Ever been up to the Devens’ house?” asked Hugh, endeavoring to conceal his interest under a veil of nonchalance.

“Sure I have. Not so often as Hoyle, though. He’s Devens’ confidential attorney. When anything comes up that’s likely to attract public attention, he retains fellows like Choate, or Stanchfield, or Elihu Root. But they’re only window dressings. We do the work.” [56]

Quirk had retired to the corner and was immersed in his book.

“Did you ever know Mrs. Devens?” asked Hugh. “There’s a picture of her in the dining-room. If she was anything like it she must have been a beauty.”

“She was!” agreed O’Hara, lighting his pipe upside down from the lamp. “A famous one. Supposed to be the prettiest woman in New York—daughter of old Tibbetts, the dry-goods man—but cold as a stone, and socially on the make. She married Devens for his money and then turned sour because he couldn’t give her the social position that she wanted. Lucky for all of them she died when she did!”

“Why couldn’t he give her what she wanted?” inquired Hugh.

“She wanted to be in the smart set—the Newport and Long Island crowd. But as the wife of an Irish Roman Catholic contractor she found she couldn’t make it, even with all his money. It smelt a bit too strong of—well—to use a euphemism—of politics.”

“Of graft, I suppose you mean?”

“Oh, say not so!” protested O’Hara. “But I believe Devens did build some hospitals and courthouses for the city—not to mention a few insane asylums, incinerating plants, almshouses, et cetera, et cetera. The swells took her money and went to her big entertainments, ate her suppers, drank her champagne, listened to Jean de Reszke and Melba—and then dropped her. It was too much for her!”

“From your account of the lady’s character, I shouldn’t say her daughter resembled her in the least,” remarked Hugh. [57]

O’Hara knocked the ashes from his pipe.

“She takes more after the old man!” he said. “How about bed?”

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CHAPTER IV

The sun, which had been deflected so obliquely into the Criminal Court room the afternoon before, lifted over Chinatown and the Five Points and hit Hugh squarely between the eyes. Through the crack of the door leading into the kitchen crept the smell of bacon and coffee, and the murmur of voices. He was possessed with a fierce desire for food, tempered only by his aversion to getting out of bed. It was going to be cold. He could tell that by his frosty breath. Then his alarm clock went off with the clatter of a steam riveter.

Grabbing up the coverlet, he wrapped it about his shoulders, seized the still sputtering clock, and cleared the intervening space to the kitchen in a single leap.

Ignatius O'Hara, his face covered with lather, was shaving himself by the window in his undershirt. Jeffrey Quirk, his wig hanging from the gas jet, was in his customary posture before the stove, the line of separation between his features and his bald pate so definitely marked as to give almost the impression of his having on a false face, made, possibly, of green cheese.

A copper boiler simmered on one side of the stove, and on the other a steaming coffee-pot.

Hugh bade the others good morning, filled a tin basin from the boiler, and carried it to the sink.

"Fried, poached, or boiled, Mr. Dillon?" inquired Quirk mechanically.

"Fried for me!—Three of 'em!" grunted O'Hara between scrapes. "I haven't made up yet for the meal I lost last night. I dreamt of a mutton chop as big as a rubric, and a mug of musty the size of a bishop's chalice."

"I'll do my own!" spluttered Hugh from behind the roller towel. "Why don't you put on your wig, Quirk?" [59]

"I thought it was on!" replied Quirk, trying to adjust it with one hand. "Do you notice any difference in its color, Mr. O'Hara?"

"No more than might be attributed to the change of season," replied his master. "As I recall, it was a soft and gentle green last spring. But this is autumn—when the leaves are red—or is it yellow?"

Quirk held it off for inspection.

"That was because it fell into a pail of borax water," he explained, as Hugh lifted off the frying-pan and took his seat at the table.

"What's on the calendar this morning?" he asked.

"A bunch of stuff over in the police court—but Quirk can hold most of it—adjourn it for a couple of days until we can look it over—a Tong murder, and one or two little things of that sort," answered O'Hara. "Then there are a couple of motions in Part I, and five pleadings. I'll attend to the motions, but you'll have to handle the rest. You can plead 'em all guilty then and there if they haven't any money. I've got a habeas corpus returnable before Judge Lawrence in Part II of the Supreme Court at eleven o'clock. A fairly busy morning. When is your next case?"

"My next case is the first one I can force the district attorney to try," said Hugh. "Three of our clients have been rotting over there in the Tombs for a month, when there's not a shred of credible evidence against them. Look at Renig! He was in the Tombs three weeks before he was tried! Who can say there isn't one law for the poor and another for the rich?"

"Well, don't look at me!" said O'Hara. "I didn't."

"It's true all the same!" Hugh continued, waving his coffee spoon toward the Tombs. "That place over there is just [60]
a pest-house. Every man and woman that goes in there comes out infected with some social distemper. I'll bet

Renig is half Bolshevik already. I'd be, in his place! Justice is the basis of everything, isn't it? We ought to administer the law as well as we play baseball, oughtn't we?"

"Sure! We ought to!" agreed O'Hara. "But don't forget, my bonny boy, that meantime we're making a pretty good living out of its injustices!"

The law office of Hoyle & O'Hara was no less conveniently situated than the residence of the junior partner, being also on Franklin Street, fifty yards nearer Broadway. It occupied the ground floor of a brick building opposite "Pontin's," a restaurant much frequented by both prosecutors and lawyers, as well as by their clients and witnesses. A stout rail curbed the cupidity or apprehension of the prospective client until his business was made fully known to the hawk-faced youth who sat on guard. Here perforce until the word was forthcoming which admitted him to the august presence of one of the partners, he must kick his heels on a wooden bench in company with a waiting throng of sly-faced youths in fear of jail, widows seeking damages for their bereavement, young ladies who had been "taken advantage of," elderly gentlemen who were being "annoyed" and were seeking relief therefrom, and all the others of the miscellany making up the firm's clientele.

The office in the rear overlooking the withered plane-trees of Mulcahy's Beer Garden, was sacred to the head of the firm, Sylvanus Hoyle himself, whose totally bald pink pate resembled that of an oversized baby, but whose sharp nose, small, tightly compressed mouth, and smoothly shaven cheeks, with their cavernous eye-sockets, also gave him when his head was covered the appearance of a large white owl in a hat, a physical similarity intensified by the huge horn-rimmed spectacles which he was never without. [61]

Hoyle's past was shrouded in a mystery from which he never drew aside the veil. Tradition had it that he was the son of a Salem clergyman—a graduate of Harvard, who through personal experiences incident to early dissipation, had discovered the ease with which a shrewd member of the bar could profit by the misfortunes of his fellow men. No one knew where he lived, and he was rarely seen outside the four walls of his office. At rare intervals he emerged, brief-case in hand, in a blue cape and silk stovepipe hat, on his way to argue an appeal in the Appellate Division or in the Court of Appeals at Albany; on rarer occasions his door opened to admit some agitated applicant for legal succor, with whom he would be closeted for a long period of time, after which it might happen that a smell of burning paper, suggestive of brimstone, would follow the exit of his visitor along the passage to the outer office. Indeed the high brazier on its iron tripod in the corner, with the possible exception of the engraving of Lord Eldon between the windows, was the most conspicuous object in his office. He was a man of silence, who slipped out and in without so much as a good morning or a good night to his employees; but, if forced to stop and speak, his face was so boyish, his eyes so guileless, as to create an uncanny feeling that there was something wrong there—either that he had sold his soul to Satan in exchange for the secret of perpetual youth, or that in fact he was a child masquerading as a man.

So far as could be observed Hoyle never spoke to O'Hara, and neither did O'Hara speak to Hoyle, although he always referred to him with a veneration verging, particularly when he had been drinking, upon awe. The two must have communicated—like cats on a fence, perhaps—yet how or when, none knew, nor what hold the older man had upon his junior partner. For the face of O'Hara, for all that he was burly as a prize-fighter, was cruelly lined with passion, drink, and anxiety, and his eyes were the sad eyes of one who once had ideals that he has lost. His was the body of an athlete with the head of a world-weary debauchee; Hoyle's the decrepit figure of an octogenarian with the rosy cheeks and bland gaze of a precocious infant. [62]

O'Hara was as rough in his exterior as his senior was smooth, and at first, with his purple unshaven cheeks and stubble-covered chin, gave an impression of general disreputability which persisted until he had once begun to speak, when it was immediately dispelled by the mellow, organ-like quality of his voice. No more was known of his private history than was of Hoyle's, although he was reported to have once had a wife, but, whether widowed or divorced, he had her no longer, and he never referred to her.

The third member of this strange triumvirate, who although not a member of the bar, formed an integral part of it, was Jeffrey Quirk, over whom as over his partner O'Hara, the silent Hoyle seemed to exercise some occult control. In the latter's presence Quirk cowered like a dog, shrinking from him as if in terror of the lash, or appealing with mute eyes to O'Hara for protection. Indeed, Quirk always seemed to Hugh more like an animal endowed with a [63]

limited rationality than a man—a mentally enfeebled and unmoral creature, who had shattered his nervous system by the use of drugs, yet who nevertheless retained an instinctive perception for beauty and a curious mysticism strangely at variance with his occupation and surroundings—in appearance a sort of living dead man, endowed with automatic motion, whose soul still hovered within reach and at times returned to it, but who at others could be utilized by a stronger mind as its tool for either good or evil. He was, in a way, the firm's familiar spirit, flitting here and there in the gloomy purlieus of the Tombs like a bat at their behest, mysteriously appearing after unexpected absences, always on hand in every court-room, apparently at one and the same time, to answer "Ready!" or to plead a prisoner guilty. His build and air, like his master Hoyle's, were boyish, but his yellow skin was furrowed with wrinkles and scarred by smallpox.

Unsuspecting by nature, since there had been nothing in his early life to make him otherwise, Hugh neither saw nor felt anything sinister, or even unusual, in this peculiar trio. It did not occur to him to question any of the statements of his associates, or to dream that either of them could possibly be guilty of lying to him. Exteriorly they were not particularly different from some of the lawyers he had known at home. Old Mr. Safford was almost as bald as Mr. Hoyle. O'Hara was just like any other roughneck attorney. Quirk aroused his pity and instinct for protection. He knew no "Wall Street lawyers," as civil attorneys are ordinarily referred to among the members of the criminal bar, and he had no opportunity to meet any, since they never condescended to appear in a criminal court, knowing full well in all probability that they would make asses of themselves if they did so. Hence Hugh had no standard of comparison except those set by the members of the professional staff of the district attorney—men such as Michael Redmond, for example, whom he disliked and distrusted. It was enough for Hugh that he was employed by Hoyle & O'Hara to make him fiercely a partisan both of the firm and of those whom it represented.

Hoyle & O'Hara's offices were already crowded with waiting clients when they arrived, but since Hugh was the [64] "trial" member of the firm, O'Hara made a practice of conferring with most of those who merely sought advice, thus leaving his young associate free to prepare for his more active duties in court.

Hugh looked over his correspondence, and studied his calendar. There were five "pleas" on it—that is to say, the firm had five clients who would be arraigned at the bar for the purpose of being interrogated as to their guilt or innocence. Practically nobody ever pleaded "guilty" in the first instance. Even those caught red-handed always claimed that they were "not guilty" in the expectation that rather than try their cases the district attorney would accept a plea of guilty to some lesser offense or, at any rate, to a lower degree of the same crime.

All a lawyer did was to take his stand beside his client when the latter was brought to the bar, and say "not guilty" when the clerk asked what plea the prisoner "desired to enter"; after which the defendant was taken back to his cell, to remain until somebody remembered that he was there, or the "D. A." and his lawyer got tired of haggling over the disposition of his body. There were well-known cases where men, who if they had gone to trial would have been either acquitted or sentenced to but a nominal imprisonment, had lain for months in the Tombs while their lawyers negotiated for a plea.

It angered Hugh that the liberty of human beings should be dealt with as a matter of business or politics. He often [65] told himself that he could never be a prosecutor, earning his salary by convicting men and sending them to prison or to the electric chair. How rotten it must have made Redmond feel, for instance, to find himself in the position of prosecuting poor Renig! This at once brought Moira to his mind. When would he see her again, he wondered. Had she really taken a fancy to him? Or was she merely gratifying a momentary whim, indulging herself in the cruel amusement of playing with him to find out what that kind of young man would do? Was she just another Roman princess who slew her lovers? What could a girl of her wealth and social position see in a shabby police court lawyer like himself? Yet he could not think of her without a thrill even then. The fiery quality of her beauty was tempered by the tenderness of her eyes. Sun and sky! Lilt of west wind, murmur of pine tops, chuckle of shallows and gurgle of rapids! Where was he drifting? Hoyle & O'Hara!

"Lady to see you!"

The office boy had said it just in the same metre. The words repeated themselves in Hugh's ears:

"Lady to see you!
Lilt of the West Wind!"

Sunshine and starlight!
Where am I drifting?
Show in the lady!”

“Show in the lady.”

“Yes, sir!” answered the boy, staring at him as if he were quite mad, as he was.

He did not need to ask her name. No “lady,” so far as he was aware, had ever called at the office of Hoyle & O’Hara before—certainly not while he had been connected with it. [66]

“It’s getting to be a sort of joke, isn’t it!” she said, holding out her hand.

“The kind I like! The best one I know!” he assured her.

“Don’t be angry with me for taking you at your word so soon!” she said. “I’m like that. If I want anything I can’t wait. I have to do it right off!”

“You’ve come to the right place! You can do whatever you want here right now this minute.”

“You’re not angry with me—*are* you?”

“Angry!” he answered. “I’m a rather impatient person myself. I should have been angry if you hadn’t come.”

“I want to see everything! You say we girls from uptown don’t know enough to be of any help. Well, I want to know enough. Let me be your assistant. You attend to the law, I to the philanthropy.”

“A partnership?”

“Sure. Let’s begin right now. Dillon and Devens.”

“‘Devens and Dillon,’ you mean!”

She gave her characteristic little laugh.

“So you’ve discovered that already! You’re not afraid of me, are you?”

He took hold of her arm, just above the elbow.

“Do you think I am?” he demanded.

“I thought so last night!”

There was only a bunch of orchids between Moira and Hugh. Her eyes challenged his again.

“I’m part Irish like yourself!” he explained. “Let’s go over to court and start work. Our clients are waiting.”

The little Renault had already collected a crowd. Motors did not pause in Franklin Street even if they passed through it. [67]

“What shall I do with the car?” she asked.

“It depends on how long you expect to stay.”

“That,” she retorted, “depends on you.”

“In that case I wouldn’t order him back before seven o’clock,” he declared.

That she should find herself in court for the second time within twenty-four hours was no greater a surprise to Moira herself than to the attendants about the building, who recognized her as the “Old Man’s” daughter. In coming to the Criminal Trial Term the afternoon before she had acted purely upon impulse, and as a result of that impulse she already had erected an elaborate dream castle, inhabited by herself and a passionate, black-haired young man, the physical counterpart of the defender of Paul Renig, and so desperately in love with her that he did everything she wished, even before she asked him to. Her whole life had been such as to develop her self-will. Richard Devens had been almost criminally indulgent, and her wilfulness had been fostered by loneliness. Moira could not remember ever having a mother. One of her earliest recollections was of standing dressed all in black, with her hand in that of her father, and looking up at the coldly beautiful face of the portrait over the fireplace in the dining-room—her “picture mamma,” as she called it.

Even the nuns at the convent had made overmuch of her, and later on she had gone merely as a day scholar to a smart finishing school, where, after one o’clock, she was her own mistress. Already at sixteen she was acting as chatelaine of the big marzipan house opposite Central Park, presiding, to her father’s intense pride, at the dinners given to his political and business associates, flattered and encouraged to show off by a lot of old boys who, even if they had not all kissed the Blarney Stone, would have spoiled her out of real affection.

The wonder was that under these conditions Moira had remained the frank, generous girl that she was, for in spite of her wilfulness there was nothing selfish about her, and she was constantly indulging in acts of philanthropic Quixoticism which put a heavy strain on Richard Devens’ personal bank account. She had fancied herself in love a hundred times, but never, save to the staccato knock of that “Object!” in court the afternoon before, had the door of her heart really swung outward. It had opened of its own accord, before she was aware of the fact, and already a totally unexpected stranger had his foot firmly planted inside. [68]

Hugh did not know what to make of her. No other girl had ever before so piqued his interest or aroused his emotions. The Hudson Valley beauties whom he had half-heartedly wooed had been soft, simpering damsels, who surreptitiously chewed gum and craned away giggling when he had jestingly tried to embrace them. But this tempestuous girl——!

All that morning she sat among the spectators in the court-room listening so attentively to the proceedings that when the hour for adjournment came she was tired out. Instead, therefore, of going to Pontin’s crowded, smoky lunch-room, Hugh took her for a bowl of chop suey and a reviving cup of tea to a quiet little Chinese restaurant in Doyers Street, where they were, fortunately, the only customers, and afterward led her afoot through the mazes of Chatham Square and Mulberry Bend, showed her where the “Tea Water” pump had stood, the old “Kissing Bridge” on the Boston Turnpike, and the former boundaries of the “Collect Pond.” She was quite different that afternoon, interested but passive, for what she had seen in the court-rooms within the past twenty-four hours had been a severe strain upon her sensibilities. Those poor, poor people! And, naturally enough, her interest was far keener in Hugh himself than in what he showed her. What a boy! How eager he was! He got almost as excited over the precise location of the “Tea Water” as he had over Renig!

It was nearly four o’clock before they found themselves in front of the office of Hoyle & O’Hara again. Her motor had been waiting there since three. Quirk was on the steps, looking anxiously up and down Franklin Street, and as Hugh opened the door of the motor he hastily descended. [69]

“Mr. Hoyle wants to see you at once!” he said. “I’ve been everywhere for you.”

Moira, on the point of getting in, turned.

“But I thought you were coming home to have tea with me!”

“I wish I could, but duty calls!” Hugh answered, his mind reverting to the episode of the evening before.

“But I want you!” she cried. “Send word to Mr. Hoyle that you’re engaged!”

“Seriously, I mustn’t. It’s been a wonderful day for me! Promise to come again!”

He looked very handsome, very compelling, as he stood there in the dusk, hat in hand.

“I want you—*now!*” She drew him toward her with her eyes as she had that morning in his office. Then her lips parted in an unasked question as she shifted her glance over his shoulder. A woman was coming down the steps behind—a woman in a bedraggled picture hat, with a soiled chinchilla boa about her narrow shoulders. Hugh instinctively stepped back. Eileen Clayton stood face to face with her daughter. Every drop of blood in her body was crying out to the girl in an agony of yearning. For an instant she hesitated, then with a supreme effort turned up the street. Moira looked after her compassionately. [70]

“That is the same woman I saw yesterday afternoon. Poor creature! Do you know who she is?”

Hugh shook his head. The haunted expression on the woman’s face had depressed him. Moira got into the motor without referring again to tea. The electric current which all day had flowed between her and Hugh had been broken by the interposition of another and, for the time being, more powerful one.

“Good night!” he said. “Don’t forget to come soon!”

“Good night!” she replied, but the look on her face had nothing to do with him.

There were two persons in Hoyle’s office—the lawyer, who sat with his back to the light between the windows, and the wolfish-looking man in a gray suit, opposite him. The blaze of glory reflected from Mulcahy’s fence made the room seem dark. A gray cat was picking her way between the barbs on the top of the fence. Hoyle gave him a gray cat-like smile.

“Mr. Kranich—Mr. Dillon,” he said, but it was as though he had not spoken.

The wolfish man stretched his mouth into an exaggerated grin and immediately let it snap back again. Hugh swung his chair so that the light should not hit him in the eyes. A discolored paper bag had caught on the bare branches of Mulcahy’s plane-tree.

“Case—look after it,” murmured Mr. Hoyle, in a vocal undercurrent. In the half light he looked like the pink baby advertising some infant food. Mr. Kranich lifted a fat brief-bag to his knees. [71]

“It’s a clear case of forgery in the third, grand larceny, and criminal conspiracy against one of the richest corporations in the city—a walkover! We’ve got ’em cold!” He fished out a dossier in blue covers. “We’ve had our accountants on it now for nearly two years—ever since the reorganization. They ran into a raft of stuff none of us even suspected!”

“Who’s ‘we’?” inquired Hugh.

“The parties I represent.”

“What parties?”

“That I can’t disclose. Important people! We’re going to retain your firm to represent us in the police court, subpoena their books, and play hell with ’em generally. We’ll have the press solid behind us. But”—and he looked hard at Hugh—“you can’t go into a thing like this half-cock! It’s a big job!”

“I should think you might persuade District Attorney Farley to lay the matter before the grand jury in the first instance—if it’s as important as all that!” commented Hugh.

“But that’s not our game. We don’t want an indictment—at least, not yet. What we want to do is to expose their corrupt practices—show ’em up!”

“Dillon’s your man! He’ll rip ’em up the back proper for you!” said Hoyle.

“Well, there’s money in it, all sorts of ways, if you understand me,” remarked Kranich significantly. “They’re capitalized at fifteen millions. Their common stock is selling around ninety.”

“And if this goes through—?” murmured Hoyle.

“It won’t sell above nine! We all ought to make our everlasting fortunes!”

Hugh could hardly credit his ears. Kranich was baldly proposing blackmail!

[72]

“Who are these miscreants?” he inquired curiously.

“A concern known as ‘The Associated Architects and Builders.’” Kranich awaited the effect of his disclosure.

“You mean Devens’ company?”

“Yes—one of them. The other, the J. S. Burke Company, is involved too. We’ve got ’em both.”

Hugh studied his partner’s face. It was as expressionless as a pan of milk. The gray cat was feeling her way toward the window. Was it conceivable that Hoyle was contemplating taking a case against his own client? It was unthinkable! But, if not, what could he be up to? Was he trying to trick Kranich into disclosing his hand? Dirty business, at any rate! In no event could he participate in a criminal prosecution against Moira’s father. These people were his friends!

“I’d like to think this matter over,” he said slowly.

“Take all the time you want. There’s no great hurry. Only this looks like a fairly propitious moment for picking the plums. Glance this over and call me up when you’re ready.” Kranich offered Hugh the blue dossier. “The whole thing’s right there.”

“You better hang on to it for the present. I shan’t have time to look at it—I wouldn’t leave it lying around if I were you.”

Hoyle stretched out a short fat arm, but before his highly polished fingernails could reach the papers Hugh lifted them out of Mr. Kranich’s hand.

“Perhaps I’ll have time to go over it, after all.”

He thrust the blue-backed sheets into his inner pocket. Mr. Kranich closed his brief-case.

“Well, the sooner the quicker,” he remarked, getting to his feet. “So long, Mr. Hoyle!—So long, Mr. Dillon!” He slipped through the door like a shadow. Hoyle got up and closed it behind him. [73]

“Let’s have a look at those papers.”

“One moment!” Hugh held him off. “I would like to get this straight. In the first place, no matter what you do I’m out of this whole business. Mr. Devens is a friend of mine. In the second, am I right in supposing that you intend taking a case against one of your own clients?”

Hoyle had gone back to his chair and was watching Hugh over arched fingers.

“Who told you they were my clients?”

“O’Hara.”

Hoyle’s mouth drew into a small rosette.

“Doesn’t it occur to you that if I find one of my clients is crooked I can get rid of him? If Kranich has evidence that the A. A. and B., or its officers, have been guilty of crime, there is no reason why we should continue to represent them, or, for matter of that, why we should not act against them. It might be our duty to do so!”

“That’s a sweet thought!” ejaculated Hugh with contempt.

It was his introduction to high-class legal rascality. Hoyle eyed him from the shadow between the windows. The cat had tiptoed along all three sides of the fence and was now on her return trip, daintily lifting her white paws. Hugh took a step

nearer.

“And it doesn’t answer my question. Are you going to take the case?”

“That depends——”

“On which side is the most money, I suppose,” hazarded Hugh scornfully. “That’s one way to practise law! On the one hand to take a case against a corporation whose money is in your pocket, or on the other to trap a man who wishes to retain you, into giving you confidential information to hand over to your client!—You’ve got to double-cross one or the other!” [74]

Hoyle’s jowls had turned the color of raw meat.

“Give me those papers or get out of this office!” he said.

Hugh buttoned his coat.

“That is what I intend to do. If I ever need a devil’s advocate I’ll know where to find him. Meantime, I shall take these papers back to Kranich.”

The light had faded from Mulcahy’s fence. The cat had vanished. The room was still.

“I’m a bad man to have for an enemy!” remarked Hoyle. “You’re young—and— Well—I’m willing to overlook this incident if you’ll behave yourself properly and give me those papers!”

Hugh turned his back on him and started for the door. “This is the end of a promising young career!” he thought. The chances and changes of this mortal life were certainly astonishing! At the threshold he paused. There had come into his mind the refrain of the song they had used to shout at the Heinies across the trenches.

“The bells of hell go ting-a-ling for you, and not for me!” he remarked to his erstwhile partner. “Good-by, Hoyle and O’Hara! Give my regards to Sing Sing!”

Moira’s chauffeur, swinging down White Street in order to attain the broader thoroughfare of Lafayette again, nearly ran over Mr. Michael Redmond, who leaped gracefully upon the running-board and smiled upon her.

“Shall I give you a lift?” she asked.

[75]

“You nearly lifted me into eternal glory!” replied Redmond, twisting through the door. “But I will allow you to make amends. I saw you not long ago in Part I. You seem to have the habit. Has your pet burglar landed in the Tombs?”

“Yes,” answered Moira. “All my pet burglars and murderers and robbers have landed there. Where are you going to land?”

“I had thought of landing in your drawing-room about tea-time.”

“Do, by all means.”

She seemed encouragingly cordial, and it occurred to Mr. Redmond that he had been mistaken about her not liking him yesterday afternoon. So, being a bold young man, he said:

“You know, I would most awfully like to kiss you.”

“In that case you would land in the street,” she remarked definitely, “even if I let you first. Do you remember Gautier’s ‘One of Cleopatra’s Nights’?”

“I wish I could!” he mused. “You will observe that I only said I would like to.”

“It is a mistake to theorize about such things.”

“But not to do them?”

“If one expects to do them. It is too late now for either theorizing or action.”

Because she was Irish she liked him better this way than when he was humble. Really, he was rather nice!

“What sort of a young man is that Mr. Dillon?” she asked, partly from a desire to annoy him. Redmond finished lighting his cigarette.

“A nice fellow, I think. A sort of volcano. You never know when he’s going into eruption. A mighty good trial lawyer. He’s all right!”

Had he but known it he could have kissed her at that moment without rebuke! But he did not know it. He merely knew instinctively that the best way to cajole a woman is to praise her lover. [76]

There were fifteen young people already having tea at the house when they made their entrance.

“Do forgive me for being late!” she begged. “No—keep right on pouring, Mona!—Make it strong, please! I’m sorry, but I had important business down at the Tombs—and I’m a wreck.”

“I hasten to add that I wasn’t the business,” added Mr. Redmond, modestly.

“Isn’t it a terrible place?” inquired a languid girl with green eyes and earrings. “I wouldn’t mind seeing it myself. Will you take me down some day, Mr. Redmond?”

Moira swung on her.

“If you are going down there merely out of curiosity you’d better stay away, Elsie dear.”

“I’m not going merely out of curiosity. I’d like to be of some help to those poor people!”

The others had stopped talking. Moira found herself quoting Hugh.

“Don’t think me rude,” she said, “but the idea that girls like us can really be of any help to men in prison, strikes me as ridiculous. What do we know about the conditions that brought them there? For that matter, what do we know about life?”

From which sententious utterance most of those present immediately concluded that she was stalking Mr. Michael Redmond, and was taking that way of notifying others to keep off her hunting-ground. Her remark, however, was taken as a challenge, and precipitated an animated discussion in which Moira found herself hopelessly in the minority, and which was still going on when the party broke up at seven o’clock.

Meanwhile, in her father’s den across the hall, another discussion was taking place which, curiously enough, also centred about the Tombs. Richard Devens had no downtown office, and it was Daniel Shay’s habit to report to him daily at about six o’clock, after which, if his friend had nothing else afoot, he was very apt to stay to dinner. [77]

They sat in their customary attitude, Devens at his desk with the right-hand slide pulled out, and Shay beside him, this position having been demonstrated by experience to be convenient for the examination of papers.

“I’m after seeing Eileen last night, Dick. She’s in a bad way—says she can’t live like this any longer. I feared from her manner of speaking she might try to do away with herself.”

Devens’ massive jaw seemed to grow squarer.

“It breaks my heart, Dan! But what can I do? She’s worse than she’s ever been. How could I let her see Moira? It would ruin the girl’s life.”

“Eileen’s livin’ in hell!”

“She brought it on herself!”

Uncle Dan laid his hand on that of his associate.

“After all, she’s Moira’s mother!”

Devens bowed his big head.

“The mother must always be sacrificed to the child,” he said. “It’s the law of nature. You know how I loved her, Danny!—how I still love her—the real Eileen, I mean! This poor creature is somebody else! I knew trouble was brewing before you came in. Hoyle telephoned me she’d been down there to see him and wanted the contract modified so she could see Moira once a week. But, Dan, if I let her see the girl once, she’ll want to be with her all the time. Moira’d have to become nurse to a drug addict. I can’t turn this house into a sanatorium! I’ve got troubles enough as it is!” [78]

“Did Hoyle give you any other news?”

“Yes. Kranich’s gang have started their campaign. Who do you suppose they tried to retain first? Hoyle himself!”

“Hoyle!”

Shay gave an ironic chuckle.

“That’s a good one! Luck’s still with us!”

“Hoyle says he’d have had their guts if young Dillon hadn’t kicked over the bucket.”

“Dillon? How?”

“By insisting that Hoyle and O’Hara refuse to take the case, on the ground of their retainer by us. Incidentally, I gather that he used some pretty strong language and then checked out.”

“The young devil!”

Devens rubbed his chin.

“Hoyle says Kranich intends to lay the case before the district attorney as soon as he gets counsel. If we could find out in advance what they’re going to try to prove, we could forestall ’em. No district attorney is going to stand in with a bunch of blackmailers unless he has to.”

Devens meditated a moment just as Moira, the tea-party having broken up, paused on the threshold.

“It’s a damn shame young Dillon couldn’t get on with Hoyle and O’Hara. I took a real fancy to him. He must have acted pretty rough for Hoyle to fire him!”

Moira stepped quickly into the room.

“Do you mean that Hugh Dillon has lost his position with Hoyle and O’Hara, daddy?” [79]

“That is the fact.”

“Oh, daddy! And I was going to make him Mayor of New York!”

“I fancy he’d still be willing, wouldn’t he?”

“But how is the poor boy to live? He doesn’t know anybody in New York? Where do you suppose he is sleeping to-night? Why can’t we ask him up here! Oh, I knew some bad luck was in store when that poor woman came out and looked at me so strangely. It was the second time I’d seen her. You know, daddy, she acted exactly as if she knew me! For a moment I thought she was going to speak, for she half-smiled as she went by—such a pathetic smile it was!—and started to hold out her hand.”

Devens lifted the cover of the humidor and felt inside for a cigar without meeting her eyes.

“Maybe she did know you. A lot of people must recognize you as my daughter.”

“I’d never laid eyes on her before yesterday afternoon. I’m sure of it. No one who’d seen her once could ever forget her, daddy!—Hugh Dillon was with me. I hope she didn’t cast the evil eye on him! Oh, what am I saying! You’ll do something right off for him, daddy—won’t you? Why don’t you make him an assistant district attorney?”

At her words Uncle Dan lifted his cupped hands and clapped them silently together behind her.

“That’s a grand idea, Dickie!” he commented. “He might be after coming in very handy some day. A friend at court, you know!”

“Oh, do! daddy!” cried Moira. “That would be simply wonderful! That is, if he’d take the position.”

“Take it? Of course he’d take it! What young man wouldn’t?” asked her father.

[80]

“Hugh Dillon mightn’t!” she answered seriously. “He’s a queer lad! But, oh, daddy!” and she threw her arms about Richard Devens’ neck and kissed him, “he’s a broth of a boy! And I love him!”

[81]

CHAPTER V

Hugh Dillon, quivering with anger, stood on the steps outside Hoyle & O'Hara's. So they were a couple of crooks, were they? He might be committing legal suicide, but he wanted no more of them. He must leave the flat, find some other place to live. Another illusion gone! And less than an hour ago the future had looked so bright!

Darkness was shrouding Franklin Street as he descended to the sidewalk. He would go back to Pallavachini's, pack up his dunnage, and get out! Why not chuck all this dirty police court business and make a fresh start as a respectable lawyer! There was nothing in a miscellaneous practice among the poverty-stricken inhabitants of the lower East Side.

He found Jeffrey Quirk on the corner in front of the Elm Castle Café, where evidently the runner had been awaiting the outcome of his interview with Hoyle.

"I've fired myself!" Hugh informed him. "I've told Hoyle he was a fat crook and kissed the firm good-by."

"I hope you didn't act too hastily, Mr. Dillon. It's been fine to work with you!"

Hugh laid his hand on Quirk's shoulder.

"I shall miss you, Jeffrey. We've had good times together. But I shall still see you, of course. I'm not retiring from practice, you know."

"I was almost hoping you were!" replied Quirk. "You're too good a lawyer for this kind of work, Mr. Dillon. You ought to go down to Wall Street and get into corporation or banking law. That's where they make the real money. You'd find it much more congenial there, too. A gentleman can't make a living practising criminal law."

"Then why do you practise it?"

[82]

A strange smile flickered over Quirk's jaundiced face.

"Because I'm not a gentleman," he answered.

Hugh turned quickly upon him.

"Of course you are, Jeffrey!" he retorted. "Nobody could be more of a gentleman than you."

The grateful look that had come into Quirk's eyes at Hugh's words was followed by a hopelessly tragic one.

"You don't know me, Mr. Dillon!" he said, looking away. "This is no life for you, sir."

"But I love it, Jeffrey! It's terribly interesting! I get more out of a day here than I would in a year in Wall Street!"

"It's a crooked business!"

"Then why don't you get out of it yourself?"

Quirk looked away.

"I can't!" he whispered. "God help me!—I wish I could!"

Above their heads the gray battlements of the Tombs were tipped with a golden sheen; in the sky over the Criminal Court Building glinted a white speck which Hugh knew to be a kite. Somewhere in Mulberry Bend Park there was a child holding the end of the string that bound it to the earth—a child seeking to draw happiness down from heaven as Franklin had sought to draw lightning from the clouds. His eye followed the coping of the great wall, with its massive bastions, to the huge iron door on the Lafayette Street side through which those sentenced to a more awful misery were evacuated.

What a hopeless horror was theirs! Even as he watched, the iron gates swung inward and a heavy motor van with opaque barred windows and a policeman swinging on behind, rumbled forth—the “Black Maria”—the hearse that bore the [83] civilly dead to their living graves. He knew that in the dark interior was packed a swaying, stinking, cursing mass of human beings. Resentment against their arbitrary fate surged through his body. Was he to abandon them?

“I’ll not give in yet!” he declared. “I guess I can manage to make a living!”

They had reached the flat and Hugh threw his few belongings into the battered suitcase. Quirk carried it to the foot of the stairs. On the sidewalk they shook hands.

“Who knows!” remarked the runner. “I may be doing this for you some day when you’re Mayor of New York.”

“Not for a while yet!” laughed Hugh. “Give my best to O’Hara. Tell him I’ll meet him at Philippi!”

“Meanwhile what will be your address?” asked Quirk.

“The Waldorf-Astoria,” replied the future mayor. “I mean Mills Hotel No. 1.”

The next two months saw the hardest struggle of Hugh’s life. Within three weeks of his departure from Hoyle & O’Hara’s he found himself once more forced to resort to the penny coffee stand on the corner. Pride kept him from going to see Moira, or seeking her father’s influence, as it did from borrowing of O’Hara, or asking Judge Barker for an “assignment” to a murder case, where the State made the attorney a regular allowance of five hundred dollars—that being the customary method of tiding over an unsuccessful but politically loyal member of the criminal bar who found himself temporarily without means of support. For the second time since he had come to the city Hugh experienced hunger; and for a day or two he even thought of trying to get a job on the police force. [84]

Then the tide turned, a few clients drifted his way, and he was able to hire a couple of rooms over the Elm Castle Café, directly opposite the Tombs and diagonally across from the Criminal Court Building. Cold and noisy, they were no improvement upon Mills Hotel No. 1, by day filled with the odor of cooking and the clatter of dishes from the kitchen below, while by night the ceiling served as a football field for a family of rats. Standing at his window and looking across at the lighted windows of the “Hôtel de Ville”—as O’Hara had always called the Tombs—he decided that, in spite of their being under restraint, its inmates were probably considerably better off than himself.

They had company, anyhow—could rattle their bars and howl. And get an answering howl in return! He wanted such a howl badly. Save for O’Hara and Quirk, he knew nobody who lived in the locality. His professional outlook was as discouraging as that from his window. The fact that he had been dropped by Hoyle & O’Hara had seriously prejudiced his chances of success, and he made the depressing discovery that those charged with crime were apt to select their legal representatives less for their ability than for their supposed influence with the authorities. For the first time Hugh learned the full scope of the chicanery practised by the shysters to hook their clients—the iniquitous fee-sharing system by which keepers and turnkeys became “runners” or agents for such attorneys as returned the largest quid pro quo. Since Hugh refused to participate in this customary proceeding, few clients sought his aid, and those who did had little or no money. Day after day he sat on the front bench of Part I, hoping vainly for an assignment, forced to listen to others [85] mangling cases he could have tried much better and allowing golden opportunities to slip by unavailed of. He was ashamed to go to see Moira, although she was constantly in his thoughts. It was one thing to call upon her as a junior member of a successful law firm which numbered her father among its clients; quite another for a shabby, down-at-the-heels fellow, a penniless hanger-on of police courts, who hardly knew where his next meal was coming from, to do so.

His greatest disillusion was to find that what Quirk had said about most criminal practice being crooked business was only too true. Theretofore he had taken the cases O’Hara had turned over to him and put in whatever defense the latter had indicated, acting purely as a barrister, without concerning himself over the origin or preparation of the case. Quirk had “lined up” the witnesses and Hugh had put them on the stand and examined them. But to his disgust he now discovered that his clients generally expected him not only to invent a defense but to supply the witnesses as well. “What shall we testify to?” was the question inevitably put to him; and when he told his clients in reply that all he wanted from them was the truth, they looked at him as if he were crazy, and generally sought another lawyer.

Before very long he became convinced that success in the criminal law was hardly to be achieved without loss of honor, and he was forced to concede that it was probably not for nothing that his associates of the criminal bar were commonly spoken of as “shysters.” Nevertheless, he refused to give up the struggle. Sooner or later, he told himself, decency and ability would win through. And there were so many poor devils who needed the help that he was able to give!

It was at this juncture, while loitering in the corridor one afternoon outside Part I, that he received a message that the district attorney would like to see him. He entered the latter’s office just as Mr. Farley was in the act of hanging up the telephone receiver after a talk with “Old Man” Devens. This fact he, naturally, did not disclose to his visitor, but it had much to do with the cordiality of his greeting. [86]

“It’s a great pleasure to meet you, Mr. Dillon! Pray be seated. Terence, close that door! Won’t you have a cigar?”

Hugh accepted the official cigar. He had not the slightest inkling of why the district attorney should have sent for him, and he feared the Greeks bearing gifts, particularly one who looked like so wily a Ulysses.

A lifetime spent in politics had developed in Mr. Farley a shrewdness not incompatible with real warmth of heart, and an air of authority and a brusqueness of manner that were out of character with his rather timid nature; but he had a superficial hardness which, until understood, was rather terrifying. His instantaneous facial transitions from the severity he did not feel to the amiability which he did feel, produced an effect of insincerity, but his chief insincerity consisted in his pretending to be severe. Like most politicians, he was a coward, but he had on one or two occasions, in his earlier days, exhibited what had passed for courage by bolting his ticket and voting for Reform, because he had a hunch that the boys had gone too far, and that Tammany might get it in the neck. He had learned his lesson, however—the knowledge necessary to every holder of public office—that no courage pays so well as that shown by sticking to one’s friends, and that nothing remains so long unforgiven as political disloyalty.

Mr. Farley was a stocky, elderly gentleman with a mass of curly gray hair, a reputation for oratory, and a tendency to fatty degeneration of the heart. The oratory was of that “God’s-green-footstool” variety now obsolete, except at political conventions, Tammany ratification meetings, and Lotos Club banquets, but having been drafted by his party for over a quarter century of eloquence, he had at length been rewarded by being made high priest in the Temple of the Blind Goddess. As such he gave general satisfaction, being considered a safe, fair-minded, practical man, who believed in a common sense enforcement of the laws, and could be counted on not to go off the hooks. Under his administration, through the simple expedient of never entertaining a case unless a conviction was certain to follow, his record for putting criminals behind the bars had reached nearly one hundred per cent, while by the same token all with grievances were given to believe that fullest vengeance should be theirs. If in the end they were sent away empty, it was only after the most polite and assiduous examination of their complaints—for of such is the electoral majority composed. [87]

What Mr. Farley thought was: “I have got to run this joint so that everybody will be satisfied—including the papers. There is no use getting people sore. I must never kick out a case so there’ll be any comeback. If I work it right I might even get a joint renomination!”

What he said was: “I want every citizen who comes here for assistance to know that I am his servant and that the entire resources of my office are at his disposal.”

What he whispered to Terence, his door attendant, was: “Show this gink into my office and let me give him the once over. Then you come in and say Judge Barker has sent for me.”

What issued from his office in a mellifluous vox humana was: “Officer, kindly send Mr. Assmanshausen in to me, and see to it that we are undisturbed.” [88]

Yet Mr. Farley was not any more hypocritical than most people. If it seems so, that is only because attention is being called to his hypocrisy, which was entirely official. On his personal side, he was sympathetic and affectionate, and not a night in his life but he read aloud for at least an hour to his younger sister Bridget, who had had a stroke and was confined to her wheel-chair. Neither had ever married, and their mutual devotion was quite beautiful. It was also entirely genuine. Had this not been so, Mr. Farley would not have taken her for six weeks every summer to an Adirondack camp, where it was almost impossible to get anything to drink.

He was a friendly son of St. Patrick, fond of gathering a few old cronies about a bottle of County Antrim and singing, in a mellow, quavering tenor such good old songs as "A Fine Old Irish Gentleman." On these occasions he experienced an ineffable tenderness toward his fellow men, at times affecting him to tears.

He was an officer of many societies, several of which made a practice of marching up Fifth Avenue at stated intervals to demonstrate their love of country, and it was a foregone conclusion that the hearse which bore him to his grave would be followed by a notable procession of hacks carrying a select number of his fellow members, sorrowing at the joint expense of all, and making Roman holiday.

Few who asked him for money did he refuse. He saved nothing, being supported in perpetuity at the public expense by the political organization which he adorned. He would have given his last dime to any beggar who touched his elbow, but no abstraction could have touched his heart. His sister Bridget he could see and feel and love; but the Blind Goddess was only a mural decoration in the panel above the judge's dais, at the unveiling of which he had delivered an oration. In fact, he had forgotten that she was there, as had most of his assistants. [89]

"Mr. Dillon," he said, without further preliminary and in a crisp, businesslike tone, "I am wondering whether you would care to take a position in this office?"

The offer was so unexpected that it did not at first occur to Hugh that he was being tendered a place upon the professional staff.

"What sort of a position?"

Mr. Farley hesitated. He had to oblige "Old Man" Devens, but he wanted to do so at the least political cost. He could give Hugh a choice of positions with salaries ranging from one thousand dollars a year up to ten thousand, and he must, to save his own face, offer this shabby young man something fairly good.

"On my professional staff, of course. I have a vacancy"—he temporized—yes, the chap looked actually hungry!—"among the deputies. The salary is only forty-five hundred, but——"

"Why do you offer me a forty-five hundred-dollar position?" demanded Hugh.

Mr. Farley grew faintly red. Had he taken the question literally, as Hugh intended he should, and had answered it truthfully, he might have said: "Because, Goddammit! the Old Man has told me to look out for you!"

Since, as far as Mr. Farley was concerned, the situation savored of a business transaction, he assumed that Hugh was dissatisfied with the amount of the salary offered, and concluded that he had made a mistake in judgment. [90]

"Because," he explained rather nervously, "that happens to be the only position open—at the moment. However, in a short time, I expect to have other vacancies, and then, of course, I——"

"What I want to know is why should you offer me anything!"

"Offer you—anything?" It was Mr. Farley's turn to be astonished. "Why—I—you're just the kind of man I'm looking for."

Hugh regarded him doubtfully.

"The hell I am!" he thought. Aloud he said: "I wasn't aware that you'd ever heard of me."

"Quite the contrary!"

The district attorney's interest was aroused. What sort of a chap was this, anyway? Devens had warned him not to disclose his request, but Farley had not expected that his offer would be treated as something to be scrutinized before acceptance. Perhaps this meagre youth was a personage.

“My dear fellow!” As a flatterer no one could be more adept. “Of course everybody knows you. I have watched your career with the keenest interest! And I must say to you that I have never known a young man who in my opinion had a more brilliant future. Oh, yes! I know! You are probably not aware of your own gifts or reputation! It speaks well for your modesty!”

He raised a benignant hand to negative Hugh’s instinctive denial of this soft impeachment.

“Now this is what I am leading up to,” went on the district attorney. “I have an important office to run—a very important office. You know how hard it is to find anybody who has both character and brains! I haven’t got anybody that I can really trust and lean on. Of course there’s Redmond, but he can’t compare with you in ability. And he’s by all odds the best man I’ve got!” [91]

Mr. Farley waited for the effect of his words to sink in.

“If you want to come in here and don’t mind taking rather a low salary, I will see that you get work worthy of your abilities. It will excite some jealousy at first, no doubt, but you are man enough to handle that, and as soon as opportunity offers I’ll shove you up on the pay-roll. Unless something I can’t foresee intervenes—it is even possible that you might in time succeed me as district attorney.”

He spoke earnestly, and Hugh was convinced of his sincerity. The magnitude of the opportunity dawned upon him. Its acceptance might, as the district attorney held out, lead to a political career, or at any rate to a profitable legal one. A man who had once held the office of district attorney invariably fell into a good practice. Yet he still held strongly to the idea that the sending of men to prison for hire was, in general, less ennobling than trying to keep them out of it.

“It is more than kind of you!” he answered. “I am very much flattered.”

“Well, dammit! You ought to be!” thought Mr. Farley.

“My dear fellow,” he said aloud, “it is I who will be flattered if you accept. Is there any reason why you should not do so at once? You seem to have something on your mind. Please be frank with me. If it’s the salary——”

“Oh, the salary doesn’t matter!”

Mr. Farley was pained. Had he thrown away forty-five hundred?

“Well, what is it, then?” [92]

Hugh gave an embarrassed laugh. He did not wish Farley to think of him either as a fool or as animadverting upon the district attorney’s own means of earning a livelihood.

“The fact is I’m not quite sure whether I’d like sending men to jail.”

“Why shouldn’t you?”

“For one thing, I’m not sure I could do it as well! Besides”—he smiled—“I might forget I was prosecuting and object to my own questions!”

“I wouldn’t worry about that!”

“When would the position be open?”

“Now. I’m holding it open for the right man—for you!”

“What sort of work would I have, may I ask?”

“Oh, we’d run you through the mill at first—give you a few days in the police courts, a few more in the Special Sessions, the Indictment, Complaint and Homicide Bureaus, and then set you trying cases. Why not say ‘yes’ right now—

before you go out?"

"I'd like to," said Hugh, "but it wouldn't be fair to either of us if I took your offer without considering all sides of it. It's a radical step."

"A step in the right direction—that of the public service. The People would be your clients. You would be engaged in furthering the great cause of Justice."

Hugh got up. He had begun to like Mr. Farley. Already he had formed a high opinion of his ideals and perspicacity.

"I will let you know to-morrow morning," he said. "It's a very tempting offer. Thanks a lot, anyhow."

Mr. Farley watched Hugh go out with an expression of amusement and incredulity.

"Well, I'll be damned!" he remarked to the imitation rubber plant beside him. "I shouldn't wonder if that young shrimp comes in here he'll be telling me how to run the place inside of a week!" The telephone caught his eye. He looked at the clock. He had still ten minutes before he was due in court. [93]

"Get Mr. Devens for me," he ordered the operator. "Look here, Dick! What sort of a fellow is this, anyway?" he asked him.

Hugh took the elevator to the street. His suspicions were in no way aroused, since the general incompetence of the district attorney's staff was only too manifest, and he could not but be aware of his own ability. He was at the parting of the ways. He was at the end of his resources. As a criminal practitioner he was a failure. Why should he hesitate to accept so glittering an offer?

As he emerged from the side door of the building he encountered two officers dragging an Italian prisoner between them toward the Magistrate's Court. He was bleeding from the nose and mouth. A young woman with a baby at her breast trudged close behind. She was hardly more than a girl. Tears coursed down her cheeks. Whenever the prisoner attempted to speak to her one of the officers would jab him in the ribs with his billy. A little crowd trailed along cursing the police. Could he leave these wretched and unfortunate folk to their fate? One of the Bible verses which his mother had so often read to him came into his mind.

So I returned, and considered all the oppressions that are done under the sun: and behold the tears of such as were oppressed, and they had no comforter; and on the side of their oppressors there was power; but they had no comforter.

He could not!

He realized suddenly just how much he had come to love these dirty, unkempt, ignorant people whom he had succored, many of them sinners, most of them erring, but all of them victims of circumstance and of natural laws so harsh and implacable as to seem unjust. [94]

Would not the gratitude of those for whom he had thrown open the gates of liberty more than compensate him for a life of poverty and hardship? Could he abandon them now—those wretched ones to whom he could truthfully say:

"The deaths that ye died I have watched beside
And the lives that ye lived were mine"!

How could kindness, loyalty, and gayety be put to better service? Impulsively he turned and followed the prisoner into the police court. Forcing his way through the crowd, he said to the clerk:

"I will appear for the defendant."

An hour later, sitting alone in his carpetless office over the Elm Castle Café, he was still deliberating what he should do when he heard a knock on the door behind him.

“Come in!” he called out, without getting up.

Moira’s head appeared in the crack.

“Is the mayor in?” she inquired in an awestruck whisper.

He sprang up and threw the door wide.

“Miss Devens!”

“You call me ‘Moira,’ don’t you? But it’s so long since you came to see me I suppose you’ve forgotten!”

“Moira!”

Her heart went out to him—he looked so miserable—hungry almost.

“Aren’t you going to ask me in? Why have you stayed away?”

He wondered how he could have done so.

[95]

“Do come in!” he said. “I’ve—I’ve been so awfully busy. I’ve started out for myself, you see——”

“How about Dillon and Devens?”

“Devens and Dillon!” They both laughed at that old joke, and immediately felt at ease. She did not urge her question. A single glance about the wretched rooms and at Hugh’s suit, which had not been pressed for a month, was enough to tell her that pride had been the reason for his absence.

“Your office is certainly convenient!” she remarked, looking out of the window at the Tombs. “But it’s not a very cheerful outlook! What a terrible place that is over there! And the Criminal Court Building isn’t much better! It looks quite as much like a prison! May I smoke in a lawyer’s office?”

He struck a match for her.

“In this lawyer’s office!” he said.

She tossed her boa of silver fox upon the desk and took the kitchen chair he offered her.

“Haven’t you missed me?”

“Oh, Moira! How can you ask such a thing!”

She could not misinterpret the emotion in his voice.

“I know how busy you must have been, but you should try to see your friends!”

She smiled and her smile seemed to fill the shabby room with light. The air about them seemed to be fragrant with fresh violets. Here, as in the court-room where he had first seen her, the reflected sunlight from the wall of the Tombs gave her a strange beauty—a sort of aura, through which her eyes regarded him like stars seen through a mist. And she had come to *him*! The realization of that fact filled him with happiness.

“Tell me all about—everything!” she urged.

“The only important thing is that I have been offered a position on the district attorney’s professional staff.”

[96]

“How splendid! Of course you’ll accept it?”

His face became worried.

“I don’t know. Do you think I ought to? I hate a quitter!”

“But this is the chance of your life, Hugh!”

“It is in one way,” he replied. “But I’m not so sure I want it. Now I’m helping people to fight injustice. Less than an hour ago I got a poor devil off who had been falsely accused and beaten up by the cops. That’s something worth while! I don’t want to send people to jail. I don’t want to live on blood money!”

His cheeks had taken on a hectic flush and his voice had risen to an excited pitch.

“But, Hugh!” she said soothingly. “Aren’t you assuming something that isn’t so? Some people really ought to be convicted, oughtn’t they? All your clients are not unjustly accused of crime. You’re not fighting for the right in defending them—any more than if you were prosecuting them—not so much! It’s a question of fact, not of which side you are on.”

“Yes, but—” he began.

“The trouble with you, Hugh,” she interrupted him, “is that you’re a born radical. You mustn’t let that blind you to the fact that it’s easier to demolish a windmill from the inside than to knock it over from the outside. By instinct you’re a reformer. Then why not reform? If you think people are unjustly accused, why don’t you see to it that they aren’t? Why don’t you stop injustice at the source instead of trying to rectify it afterward?”

Hugh listened attentively.

“I never looked at it that way before. You may be right.”

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She leaned forward and laid her hand on his.

“And don’t you want to be a great man, Hugh? Don’t you want to have everybody say how grand you are, and cheer you, and vote for you? Don’t you want to be Mayor of New York? Don’t you think you’d have more influence and right more wrongs than if you were just a criminal lawyer?”

“You’re the one who should be mayor, Moira!”

“Well, perhaps I shall be—who knows? Give me another cigarette.”

He looked for a match and found that they were used up. Twilight was thrusting its bejewelled fingers down Lafayette Street. The sunlight that had tipped the battlements of the Tombs had leaped into the arc of fading blue above, the room had darkened, and they sat in the reflected glow of the lamps outside. He should not have stayed away from her! He was conscious of a great need, the need he had felt ever since he had lost his mother. And much more besides. His eyes strained toward her as an emotion stronger than anything he had ever known before possessed him. There was nothing merely gay or gallant about it. He was profoundly moved. He felt like crying.

He no longer thought about the district attorney’s offer; he was thinking that the only really important thing was that he should be near her.

“Hugh!” Her voice brought him back to the Elm Castle.

“Yes, Moira!”

“This is your great opportunity. Don’t let it slip. The city needs men like you, Hugh! Men who put their ideals above everything else. You didn’t seek the office, it sought you. If you really want to help the cause of justice this is your chance.”

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“If you want me to, Moira—I will.”

“I think it’s your duty, Hugh.”

“Then I’ll tell Farley so to-morrow morning.”

“That’s a good boy!” She got up and looked out at where the little Renault was standing. “And now,” she said, “I’m going to kidnap you for the second time and take you home to dinner!”

It was so dark on the stairs that she had to take his arm. . . .

CHAPTER VI

“Glad you’ve decided to come in with us, Dillon! Redmond will steer you around and show you the ropes. It isn’t as if you hadn’t had any experience. In a week or so, no doubt, you’ll be teaching all of us.”

The Honorable Peter Farley slapped Hugh affectionately upon the back on the threshold of his office, and then turned to his desk.

“For God’s sake tell him to get some decent clothes!” he whispered to Michael Redmond, who was trailing behind them.

“And have him black my eye? Not much! He’ll be all right, chief!” Mr. Redmond slipped a gold cigarette-case back into his pocket, and struck a match. “That is the kind of bird I stay on the right side of!”—then raising his voice—“Come along, Dillon! Let’s see what sort of an office they’ve given you.”

It was Hugh’s first appearance in his official capacity as a deputy assistant district attorney of the County of New York, and accompanied by the Honorable Peter Farley, he had just taken the official oath before Judge Barker down in Criminal Term, Part I, to support the Constitution of the United States and of the State of New York. He had kept his eyes reverently fixed upon the Blind Goddess as he repeated the words of the oath. It distressed him that her lineaments had become so dim, and he commented upon that latter fact to Judge Barker when the latter expressed his congratulations.

“I am delighted, Mr. Dillon! Delighted! Mr. Farley has certainly made an admirable selection—one that will give [100] universal satisfaction!”

To whom, Hugh wondered.

“What you say about that old picture is undoubtedly true. I suppose it would be rather dangerous for anybody except an expert to attempt to clean it. Do you not think it would be advisable, Mr. Farley, for you to make an application to the Board of Estimate and Apportionment for an appropriation to have the panel renovated?”

Mr. Farley, whose interest was purely academic, took a sideways slant at the Blind Goddess.

“Why yes, I suppose so!” he concurred unenthusiastically. “I’ll speak to Buckley about it.”

The news of Hugh’s elevation to officialdom had been carried swiftly through the catacombs of Franklin Street. It amused him to find how much the fact that he was now an office-holder seemed to raise him in the estimation of those with whom he had been constantly associating on intimate terms for months. Lawyers who previously had been rather condescending touched their hats to him while ostentatiously calling him by his first name. The court officers, hitherto somewhat brusque, now treated him with punctilious courtesy, holding open the doors of the court-room for him and dragging common people out of the way in order to facilitate his progress. Michael Redmond had been especially gracious.

“So they’ve given you O’Rourke’s old office! It’s not so bad, after all!” he now exclaimed, as one of the process-servers, who had hurried on ahead, threw open the door of a good-sized room, situated immediately behind the elevator shaft on the top floor of the building. “The Homicide Bureau is over in that corner—they handle all the murders, [101] you know. Just around the corridor is the chief clerk’s office, and that flight of iron stairs leads up to the property-room, where we keep our family skeletons. On the whole rather convenient——”

“If I happen to want a skeleton!” commented the new deputy. “What’s outside?”

They strolled to the window. Below them lay the courtyard of the Tombs, where several hundred prisoners were engaged in taking their morning exercise.

“There are your babies!” remarked Redmond. “It won’t take you long to get used to being on our side of the bar. Have a cigarette? Why don’t we sit down?”

The room was about fifteen feet square, the floor covered with drab oilcloth, the walls and ceiling badly cracked. In one corner stood a tall metal cupboard, called a "safe," but offering no protection other than that afforded by a mere lock, for its tin sides could have been perforated by any self-respecting can-opener. A walnut roll-top desk stood against one wall, while a dusty oak table on which lay a blue blotter and a glass inkwell held the centre of the stage. A grating opened into the room from a sort of chimney.

"Ventilator—leads down into the prison pen," explained Redmond. "If we weren't smoking, you could smell their lunch." He leaned back in his chair and crossed his feet on the table. "You don't mind my giving you a tip or two, old man? You and I must stand together.

"Farley's a good old slob, but he's scared of his own shadow—always trying to please everybody—playing both ends against the middle. He hasn't the nerve to do anything that would get his name in the papers. He wouldn't be hired to go into court himself. If we work together and go about it right, you and I can divide all the star cases between us. [102] That's better than killing each other's chances. Our game is to talk each other up big to Farley until he's convinced that we are the two finest trial lawyers in New York County."

In spite of Hugh's innate distrust of Redmond he was amazed at the cold-blooded attitude which he disclosed.

"Of course you'll find that the other men will try to pocket you and get you assigned to some dirty work like Special Sessions or calendar call in Part I. Don't touch any chicken feed like that. And don't let them dump any lemons on you in the way of rotten cases where nobody can get a conviction. Never pull anybody else's chestnuts out of the fire."

"I'll be on the lookout!" Hugh assured him.

"You've got to be hard as nails in this business. 'Survival of the fittest,' you know! Be agreeable to everybody but don't let 'em put anything over on you. Don't waste time on doubtful cases. Nothing counts here but convictions, and those don't unless they get into the papers. What you want to try for is a big murder case."

Hugh nodded.

"By the way, if I can help you in any other way—you're more or less of a stranger in New York, I believe—just call on me. I can tip you off to the best restaurants and all that sort of thing. If you should think of trying a new tailor I have a very good little firm—Erdman and Erdman—whom you might find satisfactory. Ta-ta!" Redmond with a graceful gesture of farewell sauntered out.

So the Honorable Michael thought his clothes were not good enough, did he? Hugh scowled after the elegantly clad retreating form. Well, Mr. Michael Redmond could go straight to the devil! He decided that the first thing to do was to see what condition the desk was in. Before he had rolled back the top, however, he gave his coat a surreptitious [103] glance. It was pretty shabby at that. So were the trousers. After all, he was a public official. Perhaps he should have some new clothes. He had worn the same suit ever since he had been in New York! He must make himself presentable to Moira—get some new clothes that very afternoon. He loathed Redmond—that smiling, debonair villain! He'd knife you in a minute—most gracefully. Yet he could see that Moira liked him. The gallant Michael was certainly ornamental. Erdman & Erdman! Yes, he would get some new clothes—he could afford them now. And he would move uptown—nearer Moira.

Phew! He pinched his breath at the cloud of dust that arose when he threw back the top of Mr. O'Rourke's desk. The honorable assistant preceding him evidently had not regarded his relationship to the public service as sufficiently important even to remove his papers! The pigeon-holes and drawers were crammed with letters, stenographic reports of trials, blank subpœnas, and expense accounts. A bundle of indictments, seventeen in number, and involving as many different offenses against the law, was stuffed under the row of pigeon-holes. It was labelled "Calendar—Part V," and dated three weeks before.

Hugh's new office was situated upon the fourth story of the Criminal Court Building, a hideous structure of red brick with stone trimmings which, erected in 1885, was already in a state of advanced decrepitude, its buckling walls having more than once been made the object of official condemnation as a menace to human life.

The Tombs is the bin, the Criminal Court Building the hopper, of the great mill of so-called “criminal justice.” [104] Through the “Bridge of Sighs,” which joins the two, the human grain pours slowly into the receiving cells until their contents overflow into the courts, some to be ground—“dust to dust,”—others to be flung out, marred and broken, into the whirlpool of life.

Covering an entire block and facing toward every point of the compass, the building might have been so constructed as to be full of light, yet it is one of the gloomiest structures in the world. Tier on tier it rises about a huge central rotunda, rimmed by grimy mezzanines and corridors upon which the court-rooms open, and crowned by a theoretically transparent, but hermetically sealed, glass roof, through which filters a soiled and viscous light. The air here is never changed, and the atmosphere is rancid with the stench of bad cigars, of garlic, and the sweat of southern Italy.

When the courts are in session the corridors swarm with newly landed “greenhorns” victimized by sharpers, negro dandies in gray derbies and drab surtouts, blue-bloused Chinamen, black-bearded rabbis, thieves, detectives, pawnbrokers, shyster lawyers in tall silk hats with their “runners” or “ambulance chasers,” bootleggers, politicians, policemen, widows of murdered men.

Flimsy elevators bulging with human ruffraff clang and rattle to the court-room floor. “Part One. All out!” A tall officer hurries by. “Stand back there! Make way for his honor the judge!” The crowd parts before the majesty of the Law, as a figure in black, followed by his attendants, strides grandly down the hall, his silken robe bellying behind him.

From the corridor rail one looks down upon the marble pavement of the great hall of entrance, reached by long [105] and imposing flights of steps from both Lafayette and Centre Streets. It is really the second story of the building, beneath which is another at the ground level, as dark as the Tomb of Rhadames, where the coroner used to hold his inquests. There is darkness and dirt everywhere! The cohort of scrubwomen who appear with their pails and mops at six o’clock make no impression upon the tobacco-stained corridors. The dust hangs in clouds about the offices of the district attorney and his assistants, and lies thick on every safe, chair, and table; cracks make maps on every ceiling; there are fissures like canyons on every wall.

The official atmosphere is one of lassitude. Process-servers lounge at little desks in a long room like rows of schoolboys awaiting the hour for dismissal. An attendant sitting at the door of the district attorney’s office directs inquirers to the Complaint Bureau, the Grand Jury Clerk, the Bail Bond Department, the Chief Clerk’s Office, the Magistrate’s Court. On a bench near by a Yiddish woman holding a baby is forever waiting for somebody to come back from lunch.

Around the corridor on the other side of the building are the precincts sacred to the judges of the General Sessions—the holders of the juiciest political plums in the gift of their respective “organizations”—each receiving a salary of seventeen thousand five hundred dollars for holding court from ten o’clock until four, and entrusted with the power of life and death. They are good-natured men, these judges, except when afflicted with bodily ills; complacent, for they have reached the summit of ambition, and have naught to fear until their ten-year terms are ended. Hence they err on the side of kindness rather than of severity. But of course all do not see things in the same way, and one of them may [106] sentence a defendant to prison when his associate for a similar offense will send him home to his family on parole. Some of them have racial and religious prejudices of which they are unaware; some have indigestion. Occasionally one of them may become a little queer in the head without anybody suspecting it. A few are densely stupid. Like other men.

On the floor above are the rooms of the stenographers, the chief clerk, and the assistants of the district attorney, of whom there are nearly fifty—all, except those rendered invaluable from long experience, political appointees losing their jobs with every change of complexion in the city government, fearful of “pull” and those who are “next,” or nearer than themselves, to the man higher up.

And now, at last having climbed the dusty iron stairs leading upward from outside Hugh’s door, we have reached the eaves of the rotten old building and find ourselves in a hot and hideous hinterland of macabre shadows, penthouses, filthy skylights, and the grinding sheaves of the elevators.

Here under the very roof-tree our further progress is barred by a grating of heavy wire. Beyond is a spectral junk-shop

lined with shelves filled with grotesque and misshapen bundles—the “property room” of the district attorney—where the exhibits that have proven men guilty are carefully preserved. Here are all the instruments of homicide and of felony. At the further end stands a huge rusty safe, along the wall are ranged trunks, barrels, and packing-boxes that once held decapitated corpses, while here and there skeletons dangle palely, and blackened skulls leer from behind carboys of noxious fluid, foetuses held in pickle, or bottles containing poison—a horrible curiosity-shop, a witch’s caldron of awful condiments, including literally the eye of newt, the toe of frog, the finger of birth-strangled babe. There is naught you cannot find here of fiendish ingenuity or hideous mischance—and with each horrible reminder the dead live again and the grinning assassin enacts his crime before us.

A shadow darkens the skylight. A bat? No, it is one of the pigeons that haunt the roof, the ghosts perhaps of those [107] poor humans whose ghastly relics line the shelves.

Skeleton iron ladders lead to the roof’s tin acreage, where hundreds of birds coo and flutter careless of the tragedies enacted below, or strut pridefully along window ledges behind which men are being sentenced to death or to imprisonment for life. Up there against the blue, beyond the reach of law, they wheel in flashing esquadriles, turning abruptly at the inaudible signal of their leader.

No pigeon is forced to beat his wings against the bars of an iron cage. He lives and dies according to the law of nature, less harsh in its implacability than that of man. The menace of pigeon-pie may lurk behind the penthouse in the person of the stout janitor, or even in that of the lean black cat attached to the fire-house across White Street, but, whate’er his fate, his bodily sufferings will have ended. His soul will soar instanter—as he soared in life.

So the pigeons wheel happily in the sunlight. Below, tier on tier—like galley slaves chained in their places—the men who make their living through the punishment of lawbreakers sit in their cubicles, working or dreaming, as the case may be, of crime or the stock market, of the rules of evidence or the next election, of the love of women or the electric chair, while—separated only by the narrow chasm, bridged by that fearful viaduct across which so many thousands of [108] human beings have been led in gyves—the Tombs, like a giant fly-trap, swarms with those who, caught in the meshes of the law, await their trial, condemnation, and possible extinction.

A blue pigeon on the roof-tree of the mill of justice cocks its red eye and edges toward his neighbor. A second later the sunlight is white with the wings of angels. They swoop over the grimy skylight of the property room, where some one is tagging the shoes of a murdered man, and, wheeling above the canyon, drop swiftly downward—past the windows of the prosecuting attorneys, their clerks and process-servers, the judges smoking in their spacious chambers, the crowded court-rooms with their rows of jurymen and spectators, the “pens,” where pallid prisoners sit hopelessly awaiting trial, silent with their heads in their hands or cursing an indifferent God; past the detention room for truants and incorrigibles; past the packed sty of the Special Sessions, with its herd of cynical offenders; past the Criminal Trial Term, where sit the Parcae passing the thread of life from hand to hand—the Weaver, the Measurer, the Cutter—and Justice stands gazing proudly toward the vanishing point of an unattainable ideal; past the catacombs below the rotunda and the antique office of the defunct coroner; until they reach the street, where, unmindful of the wheels of Juggernaut or the feet of the careless, they peck the grain which Providence has provided for them. “Are not two sparrows sold for a farthing? And one of them shall not fall to the ground without your Father!”

Six weeks had passed since Hugh’s translation to office—weeks as happy as those preceding it had been [109] wretched. Outwardly he had undergone an astonishing metamorphosis. In place of the frayed blue suit in which he had sought his fortune in the metropolis, he now wore a smart gray homespun, in which he looked fifty pounds heavier and at least ten years older. Neither did the fact that his hair had been trimmed, without being noticeably shortened, detract from his appearance. A clean-cut, capable, and determined young man, one would have said—either the younger partner in a prosperous banking-house or one of its junior legal advisers. Nor did he any longer dwell in the shadow of the Tombs, for his salary had enabled him to take a small bachelor apartment uptown. He was now a constant and welcome visitor at the marzipan house, and Devens appeared to have taken quite a fancy to him. His career at the office had been little short of meteoric. Instead of an apprenticeship in the police courts and the grind of Special Sessions, he had at once been given charge of one of the “trial” parts of the General Sessions, and had already prosecuted several important cases. As commonly expressed, Dillon was “a comer.”

Jeffrey Quirk had severed his connection with the firm of Hoyle & O'Hara and secured a position as process-server in the district attorney's office.

"Remember how I said some day I'd carry your bag when you was Mayor of New York, Mr. Dillon?—I can carry it right now."

And he did so forthwith, securing a special assignment from the chief process-server to assist Hugh in the preparation of cases and filling a curiously anomalous position as friend, private secretary, bodyguard, and legal valet. Wherever he went, there Quirk went also, the first person Hugh saw in the morning, the last to leave the office at night, and in the interim constantly at his master's side.

Nothing further had been heard of the charges against the A. A. & B., which had led to his rupture with Hoyle and [110] had had such an important bearing upon his career, until one afternoon, having been summoned by the district attorney, he discovered him in conference with none other than Mr. Otto Kranich himself.

"How are you, dear fellow!" The lawyer's smile was more vulpine than ever. "God moves in a mysterious way, doesn't he!"

Farley was pensively perusing a familiar bundle of blue papers. He waved Hugh to a seat beside him.

"I wish you'd take this matter and look into it," he said grumpily. "I have no time for these complicated financial cases. I've told Mr. Kranich that we'll give him whatever assistance he's entitled to—provided, of course, his charges are substantiated."

"I don't ask anything more!" declared the attorney. "And I don't want anybody better than Mr. Dillon. Whatever he does will suit *me!*"

"Well, go to it then!" Farley held out the dossier to Hugh.

"Don't you think you'd better select another assistant for that case, Mr. Farley?" replied Hugh without taking the papers from his chief's outstretched hand. "I'm up to my neck——"

"This is more important than the regular routine work. You're the very man for it."

"I'd like a word with you first, if you don't mind."

"By all means!" offered Mr. Kranich. "Let me step out!" And he drifted like cigar smoke across the threshold of the outer office.

"I can't take that case, Mr. Farley!" protested Hugh. "I'm a friend of both Mr. Devens and Mr. Shay. It wouldn't be fair to them or to Mr. Kranich either."

"That's the very reason for you to take it," returned the district attorney. "I can be sure of your being absolutely [111] impartial. Between you and me this fellow is a notorious blackmailer of corporations. Unless he makes a clear case, kick him out!"

"But suppose he does? You wouldn't put me in the position of prosecuting a friend!"

Mr. Farley hesitated.

"We can cross that bridge when we come to it. Only I guess we'll never get there! It would be largely a matter of taste."

"Then," said Hugh, "out of respect for my taste I ask you to assign this matter to some one else."

Mr. Farley clucked like a hen.

"Tut-tut! Don't be silly!"

Hugh's lips drew to a line.

"You are putting me in a very embarrassing position!" he protested. "I don't see the necessity for this."

"Look here, Dillon!" snapped the district attorney with unexpected animation. "It isn't necessary that you should! You'll either take that case and say no more about it, or"—he hesitated—"or—" he repeated, vaguely.

Hugh bowed.

"Very well! If you absolutely order me to do so. But only because you order me. If I find that there is a case against Mr. Devens or Mr. Shay, I shall come to you again!"

Mr. Farley's severe expression melted into one of complacent relief.

"That's the boy!" he exclaimed jovially. "Terry, send for Mr. Kranich!"

"And so here we are again—after all!" Mr. Kranich exhibited his yellow tusks in a revolting attempt at good fellowship. "What a lot of pigeons!" [112]

They were seated in Hugh's office at the convict-made oak table, upon which was spread a mass of papers relating to the A. A. & B.

"It's a cinch! Devens and Shay have been milking the A. A. and B. for years by means of a dummy corporation called the J. S. Burke Co., of which they own all the stock, and which is given the opportunity to underwrite the bonds of the parent company at a huge discount. They've made millions that way."

Hugh listened distrustfully.

"But what interest have you got in the matter?"

Mr. Kranich fumbled in his brief-case and extracted a light-green stock certificate for ten shares in the Associated Architects and Builders Corporation.

"That of every stockholder," he answered brightly. "As such I have the right to inspect their books. Of course I can't really get it. But they won't try any of their monkey shines with you. They'll come running to eat out of your hand."

Daniel Shay, according to Lawyer Kranich, was the nigger in the wood-pile, but the nigger's owner was "Old Man" Devens—if they could only reach him! And the way to reach him—here Mr. Kranich again exposed his canines—was to convict Shay first and make him give up. With a ten-year term staring him in the face he would be glad enough to turn state's evidence! Hugh wanted to take the blackmailing attorney by the scruff of the neck and hurl him bodily out of the window, across the chasm of Franklin Street, into the courtyard of the Tombs where he belonged. And yet, suppose Shay had, in fact, violated the law? Was it not the duty of the district attorney to prosecute every crime brought to his attention? But he need not lend his assistance to any blackmailing scheme! He did not have to act as Kranich's attorney in forcing open the books of the A. A. & B. He could properly wait until Kranich had taken the case before a magistrate and laid the full evidence before him. [113]

He was about to so inform his visitor when the latter pulled from his case a printed circular bearing upon its cover the lithograph of an eighteen-story apartment-house of the latest architectural design and apparently constructed entirely of white marble. Fleecy clouds swam in the blue empyrean above its classic cornice. Flower-boxes bloomed in the lower windows. Little children rolled hoops and sported on the snowy pavement before the door. A chauffeur loitered smartly by a plane-tree at the curb. Beneath appeared in neat gold type the simple inscription:

"943-5 FIFTH AVENUE."

On the pages within, J. S. Burke Co. offered the few remaining first mortgage 6 per cent gold bonds, alleged to be

secured by the land and “modern fireproof steel apartment-house” at No. 943-5 Fifth Avenue, still remaining in their hands, at 103¼ and accrued interest.

“Only there isn’t any apartment-house at nine forty-three Fifth Avenue,” declared Kranich. “There’s not even a hole in the ground up there. All the J. S. Burke Co. has got on the present property are two old-fashioned four-story brick dwelling-houses.”

Hugh read over the text of the circular several times. A careful study of its phraseology would, it is true, yield the information that the apartment-house in question had not yet been built, but was only, so to speak, *in futuro roseo*. Yet the casual reader would be led to assume that it was not only erected, but in full operation. The security was not [114] only worthless; there was no security!

The Honorable Michael Redmond, by chance present at the succeeding colloquy regarding the A. A. & B. between the district attorney and his new deputy, never ceased publicly and privately to marvel at the latter’s simple-mindedness. Recounting it to one greater than he, by virtue of whose grace the said Michael lived, moved, and had his official being, he emphasized the darn fool’s utter lack of practicality. He was, as Mr. Redmond pointed out, like a fellow alone on a desert island worrying about whether or not he was telling himself the truth.

The Honorable Michael, who generously admired all the homelier virtues which he lacked himself, declared that really this Dillon person captured the holy biscuit. To be specific, he had, while Redmond was there, bolted unexpectedly into the D. A.’s office, frothing at the mouth, with his blue-black hair standing on end, and denounced Kranich as a dirty dog, a blackmailer, and the servant of blackmailers, and stated that he had kicked him out. Now anybody with the intelligence of a child of six would of course have known that that was precisely what Farley had given him the case for. Naturally, a man of Farley’s class wasn’t going to tell Dillon literally to smother any proceeding against the “Old Man’s” interests, but a yokel would have understood that without being told. Devens had made Farley what he was, Devens had had Farley appoint Dillon—and—naturally—when there was any complaint involving the “Old Man,” Dillon was the fellow to attend to it. So when Dillon had told Farley that he had kicked Kranich out of the office, the D. A. had lightly [115] nodded to indicate that such had been on the cards, and that he had expected nothing less. Then had come the bomb.

“But, all the same, he’s got a case against the A. A. and B.!” Hugh leaned on his fists over Farley’s desk. “Half their securities are practically worthless at the time they are issued. It looks as if they’ve been selling mortgage bonds against non-existent property, relying in case of trouble on taking them up with the proceeds of other bonds of the same sort—the old Ponzi trick—only they’ve been kiting bonds instead of checks.”

“*Caveat emptor!*” remarked the district attorney. “Most of the people who buy that kind of stuff do so in order to sell it over again.”

“That may be! But I’d have taken the case in a minute if I hadn’t been satisfied that all Kranich wants is to depress the market value of A. A. and B. stock. I fancy his crowd are afraid to go very heavily short of it, because they don’t really know the value of its assets.”

“A company can be crooked as hell,” commented Redmond, “and yet—and perhaps because of it—be piling up a big surplus.”

“What’s he going to do now?” asked Farley.

“Start a police court proceeding on his own hook at once. He’ll get all the publicity he wants that way, only he’ll have to pay a lawyer instead of getting us to do it for nothing.”

“If he gets Levi L. Levy to represent them they’ll smash A. A. and B. into the middle of next week!” asserted Redmond. “They’ll make a pile of money!”

Hugh still leaned on his fists, his flushed face peering into Farley’s. It was right here, according to the Honorable [116] Michael, that the bally young ass insisted on throwing a Brazilian into the machinery.

“Well, *what are you going to do about it?*”

The district attorney stared at him.

“Me? What should I do about it?”

“*Prosecute!*”

“Why?”

“Because a crime has been committed within your jurisdiction and the fact has been brought to your attention.”

“That’s all right. Kranich is going to prosecute it on his own account, isn’t he?”

“But we know that he really doesn’t want to convict anybody. All he wants is money. His prosecution isn’t an honest prosecution. It’s merely a pretense. There should be an honest prosecution of the A. A. and B.”

Redmond exchanged a glance with his chief.

“We’ve done all our duty requires,” said the district attorney in a placating tone. “You’ve thrown the case out of the office. For God’s sake let it stay there!”

“Do you mean you *won’t* prosecute?”

Mr. Farley fidgeted in his chair.

“I can’t prosecute everything!” he protested irritably. “I have to exercise *some* discretion. I could spend my whole appropriation and utilize the services of my entire staff merely going after spitters. You wouldn’t have me do that, would you?”

“No,” retorted Hugh. “Not after spitters, but I would after grafters!”

“All right!” exploded Farley in a burst of inspiration. “If you’re so damned hot to prosecute—go ahead and prosecute. I’ll assign you for that purpose!”

Hugh stood up. His cheeks were an angry red.

“Won’t you assign somebody else? You know my reasons for not wishing to act in this matter!”

[117]

“No!” growled Farley. “If anybody prosecutes the A. A. and B. as my representative, you will be the one to do it!”

And so for the time being the matter ended, save for the single remark made by Mr. Redmond to his superior officer later in the day at Pontin’s:

“Looks to me, chief,” he hazarded, “as if you had a small wildcat by the tail!”

[118]

CHAPTER VII

It may have been true, as was asserted by those who paid it, that Levi L. Levy was worth the one thousand dollars per diem which he received for appearing in court. If so, it was less on account of his actual legal ability—which was not inconsiderable—than the mysterious fear which he inspired in presiding judges and opposing lawyers. His reputation as a verdict-getter was exceeded only by that of his “influence,” high-class attorneys habitually retaining him in desperate cases in the hope, if not expectation, that in some circuitous way he might be able to put a flea in the judge’s ear. Mr. Levy encouraged this belief by vague references to the Garden City Golf Course and such remarks as “Only the other day the P. J. said to me ‘Levy,—’” leaving it in doubt whether he had been called by his first or last name. His reputation, like that of most great barristers, was based upon the cases he had won, omitting those which he had lost. But when Levi L. Levy walked into court and bowed in his sinister, intimidating way to the presiding judge, the latter’s pulse was apt to flutter, and his hand to steal unostentatiously toward the copy of the Code of Civil Procedure, concealed beneath *The Law Journal*.

Thus it was not surprising that when Mr. Levi L. Levy, accompanied by his aggrieved client, Mr. Otto Kranich, appeared before Magistrate Hocktor and announced that he was there to lay a criminal information against the officers and directors of the Associated Architects and Builders Corporation, its stock, which had been previously quoted on [119] the market at eighty-seven, closed at eighty-one. Mr. Levy had said very little to the reporters, but he had made it evident by his manner that he intended to sift the iniquities of the A. A. & B., and its agents, to the very bottom, sparing nobody. And Magistrate Hocktor, gratified by the presence of the great Mr. Levy in his humble court, and even more by the publicity given to his own name in the newspaper accounts of the proceedings, announced that he would hold biweekly hearings and afford all parties the widest latitude to get at the truth. If a crime had been committed, he declared, glaring at the representatives of the press, he for his part would do his utmost to bring the perpetrators to justice.

“And bite ’em!” murmured Charlie White. “Say, Dillon, what is this? Isn’t Kranich the fellow who got out an injunction against that last New York Central bond issue?—Sure he is! Had a mysterious client named Juda P. Sheep. Nobody could ever find him? Don’t you remember F. P. A. got off a wise crack: ‘We, like Sheep, have gone astray?’”

“Don’t know. I wasn’t in this country,” Hugh replied. “Please note that the district attorney’s office is not represented at this hearing. I’m just an interested observer. What’s that Hocktor is saying?”

“As this seems to be a matter of considerable public importance,” continued His Honor, “I shall hold the hearings in one of the General Sessions court-rooms in order that we may have plenty of space and proceed in an orderly fashion. Is that satisfactory? How will Thursday afternoon at four suit you, gentlemen?”

He beamed down upon the group of distinguished attorneys, all of whom professed to be very well suited with the arrangement indeed.

“If there is nothing more to-day, then we will adjourn. Good afternoon, gentlemen!”

[120]

As Hugh struggled with the crowd in the elevator he could not help marvelling at the difference in Judge Hocktor’s demeanor toward the well-dressed officials of the A. A. & B. and the defendants ordinarily brought before him under arrest. So polite was he that he almost seemed to feel as if the former had done him a personal favor by committing their offense within his jurisdiction.

If some shabby, hollow-chested “dip” had been arrested and haled before him, would Hocktor have bowed and smirked at him? Would he have consulted his lawyer’s convenience? The chances are that the prisoner would not even have a lawyer and that Hocktor would have sent him up for thirty days for disorderly conduct, if nothing else. “The strong arm of the law.” It was strong-arm work right enough!

The morning papers carried full-page stories of the preliminary police court proceedings and what Mr. Levi L. Levy had said he intended to prove about the A. A. & B., from which it was quite clear that everybody connected with it ought to

be in jail. There was also a column or so of biographical matter relating to Messrs. Devens and Levy with a photographic reproduction by Underwood & Underwood of Mr. Levy getting out of his taxi. The general impression left after reading it was that Mr. Devens and Mr. Levy were both very great men, especially Mr. Levy, and that they were about to engage in a Titanic struggle for the souls of the inhabitants of New York City. At the end a short paragraph called attention to the fact that A. A. & B. stock had fallen six points on sales of one thousand one hundred and fifty shares.

“I see Kranich cleaned up twenty-two thousand already!” remarked Mr. Redmond in the elevator. “I’m half inclined to go short of the damn stuff myself. What’s your impression of what is going to happen?” [121]

“I haven’t any!—and if I had I wouldn’t tell you!” answered Hugh with emphasis.

“No use being so snorty about it!” retorted the Honorable Michael. “I don’t sacrifice any of my privileges as an individual citizen simply because I’m a public officer. And one of ’em is to gamble my salary on the stock market. If I want to sell A. A. and B. short I shall.”

Hugh did not reply. A district attorney, obviously, had no business to speculate in a security the value of which might be affected by what went on inside his office. But Redmond probably didn’t intend to do any such thing. He liked to show his independence by putting his worst foot foremost.

“Well, old Galahad, I suppose you saw what happened to A. A. and B.?” he remarked again at lunch time. “They’ve knocked it down to fifty-two—thrown it on the market in one thousand share lots. At this price Kranich’s crowd can cover at a profit of over three hundred thousand dollars. Not a bad little adventure! Sometimes I feel as if my abilities were being wasted in the prosecution of crime.”

His impression in this regard might have been confirmed had he known that the heaviest seller of A. A. & B. was none other than “Old Man” Devens himself. For an ill wind blows alike for the just and the unjust, with equal opportunities for all.

During the following week the fluctuations in the stock more or less kept pace with the evidence adduced by Mr. Levi L. Levy before Magistrate Hocktor. Somebody was clearly attempting to drive A. A. & B. down to nothing, and in this laudable effort the public assisted with an avalanche of short sales. But having touched nineteen for a single transaction on the morning after Mr. Levy had intimated that many of its so-called “securities” were nothing more than purchase-money mortgages for the full value of the property, followed by second and third mortgages for no value at all, the stock unaccountably shot up to thirty-one, and from there to forty on heavy covering within the brief period of twenty minutes, and by three o’clock it was back to seventy-nine, or only eighteen points off its high figure before the attack. Indeed, it almost began to look as if Mr. Levy’s disclosures would have the effect of sending the stock of A. A. & B. above par. At the conclusion of the session upon that same afternoon Mr. Levi L. Levy arose and stated to Magistrate Hocktor that a very important engagement in Washington compelled him to ask for a week’s adjournment, to which the attorneys for the A. A. & B. offered no objection. [122]

Coincidentally it began to be rumored that Mr. Kranich’s enthusiasm for bringing the malefactors controlling the A. A. & B. to justice had subsided in inverse ratio to the latest rise in the value of its stock. It was said that, in spite of the iniquities of management disclosed, Mr. Levy had discovered it to be worth nearly par, and since his client’s interest was limited to but ten shares, there was no real point in his going on with the prosecution. No one, however, took occasion to explain who had found it worth while to pay Mr. Levy his per diem. It was at this juncture that an event totally unexpected by all the parties in interest occurred.

“Can you show me to the court, sir?”

Hugh, in the elevator, found himself looking down into the rheumy eyes of an old woman, whose thin, white locks were covered by a small old-fashioned bonnet, and whose feet in several places had burst through her shoes. [123]

“What court do you wish to find, ma’am?” he asked.

“The court where they are trying Mr. Shay, sir.”

“You mean the case against the Associated Architects and Builders?”

“I guess so, sir.” She fumbled in a black reticule. “If that is the company I bought my bond from.”

They were obstructing the door of the elevator and Hugh led her around to his office, where, from a piece of brown paper, she unfolded one of the bonds referred to in the circular which Kranich had shown him, bearing the lithograph of the white marble apartment-house and the little children rolling their hoops. Her name, she said, was Mrs. Martha Saunders, and she was a widow, living in Flatbush. Her entire savings were in that bond. It was all that stood between her and the almshouse. She had bought it of an agent who had come to her flat. But she had not done so without first assuring herself that it was a sound investment by going to the offices of the J. S. Burke Co. and interviewing Mr. Shay, the great Mr. Daniel Shay, for whom her husband, who had been a hodcarrier, had once worked. She had had considerable difficulty in getting to him, but at last she had done so, and had asked him if he could recommend the investment, to which Mr. Shay had responded heartily that there was none better, that steel beams couldn't run away, while stocks and bonds could. So she had taken her money out of the savings bank and bought the bond—and had been getting a check for fifteen dollars every quarter. Then she had fallen ill, and when she had recovered enough to do so, she had tried to sell the bond to pay her doctor and other debts, but although she had gone directly to the offices of [124] the A. A. & B. as well as to the J. S. Burke Co., they would not repurchase the bond. They sold bonds, they explained, they did not buy them. She should go to a broker. But she could get no bid for the bond that did not seem too great a loss for her to take.

In trepidation she had taken the subway to Fifth Avenue, and walked to No. 943. Alas, where she had expected to find a towering edifice, with stately doormen, and windows full of flowers, there was nothing except two old-fashioned brick houses with “for sale” signs in the windows. Then, to add to her apprehension, she had read in the papers about Mr. Levy's investigations of the A. A. & B., and what he had said about its securities being valueless. It had been a terrible shock. She would have to go to the poorhouse if she could not sell the bond. She wondered if the fact that the A. A. & B. was being investigated might not make a difference, and whether, if she took the bond to Mr. Shay, he might not be willing now to take it back?

She did not want to make trouble for Mr. Shay, but she did not wish to be sent to Ward's Island as a pauper, and—could she have a drink of water?

Hugh sent her off with Quirk for her glass of water. All his misgivings had reasserted themselves. This poor old soul had been robbed as much as if she had been knocked down or sandbagged. Worse! She had not been given even a fighting chance. What better example could be found of the incalculable effect of financial dishonesty? Neither Devens nor Shay knew who was going to buy their worthless bonds! Buy the bond back? Of course Shay would buy the bond back! No doubt he'd give five—ten—twenty-five thousand dollars for it to get the case out of the way! For he had made the one fatal mistake in high finance, he had made personal representations regarding an investment. [125]

On the other hand Kranich would pay as much for that bond as Daniel Shay. It was probably the most valuable bond in New York at that moment.

There could be no doubt of his duty as a servant of the public. He had sworn to uphold the equal administration of the laws—to enforce them against rich and poor alike. Could he go down into court and ask a jury to convict some hunger-driven thief while allowing this pair of fancy swindlers to prey upon the community? Which was the greater criminal, the man who took the bottle of milk from Mrs. Saunders' threshold or he who stole her savings of a lifetime? Moira had said that this was his chance. Kranich's attack upon the A. A. & B. had been merely camouflage for blackmail. It was already over, having served its purpose. Farley had authorized him to prosecute the A. A. & B. No one else would do it, that was certain!

“Mrs. Saunders,” he said, as she and Quirk reappeared in the doorway, “I am going to take you before the Grand Jury. Jeffrey, please go down and ask the foreman when it will be convenient for them to give me a few moments of their time upon a matter of considerable importance.”

The usual conference at the marzipan house that afternoon was signaled by the presence of Mr. Ebenezer Hoyle, who

arrived unexpectedly about a quarter to six, and was immediately conducted by Shane to the den where Devens and Shay were already in conference.

“I thought everything was signed, sealed, and delivered!” declared Devens. “Has there been any slip-up?”

“Not in our arrangements with Kranich,” answered Hoyle. “He is more than satisfied if we pay Levy’s bill. That proceeding is all over, adjourned sine die.” [126]

“I trust you seized the opportunity, as the rest of us did, to profit by the temporary slump in the market?” remarked his client.

“I sold a few shares,” answered the lawyer, “and bought ’em in again,” he added.

“What do you figure those scoundrels made?” asked Uncle Dan.

“About the same as my client here,” blandly replied Hoyle. “Fifty-fifty, I should say. And I wish you the same. But that’s not what I came here about.”

There was something ominous in the glutinous flow of his utterance.

“No—not at all,” he continued. “Your chicken has come home to roost, Mr. Devens.”

“What chicken?”

“Dillon has started a Grand Jury proceeding against the A. A. and B.,” answered Hoyle. “I told you he was dangerous.”

Devens’ scowl expressed as much bewilderment as anger.

“I don’t understand. I thought we had succeeded in calling Kranich and Levy off entirely. What’s Dillon to do with it? Anyhow, I got him his job. He’s a friend of mine.”

“The Lord deliver us from our friends!” Hoyle touched his finger-tips together as if in prayer. “This fellow’s crazy as a coot. He doesn’t function like other people. Do you realize that he fired himself from our office merely because I proposed to string Kranich along a few days to find out what he had against you, and that when Farley sent him the case he kicked it out? Now, right on top of that, he starts an investigation on his own hook!” [127]

“I don’t understand it,” exclaimed Devens, screwing his cigar into a bronze ash-tray.

“It’s totally unexpected—and, I may add, damn dangerous. This fellow’s not only a wild ass, but he’s clever! It’s easy enough for us to handle a private prosecution before a magistrate where we can insist upon the regular rules of evidence and exercise some control of the proceedings. But it’s entirely different when the witnesses and our books are examined behind closed doors. Some of those fellows on the Grand Jury are pretty smart. There’s no telling where we’ll get off. He’ll come pretty close to sending some one to jail.”

“I should have let Dillon know I was responsible for his appointment,” remarked Devens.

“A lot of good that would do!”

“Do you mean he isn’t on the level?”

“I mean he’s a reformer.”

Devens struck the table with his fist. What was the use of being decent to anybody!

“One more thing,” said Hoyle reaching for his hat. “I’m afraid we can’t hold Mrs. Clayton much longer. She was down again yesterday, threatening to kill herself if we didn’t let her see her daughter.”

“She’s threatened the same thing often enough.”

“Never when she looked as she does now. The woman’s in an abnormal condition. Even if she doesn’t carry out her threat, she may have to be committed to an asylum.”

A furrow came between Devens’ eyebrows.

“Have you had her under medical observation?”

“Right along, in the dining-room of the Blackwell, on the street, at our office. The doctors all say that she’s in a bad way. However, she probably won’t do anything until we have time to straighten out this other matter. We’ve got to decide how to handle this young bobcat.” [128]

“I wish to God Moira had never brought him up here.”

Hoyle stood up.

“I must be going along,” he said. “I thought it best to warn you. We’ve got to be prepared for anything. With so much publicity all sorts of unexpected witnesses might turn up. I understand they had a woman named Saunders before the Grand Jury to-day, who told some sort of a story implicating Shay. Claimed he sold her a bond direct, or something of the sort.”

“I never heard of such a woman,” ejaculated Uncle Dan. “I never see anybody.”

“That may be. But you’ve got to be ready to meet her testimony. You gentlemen must consider what you are going to say if Dillon calls either of you before the Grand Jury. You can’t go it blind—I suggest we get together to-morrow morning and decide what to do. Shall I give you a lift, Shay? I’ve a taxi outside.”

Richard Devens closed the door behind them, perturbed and puzzled. Dillon’s conduct seemed to him incredible. He had been brought up in the school of politics where friendship takes precedence over all other loyalties. He believed that he should not have yielded to Moira’s request to conceal from Hugh the source of his preferment. It had been against his instinct. If you did a favor for a man, you should let him know it. Too late now. Should anybody intimate the truth to Dillon, the boy would probably regard it as an attempt to influence him, to “pull him off,” and might even be goaded into new eccentricities.

But his friendship for Moira ought to have been enough to lead him to pass on to her father a friendly warning of what might happen. Dillon was not playing the game. Devens decided that he had made a mistake in regard to that young man. The fellow was obviously, in spite of his ingratiating appearance, one of those highbrow holier-than-thous bent on getting everybody into trouble. [129]

Everybody? Richard Devens, multimillionaire and political power, felt a dampness ooze out upon his forehead. The possibility of such a contingency as the present had never entered his unimaginative mind. He was sincere in his belief that he had never consciously wronged any human being unless that being had first wronged him. Certainly he had not harmed anybody through the A. A. & B. or the J. S. Burke Co. Of course, he was not in business for his health. Nobody was!

It was just that bunch of blackmailers down in Wall Street. And this crazy ass Dillon. Luckily, he had been careful not to incriminate himself.

Treachery on the part of Shay was unthinkable! Even if they got the goods on Dan, it would take years to land him in Sing Sing or Great Meadow. A smart guy like Hoyle, or Bourke Cockran, or Clarence Darrow, could tie a case up indefinitely. No jury would convict an honest old fellow like Uncle Dan. If they did, by God, he’d appeal the case all the way up to the United States Supreme Court. Dan would be out on bail, and if eventually the conviction should stand, by that time the matter would have been forgotten, and the defendant would be so old that any governor who had the least spark of human sympathy would pardon him. That Dan should go to jail was a possibility so remote as to be fantastic. As he dressed for dinner he wondered if anything would really come of it. This wasn’t the first scare he had had by [130]

any means. He and Dan had been in worse pickles before, and had always managed to worm their way out somehow.

But he would hate to have Moira get the false idea that there was anything crooked about his business. As long as he was there to explain things away it would be all right. But suppose that he were not? And there was Eileen. If he should die what would there be to prevent her coming forward and telling Moira her whole story? There was that defeasance clause in the contract, of course. But even Eileen would have sense enough to realize that if Moira knew the truth, she would look after her. The secret must be kept from Moira at any cost.

He watched her with pride across the table as they lingered for coffee in the dining-room. How beautiful and animated she was. So like Eileen: so unlike the austere, cold woman whose portrait hung above his head. How he had loved Eileen! Only her fatal habit had prevented his making her his wife. With a girl like that for his daughter, he could tell them all to go to hell. What did he care what the world said about him so long as it said nothing about her? Moira! His love child! He looked at her so fondly that she gave him an affectionate smile in return.

“We have good times together, don’t we, daddy!”

“Yes, my darling.”

To think that he, Dick Devens, son of a Clonmel “corner boy” who had filled a drunkard’s grave at thirty, could have had such a daughter! His mind flew back to the day when he had landed, a freckled-faced, red-headed little Irish lad at Castle Garden, and through the years during which he had successively carried bundles and sold papers, laid [131] bricks, driven a junk-wagon, and finally started on his career as a contractor. How well he remembered the first stable he had built, practically with his own two hands, down on Christopher Street. But that was only the beginning. Soon he had begun erecting houses and public buildings, and before long had worked his way into city politics! He had done it all himself!

He looked around the handsome dining-room with its silver-laden sideboard, its carved chairs; at the white damask and flashing crystal of the table, the shining chandeliers. All by himself! He—Dicky Devens, little Irish lad—owed nothing to any man! Let the dogs yap at his heels. He had cracked the whip over them and would do it again!

Yet out of all his triumphs and honors, his friendships, his successes political and financial, his power, the only thing that he really cared for was Moira! Leave him Moira and they could take everything else. Like Eileen, and yet unlike her! Moira had something of his own rude strength and power of will. Yet in one respect the world had been too much for him. He had not been able to break through the invisible barrier with which society surrounds itself. He had hoped for a great alliance for his girl—an Astor, a Vanderbilt, a Morgan, perhaps. But he had never penetrated further than the politico-ecclesiastical circle to which his prominence and his benevolence gave him access. For Moira he was ambitious for something more—much more!

With his arm through hers they went up-stairs into the drawing-room, filled daily, even in winter, with fresh flowers. An evening with Moira was the greatest happiness life could offer him.

“Sing to me, Moira.”

“What shall I sing?” she asked, drawing a stool to the harp that stood beside the piano and running her fingers [132] over the strings.

“Sing me some of the old songs, sweetheart: ‘Has Sorrow Thy Young Days Shaded?’ or ‘The Last Rose of Summer.’”

“They’re too sad! Why not something a little less depressing, like ‘The Little Red Lark,’ or ‘Pretty Girl Milking Her Cow’?”

He expressed himself as quite satisfied if only he could hear her voice, and she sang to him for an hour, first to the harp, and then to the piano, while old Shane loitered on the stairs, until it should be time to bring in the rye and the cracked ice, at half-past ten. An elderly silent man was Shane, who knew Richard drunk and Richard sober, and would have died for him with equal readiness in either condition. Now, as Moira paused after the last verse of “Believe Me, if All Those

Endearing Young Charms” he came in, carrying the tray of glasses.

“Take them into the den, Shane—I’ve got to get to work! Thank you—my dear.”

He put his arms about her as she sat at the piano, and pressed his lips to her hair. For a moment she let her head rest against his cheek.

“Good night, daddy dear!”

“Good night, sweetheart.”

Moira arranged her music and went up to her room. Playing those songs had induced a sentimental mood. She began to think of Hugh. It was a week since she had heard from him. To-morrow she would call him up. She stood looking out at the window for a moment before going to bed. It was raining heavily, and the lights at the Plaza and Columbus Circle showed only as a greenish-yellow blur. The up-town rush of motors after the theatre had not begun. [133]

As she turned off the light and raised the window a taxi swung round the corner and stopped in front of the house. A minute later the door banged. She wondered who could be calling upon her father at that late hour. Something about the A. A. & B., probably. She glanced at the clock—ten-thirty! Then she got into bed.

While Richard and Moira had been spending the evening together, Eileen had sat alone in her bedroom at the Blackwell staring fixedly at her daughter’s photograph. For two weeks now she had been at the point of desperation. Deprived of the only human tie that bound her to life, she felt that she might better be dead. The world for her was a cell of torture between whose bars she strained eyes of suffering toward the child of her love. The terrible craving that drove her to frenzy, unless satisfied by the drug, had racked her body until she was little more than a bundle of shattered nerves. She could no longer sleep or eat, but passed the time sitting in her rocker or pacing up and down the floor, praying for some means of escape from the chains that she herself had forged. If she could only take Moira in her arms, hear her but once utter the single word, “mother.” Then, why then she would be ready to go away for ever. Her baby! What right had they to take her away from her? Who had as much right to her as she?

“I’m afraid to walk down the side streets alone at night, Moses. I wish you would buy me a pistol to carry in my bag. Here’s ten dollars. You can keep the difference.”

Moses, regarding the purchase as a useless extravagance, had fulfilled his obligation by giving her a rusty old revolver which he had won in a crap game. He had never fired it, but he carried it fully loaded for exhibition purposes. He pretended that he had bought it at a pawn shop. Eileen had no knowledge of the regulations governing the carrying of firearms. The mere possession of the revolver gave her a strange feeling of confidence—like the morphine in her bureau drawer. By means of it she could now control her destiny. Its presence was, for a day or two, enough to steady her. Then the craving obsessed her again, and she passed into the state of hysterical abnormality. Why was not Moira with her? She would kill herself if they did not let her see her baby! She would kill herself and Moira too. She would take her out of the world into which she had brought her. [134]

Moses, philandering with the Tilly girl, saw Eileen Clayton about half-past ten that evening feeling her way down the stairs, and along the wall toward the side door.

“Where you goin’, Miss Clayton?” he called out.

“Get me a taxi, please, Moses.”

“All Night Kelly,” the little bleary-eyed ex-convict who operated a decrepit “checker,” was standing in the hotel entrance. Moses placed Mrs. Clayton in the cab.

“Keep an eye on her, Mr. Kelly,” warned the negro. “I’m sure concerned about that lady.”

Devens poured himself out a half glass of rye neat, lit a fresh cigar, and sat down in his customary place at the big desk in the middle of the den, where it was his habit to work long after everybody else had gone to bed. The room was without sound save for his own heavy breathing and the rustle of papers as he transferred them from one pile to another. His mind continued to dwell upon his daughter. Should he not for her sake have married again—some woman of position? It must be lonely for her living there just with him. He ought to ask some young people to the house. He wondered if Dillon cared for her? How could he help it? But, if he did, the fellow was showing it in a damned queer way. One usually didn't try to send one's prospective father-in-law to jail, not in his crowd you didn't! He saw clearly all the disadvantages from which Moira had suffered. Every child needed a mother. Just as, he supposed, every woman needed a child. How different the cold Clare would probably have been if she had only had a baby! The fact of motherhood did something to a woman, stirred great depths in her nature, without which she remained chill and motionless. Once stirred—

[135]

A rap.

"Come in," he called, without looking up, for he knew it must be Shane. A breath of cold air followed his words, and with it a curious premonition.

"Mrs. Clayton, sir," said Shane, holding back the door.

"For God's sake, what are you doing here, Eileen?" exclaimed Devens, staring at the apparition in the doorway. "Leave us, Shane."

Could this be the woman of his love, this withered, whimpering, white ghost?

"Dick!"

The cry pulled him from his chair and with a swelling throat he took the wasted figure in his arms. She was like paper.

"Eileen! Poor girl! Poor child!"

He placed her on the sofa, removed her furs, poured out some of the rye and held it to her lips.

[136]

She pushed his hand gently away.

"Forgive me for coming, Dick! But I just couldn't stand it any longer—I know everything you are going to say to me! I know I'm not fit to associate with her, Dick. I realize what it would mean for her to know she had a—a—that I was her mother!"

Devens took the emaciated hand.

"You've been fine, Eileen!"

She sat silent for a moment, as if assembling her thoughts.

"Dick! You don't know what my life is! I'm all alone. Absolutely alone! Do you understand what that means? Without any one to talk to except a couple of negroes. I sit all day long in my horrible room at the Blackwell, hoping for I don't know what. I suppose I've a crazy idea Moira might come in the door! You ought to remember that room, Dick!"

The memory of those past years ravaged him, and he put his arms around her.

"My poor Eileen!"

She let her head lie on his shoulder.

"How happy we were, Dick!"

"We were that!"

“I was the one then, Dick!”

It was true. He had not wanted the child—had been aghast at the mere thought of it. She sat up and faced him in white appeal.

“I have no complaint of you, Dick. You were always fair! But I bore her. Mine was the pain. She’s not a part of you, Dick, as she is of me. I know I’ve ruined my life—disgraced myself and her. But she’s my child—bone of my bone—flesh of my flesh. She’s grown up now—out in society. I can’t hurt her. She’ll be getting married and having a child of her own very soon. If she did, would you tear her away from it? I’ve nothing left, Dick! I’ve paid and paid—but not like most women! I wouldn’t have minded that! I’ve paid in loneliness—just as if I had been in prison! Sitting year after year in that old bedroom. Dick, I know every spot on the wallpaper. Nobody ever comes there but Danny. Would it hurt Moira for me to see her once a month somewhere? Or if you didn’t want to let her know who I am, couldn’t I come here and wait on her as a maid? Dick, you can’t imagine how I suffer! It can’t be right! It can’t be right.” [137]

Devens looked away. His lips moved noiselessly. He had not realized how full had been Eileen’s cup of sorrow. But he must not yield. He must protect Moira. He got up, poured himself another half glass of whiskey, and drank it off with his back to her.

“You’re not the only one, Eileen!” he said gruffly, without turning around. “Everybody has to pay—the man as well as the woman—each has to take the consequences! Do you think I haven’t suffered? Haven’t I sacrificed myself! Do you think I haven’t been lonely?” He put down the glass. “You were the only woman I ever really loved, Eileen. Clare never counted. One touch of you set me on fire! The only happiness I ever knew was with you, Eileen. You were everything to me. I had money, political influence, and all that, but I didn’t value it beside your love, Eileen. I’d have gone back to the docks any day for a kiss from your lips!”

He locked his hands and looked through them at the floor.

“And then—God knows why—you began taking some drug, and the old Eileen went away and a new one came in her place. You’ve seen her in the looking-glass often enough—with that smirk—that fixed stare! I did my best to break you of it. You swore again and again by all that was holy to give it up. But each time you broke your promise. I could have gone on seeing you! But I didn’t. I cut it all out purely for Moira’s sake! You gave up Moira, but I gave up you, Eileen, and I guess there isn’t much to choose. You’ve sat alone at the Blackwell, but I’ve sat alone here. There’s never been any other woman in my life, Eileen. I loved you too much to put any one in your place! I love you still. We’ve had to pay; but don’t let’s try to make Moira help foot the bill. Let’s keep her out of it.” [138]

Devens kept his eyes fixed upon the floor. He was afraid to look at this woman who had meant more to him than any thing in the world except the child whom she had borne him. He could feel her eyes beseeching mercy. He would be firm, hard if necessary.

“Can we keep her out of it?” she asked. “Isn’t it a mistake to think we can? Aren’t we, under the pretense of protecting her, just trying to hide our sin and to avoid some of the consequences? But nobody has to be punished any longer. All you are doing now is to deprive Moira of a mother’s love, and me of my child. It’s unnatural. At first I thought I could stand it, but it’s worse and worse for me all the time. With you it is different. You’ve got Moira and your work. I’ve got nothing. You say you’ve sacrificed yourself for her sake. It’s me you’ve sacrificed. I can’t go on! I can’t live any longer without seeing her, Dick. That’s why I’ve broken my promise not to come here. Nothing else matters. You can take away my allowance—I shan’t need it.”

A cold finger seemed to be drawn along his spine. Was this a threat? [139]

“But, Eileen! Sure you’re not wanting to ruin the girl’s life?”

“She’s old enough to know the truth without having it kill her. This is killing me! It’s one or the other of us.”

She felt for her handkerchief in the bag which lay in her lap. It slipped from her thin knees and fell to the floor with a heavy thud. Devens intercepted her hand.

“Eileen! Good God!”

He turned pale at the sight of the rusty deadly thing. Then he picked it up gingerly and placed it upon the desk. Was it a bluff? One glance at her quivering mouth was enough to satisfy him that it was not. He hadn't realized before that she was as desperate as all that.

“Your taking it away won't make any difference,” she said monotonously, and her words ticked in his brain like a metronome. “I can get another.”

He was thoroughly frightened. Turning, he seized her by the wrists.

“You mustn't think of such things, Eileen! You would be damned forever.”

“Unless you let me see Moira, I shall kill myself,” she repeated in the same even voice.

“Listen, Eileen!” he begged, still holding her hands. “Put such wicked thoughts out of your mind. What you have said convinces me that we have made a mistake, that in the attempt to atone for one sin we have committed another by violating the law of nature. Give me a day or two to think it over.”

A look of ecstasy lit up the haggard face.

“You're telling me the truth, Dick?”

“Sure! Of course I am! Promise me you'll never think of suicide again!”

[140]

“I promise! Oh, Dick! Dick, I'm so happy!” The helpless gratitude in her eyes gave him a pang. What right had he to come between this mother and her child? He drew her to him and kissed her very tenderly on both her cheeks.

“Forgive me, Eileen! Forgive me, acushla!”

“All Night Kelly” was sound asleep inside the waiting taxi when Devens shut the front door behind Mrs. Clayton at a quarter to twelve. The servants had gone to bed. Turning off the hall lights, he stood for a moment watching through the curtains as she roused the driver, got in and they drove off. Yes, he must think over very carefully how best to do it! He felt his way up the stairs by means of the banisters until he caught the gleam from the open door of his den. He had still a full hour's work to do. But he would not be disturbed again. What a rusty old pistol. He turned it over in his hand. And fully loaded! He wondered where she had got it. She never would have had the nerve——

“Brr-brr-brr-brrr! Brrr-brrr!”

Down below in the pantry the telephone was ringing insistently. He laid down the revolver and took up the receiver of the desk extension beside him.

“Hello! Who is it?”

“It's me, Dan. I've got to see you to-night!”

He could hear the quick breathing, as if Shay were standing right there at his elbow.

“It's pretty late,” he temporized. “What's the trouble?”

“I can't tell you over the 'phone. I've got to talk to you. To-morrow will be too late. Nobody must know I've been to your house.”

“That's all right. Everybody has gone to bed but me. I'll be on the lookout to let you in. Where are you?”

[141]

“I'm at the Metropolitan Club—be with you in five minutes.”

“All right.”

Devens hung up and poured out some more rye. What the devil now? Taking a trouble-light from the drawer of his desk he went downstairs and, pulling aside one of the curtains, looked down Fifth Avenue, over which a mist hung as over a river of black lava. The few motors whizzed by at top speed. There were no pedestrians in sight—except one, who was stumbling steadily northward, closely hugging the area railings. Danny.

“Get in—quick!” He held the door open wide enough to admit the dripping figure of his friend, and then closed it silently.

“Whew! It’s a wet night,” stuttered Shay. “No use spoilin’ the furniture. I’ll dump my things here in the vestibule.”

Devens led the way upstairs and down the corridor to the den, where, with the door shut, the two old men were as isolated as if enclosed in the centre of a nest of sound-proof boxes.

“Have a drop to warm yourself, Danny.”

He was struck by the way Shay’s hand shook as he took the tumbler of whiskey—like that of a palsied old gaffer. They glanced at one another, nodded, and tossed off the whiskey as one man.

Devens resumed his seat behind the desk. Uncle Dan wiped his mouth with the back of his hand uncertainly, and slumped down on the sofa. A spray of hair was plastered over one eye. He looked almost disreputable, with his trembling jaw and red-rimmed eyes.

“They’ve got us!” he announced in a harsh voice that parted the stillness in the room like the rush of the wings of death. [142]

Devens kept his own eyes sternly fixed upon the face of his visitor. It was clear to him that Danny had had too much.

“Bunk!” he replied, pulling steadily on his cigar. “You’re a bit tight, Danny!”

“Tight is it?”

Shay reached into his pocket, and a brown subpoena floated to the floor.

Devens picked it up and examined it. It commanded Daniel Shay’s appearance, all other matters laid aside, before the Grand Jury of the County of New York, at ten o’clock, the following morning, and warned him to fail not at his peril. It also ordered him to produce and bring with him—“duces tecum”—the books of the “Associated Architects and Builders Corporation.” It was not the first time that Devens had been investigated.

“Well! What of it! Produce ’em! These John Doe proceedings don’t amount to anything! That subpoena gives you immunity! Nothing you can say can be used against you.”

“Against me—no! But it can against you. Dick.”

“You mean——?”

“I mean that Dillon is after *you*. He’ll try to put the screws on me to make me give up.”

Devens drank off the contents of his tumbler. He was in that detached judicial attitude into which he always fell when slightly drunk. He could see himself and Danny Shay—those two old sons of guns!—talking in his den as plainly as if they were upon the stage of a theatre and he was sitting in the front row of the audience—a pitiful pair of old bums they were, too! Victims of the young adder he had warmed at his bosom! [143]

“The pup!” he heard himself say. “But you can refuse to testify on the ground that it will tend to degrade or incriminate you!”

“Not if I get immunity. That’s the trouble, Dick!” Uncle Dan leaned forward and laid his hand on one of his patron’s. “The boy knows the law! He’s chosen to give me immunity in order to be able to compel me to testify against you. If I refuse he can send me to jail. But I won’t go, Dick! I swear I won’t go!”

Devens withdrew his hand.

“I don’t want you to go. Say any damn thing you like,” he answered coldly.

Uncle Dan stared at him, his mouth twitching like a child’s about to cry.

“Can you think I’d testify against you, after all these years of friendship!” he said in a husky voice. “How could you think I meant that, Dickie!”

Devens cleared his throat.

“No! Of course I didn’t think that!” he replied after a moment. “All I meant was you needn’t consider me in the matter one way or the other. Go ahead and testify to anything you know—so long as you tell the truth. I’m not afraid of anything I’ve done. There’s no one in this bunch can scare me. I never signed any papers. You did whatever was done. The worst you can do is to pass me the buck! All right. Pass it. They can’t convict me on your testimony alone, because you’ve been an accomplice, and an accomplice’s testimony has to be corroborated. How are they going to corroborate it? They can’t—and you get immunity!”

Uncle Dan let his hands fall on his knees.

“Arrah, Dick! That you should speak like that! Do you mean I should go on the stand and tarnish your name—and [144] Moira’s, who bears it? Ye can’t, man dear! Oh, ’tis crazy I am! Do you think I’d seek my own safety by even pretending to turn against my benefactor? That hurts me sore, Dick! There’s other worse things in life besides having to go to prison—and one is turnin’ traitor!”

His heavy face softened into an expression of tenderness.

“Do you mind, Dickie, that day fifty years ago, you pulled me from the reeds of the River Suir? How we stole your feyther’s fishin’-rod and slipped by the keepers and I won the toss, and at me first cast I hooked a great salmon, so strong a fish he tore the pole from me hands and, wid me legs tangled helpless in the line, dragged me down-stream? Do ye mind, man dear, how ye ran on ahead and caught me at the bend after I’d twice gone under? Oh, Dickie! The batin’ our feythers were givin’ us that night! Do ye moind how you were afther runnin’ away to America, Dickie? And sendin’ me the money to come after you? The years we carted the bricks and the mortar until you won your way to fame, Dick? Could I forget that? And how you saved me from prison? Dick, man! Shure I’d have been there yet but for your takin’ the stand and swearin’ me free. And shall I testify against you after that? Am I a black devil, think you? Never one word will they get out of me, Dick! Let them send me to jail until I rot—as well go for that as for anything else!”

“You’ll not go for anything else!”

“I wish I thought that, Dick!” groaned Uncle Dan. “Hoyle’s just got a full report on that Saunders woman! She testified she came to me and asked me about ‘nine forty-three,’ and that I told her the apartment was all built.”

“Did you?” Devens stared at him.

[145]

“Of course not, but I may have told her it was a good investment. I don’t remember ever having seen the woman. I was probably rushed to death and that was the easiest way to get rid of her. I don’t know. But, you see, it makes a case against me direct! And with all this other evidence the jury will believe her. It’s a separate case entirely. And my subpoena won’t help me in that! So Dillon’s got me. He can jail me for selling the bond to the Saunders woman, or he can jail me for refusing to testify. I get it both ways—coming and going. Dick, I’m too old a man to go to prison. I’d never come out alive. I’m at the end of my rope.”

“Don’t lose your nerve, Dan!” said Devens. “You’re a long way from jail yet. They won’t send you up for contempt if

you make it appear that you're trying to help the investigation. If they get close to anything, just have a lapse of memory. As to the Saunders woman, if she swears that she spoke to you personally, you can deny it, or admit having the conversation and deny the material parts of it. You can agree that you told her the bonds were all right, if you want to. There's nothing incriminating in that. It's hardly likely you told her there was a building on that lot when anybody with eyes could see there wasn't! No jury is going to convict you on any story like that! They're bound to give you the benefit of every reasonable doubt."

Shay shook his head dubiously.

"If Dillon asked them to, they'd convict their own mothers! The cards are all stacked against us, Dick! With the papers crying for our blood, the jury would find us guilty without leaving their seats."

"Then we'd appeal the case. You'd be out on bail."

"The judge might refuse a certificate of reasonable doubt, in which case I'd stay in jail. You can't count on justice [146] when public prejudice is aroused. I wouldn't get a fair trial. I'd be convicted before I took my seat in the dock. Besides, even if I can appeal, I don't want to be convicted! I don't want to be branded as a criminal."

His voice died away in a whisper.

"Buck up, Dan!" urged Devens. "Here, let me pour you out some more whiskey." He must not let Shay go to pieces.

"No, nothing more to drink!" Uncle Dan waved the tumbler away. "Justice? What chance would I have for justice! I'd be ruined in any event. Could I ever look Moira in the face again? You know I love her, Dick, more than anything in the world, except you! I can't stand trial. I can't go before the Grand Jury! I'm done, I tell you!"

He caught sight of the pistol on the table.

"There is something you can do, Dan!" declared Devens. "You can take the midnight train for Canada and stay there until all this blows over."

"Dillon would extradite me in thirty-six hours."

"Not if you tucked yourself away somewhere. Canada's a big place."

Shay shuddered.

"They'd find me in no time. I'm too old to run away. I couldn't go and live in the wilderness as if I were younger. These extradition treaties—they get you anywhere."

His glance hovered about the pistol as if fascinated by its appearance.

"Dick!" he said. "If ever I do go away, it will be to a place where no subpoena runs and where, if I'm ever tried, it will be by an impartial judge and a jury of my peers."

He leaned forward and reached for the revolver. Devens put out his hand. Their fingers met and interwove. [147]

"Let go, Dan!" ordered he, sharply.

Shay's hand recoiled violently backward. Had Dick struck him? The air of the den reeked with powder-smoke which hung in a cloud over the desk. "Well, I'm damned!" he said to himself. "Didn't know it was loaded! Kind of thing you read about!" Dick was half smiling through the smoke. It was a narrow escape.

"I'm shot!" said Dick. "I'm—I'm—" His face lost its color. A peculiar glucking noise came from his throat. "I'm—I'm—" Then his head sagged and he pitched forward, and lay with his mouth upon the blotter, over which a deep red stain began to spread rapidly.

“Dickie!” cried Uncle Dan. “Dickie boy! My poor lad!” But Dick did not move. “Dickie boy! Man dear! Speak to me!” Horrified, the old Irishman bent over the body of his lifelong friend, the human being he loved most in all the world. Then he turned cold with fear! Could Dick be *dead*! Impossible! He had been speaking—smiling—only a moment before. The blood stain was spreading like a scarlet tide. “Dickie boy! Dickie boy!” What should he do? Was there not something! Poor lad! Poor Moira! Poor Dan! “Oh, Dickie! Dickie! Dickie darlint! Speak to me! Speak to me just wanst! Oh, Dickie! Poor lad! Poor lad!”

Could that motionless thing be all that there was left of Dick? Life would never be the same now! He would be a lone old man all the rest of his days! He felt very ill with the smoke and blood and all. “Christ!” he heard himself repeating. “Christ! Christ! Christ!” There was a whine inside his head, a high singing note. Perhaps he had been shot, too! But he could not feel anything and there was no blood! He must ring for somebody! Where was the bell? That funny old [148] revolver was dangling from his finger—which was devoid of sensation. It must have caught on the trigger.

“Didn’t know it was loaded!” He had never believed such things. Well, they happened! He had shot Dick! He, Dan, had killed his best friend! His heart stopped with a great thump. His stomach turned to lead. Would they charge him with murder? He could feel the hair lift on his scalp. They were both under suspicion of crime. The police might accuse him of going there with a pistol to threaten Dick into taking his share of the blame. He *had* shot him. What reason could he give for being there at that hour of the night? None that would not play directly into the theory of a quarrel between the two persons jointly accused. Christ! Christ!

The sweat that drenched his underclothes and hair was checked violently. Involuntarily he glanced about the room. Grief merged in a frantic desire for escape. No one had seen him come in. No one need see him go out. No one as yet had any knowledge of his presence there. No one need ever have any. What more probable than that Devens, rather than face exposure, had taken his own life? Shaking, he tiptoed round the desk and laid the pistol on the floor beneath the arm that hung over the right side of the chair. There! Stepping outside into the corridor, he closed the door softly behind him and stood for a moment intently listening. The house was still save for the unsynchronized ticking of many clocks, which seemed to be all about him. A faint blue light came through the curtains on the Fifth Avenue side and by it Uncle Dan felt his way down the stairs to the vestibule, where he put on his coat, hat, and rubbers. Peering through the lace of the [149] door curtain, he turned sick again—a policeman! Right on the corner. Could he have heard anything? He seemed quite unsuspecting. It was still raining heavily. The policeman walked slowly to the other end of the block. Now was the chance. Uncle Dan slipped quickly out of the front door and began walking at a moderate gait toward Madison Avenue. Something hard had wedged itself in his throat. He wondered if you could feel the current in the electric chair. Poor old Dick! “Christ!” he muttered. “Christ! Why—that’s the kind of thing you read about!”

CHAPTER VIII

Gray dawn steals through the shrouded windows of the Devens drawing-room. The air is sweet with the scent of flowers and of tobacco. Dim objects outline themselves—with a glint of gold on Moira's harp. On the piano beside her embroidery lies a volume of music open at "The Widow Machree." An ash-tray on the table holds the stub of the cigar which her father had been smoking as he listened to her. The house is silent as the corpse sitting at the desk in that inner chamber of death hard by.

A thin discharge of sunlight over the eastern chimneys rakes the brown turf of the winter park. Spring is in the sky, in the air. Down on the Eastern Shore of Maryland the apple-trees are white with blossoms and filling the west wind with perfume that spreads across New Jersey to the Hudson. On the other side of Fifth Avenue a multitude of sparrows flutter and fight among the bare branches beyond the wall, rising now and again in a cloud, only to drop quickly back as if thinking better of it. Is it possible that sudden death has come to that quiet corner?

The day brightens and a few shades are lifted on upper stories. A milkman crashes from area to area, followed sleepily by his automatic steeds. Kitchen-maids pound down back stairs. Ranges rattle. There is an elusive aroma of coffee. Life begins.

The sun gives flesh tint to the lusty gods and goddesses upon the façade of the marzipan house, and fills their baskets with golden and reddish fruit. A boy in a bicycle cap and wearing goggles comes along whistling with a bundle of papers under his arm. He knows the names of all the people on that street, for they are scrawled on his papers. "Devens" lives on the corner. [151]

A limousine stops at the porte-cochère, and a man with a beard hurries up the steps. He is carrying a bag. Perhaps somebody is sick in the Devens house! The boy loiters by the limousine. He can tell a Packard from a Buick. The doctor reappears suddenly at the top of the steps.

"Hey, boy! Call that officer, please!"

The boy drops his papers and runs to the end of the block, where Mr. Brady, the cop, is standing. Slowly and with pompous deliberation, as if conscious of doing a favor, the policeman strolls to the marzipan house.

Shane, in a black alpaca jacket, stands with a white face beside the doctor. Well, what do they want, Brady inquires. He goes upstairs, takes one look at the body, and hurries to the pantry.

"Man dead at nine fifty-seven Fifth Avenue of bullet-shot wound," he 'phones the captain. "It's 'Old Man' Devens," he adds. Then he calls an ambulance from the Reception Hospital. There is no need of one, but he is taking no chances and follows the regular routine—"to protect himself."

"Nobody goes *in* or *out*—see?" he says to Shane, laboriously scrawling the time in his notebook with a pencil stub.

"Summoned to 957 Fifth Ave. by Dr. Walton. Man, said to be Richard Devens, dead of bullet-shot wound." He hesitates over the word wound. Do you spell it with an "o"?

The boy has forgotten all about his papers. He can hear the ambulance as it comes clanging across from the river. Three officers drop off a Madison Avenue car and run toward the marzipan house. Brady comes out and takes up a position on the steps. [152]

"Man dead in there!" he tells the boy, whose jaw drops. Is it Mr. Devens? The ambulance comes to a stop before the house with an ultimate stroke. The surgeon leaps out and up the steps. The boy runs to the next area. "Old Man" Devens is dead! A cook and kitchen-maid, followed by a laundress, come gaping to the grill.

The ambulance gong has acted as a tocsin. There is a knot of people now around the porte-cochère, and another, composed of those who wish to appear less inquisitive, on the corner. The news spreads along the Avenue. Brady walks

up and down shoving back the crowd.

“Get a move on there, now! What do you think you can see, Maggie? Yes, there’s been a murder in there—what of it? Get along! Don’t block the traffic!”

The telephone beside Hugh’s bed had been continuing its clamor for several minutes before he adjusted himself to the idea that there was anything personal about it. Still only half awake, he reached for the thing and laid its cold periphery to his warm ear. Shane was at the other end of it.

“Is that you, Mr. Dillon? I’ve—I’ve bad news for you, sir! Mr. Devens has killed himself!”

Hugh was on the floor in an instant. Devens dead! Poor Moira! It would break her heart! He felt as though he himself had suffered some terrible loss. It would leave her all alone. He must go to her at once! And only yesterday she had been so happy, so full of spirits. He had never known any other girl who had so loved her father. They had been [153] inseparable. This terrible thing would crush her! And the disgrace of it! Suicide! He stopped abruptly in the act of putting on his coat. Would Moira be justified in holding him responsible? Why had he not thrown the Kranich case out of the office? Why had he let his academic theory regarding duty come between him and his personal loyalties? Was he not partly to blame? No! Suicide was confession. Things must have been even rottener than he supposed. What a position to land himself in! His feet could hardly find his slippers.

It was not yet eight o’clock when his taxi stopped under the porte-cochère of the marzipan house. The ambulance from the Reception Hospital was waiting, a white uniformed surgeon accompanied by a police officer coming down the steps. He showed the entry in his notebook to Hugh:

“7.23 A. M. Notified man shot at 957 Fifth Avenue. Arrived 7.41. Pronounced dead on arrival.”

Shane opened the door. Another police officer was sitting in the hall. The butler broke down at the sight of Hugh, who put his arm about the old man’s shoulders.

“I found Mr. Devens’ bed empty when I went to call him at seven, sir! So I went to the den. Oh, sir! He was there at his desk—with the pistol on the floor! Miss Moira told me to send for you. She is in the drawing-room, sir.”

Hugh took the stairs two steps at a time. On the threshold of the room where he and Moira had spent their first evening together he paused abruptly. She was standing like a white statue by the piano, and she neither moved nor seemed to see him until he stepped to her side and kissed her gently on the cheek. Then with a sob she buried her face on his [154] shoulder.

“Poor Moira!” he said, stroking her hair. “Poor Moira!”

With an effort she pulled herself together.

“Will you—take charge of things for me, Hugh? There is so much to be done!”

He held her tight.

“I will attend to everything, Moira. Why not go to your room, dear, and lie down? You will need all your strength.”

Figures were passing in the hall outside. She glanced at them furtively.

“Listen, Hugh!” she said. “My father did not commit suicide. He was murdered—by a woman.”

“Murdered!”

“Yes. I am sure of it!—by a woman who came here last night in a taxicab at about half past ten o’clock. Shane says her name is Eileen Clayton, a former opera singer whom my father knew a long time ago. No one saw her go away. Doctor Walton says it was suicide. I know that it was not, Hugh. My father was not that kind!”

Shane appeared on the threshold, guiding himself by the portière.

“Mr. Dillon—Doctor Norris, the county medical examiner, is here.”

Hugh led Moira to a sofa.

“Please go to your room, dear. I’ll see you again before I leave.”

“Don’t go!” She clung to his arm. “Stay with me!”

“I’ll be right here! I’ll stay as long as you need me. I’ll come back in a few minutes.” He lifted her reluctant hand from his sleeve.

Doctor Norris was just coming up the stairs. He was a big, broad-shouldered man whose many years of experience as county medical examiner would have made him an invaluable official had not his bluff honesty, his sympathy, gentleness, and detestation of politicians rendered him unique. For years the machine had sought to drive him out of an office where he performed extraordinary services for the community, and for years the community, sensing in some occult way that here was a man whose like it would not find again, had refused to have him driven out. [155]

Norris grabbed Hugh’s hand over the banisters.

“I’m sorry for that poor kid!” he said. “Devens was a fine old Irishman! They were after him, weren’t they? I guess your office was too, wasn’t it?”

“His companies were more or less under fire,” admitted Hugh cautiously.

“I’ll wait for the Headquarters men,” continued Norris. “They’ll be here any moment now. You attend to that girl in there. Get her out of the way!”

The examiner strolled down the hall, giving Hugh an opportunity to escort Moira upstairs to her room, where he made her lie down, promising to keep her informed of everything that went on. Then he telephoned the district attorney’s office and directed that Jeffrey Quirk and a stenographer be sent to his assistance as soon as possible.

He had hardly rejoined Doctor Norris when Captain Carey, of the Homicide Bureau, arrived from Headquarters in a police car with several officers and a photographer, and together the officials walked down the corridor and threw open the door of the den. The electric lights were on, the shades drawn. The air was tainted with burned powder, with a subtle suggestion of tobacco. Devens’ body was leaning against his desk in an attitude of prayer, his forehead upon the writing-pad, his left arm extended forward, the hand half open. Although Hugh had seen many dead men in the trenches and upon the battlefield, the sight of this peaceable elderly gentleman slain in his own house was indescribably shocking. For an instant the lights wavered. Then he got a grip on himself and strove to exhibit a proper official composure. Norris carefully examined the fingers, the sleeve, and lastly the shirt front. Carey had gone to the other side of the desk. [156]

“Gun’s over here,” remarked the latter shortly. “Better get busy and photograph that body. There’s no suicide about this.”

Meantime, one of the officers had been measuring the room, noting the precise location of the body and the revolver, and jotting down his notes.

“See if you agree with me, captain,” said Norris. “This man was killed sitting, at close range, so that he tried to grab or ward off the pistol. The cuff of the sleeve, you observe, is badly singed. There’s no burn on the shirt—only a few powder grains. The gun was at least three feet away. A suicide holds the muzzle to his head. The bullet entered below the collar-bone, to the left of the breast-bone, and evidently penetrated the heart. He couldn’t have held the gun in that position and fired it, to save his life. Even if he could, he never could have planted the gun afterward on the other side of the desk next his right hand. The person who killed him did that. This man died—almost instantly—of asphyxiation. As you see, *rigor mortis* has set in. He was killed over five hours ago, and probably around midnight. His watch is in his pocket. The desk seems undisturbed. Only one shot was needed. Then the gun was placed where it might suggest [157]

suicide. That tells the story!”

They bent over and studied the pistol. The hand that dangled above it was immaculate, the fingers half-closed. Directly below it lay a cigar butt. Carey pointed to it.

“That’s what he had in his right hand! Not the gun!”

“You don’t need me any more, captain,” remarked Norris. “I will have the body removed to the morgue for autopsy as soon as you and the district attorney are through with your investigation. Take your time. I’m in no hurry.”

Carey drew Hugh aside.

“Here is where we begin,” he said. “Whoever killed Devens was the last person who was with him.”

“The last person to be with Richard Devens before he died,” replied Hugh, “was a woman named Eileen Clayton, an opera singer.”

“Eileen Clayton!” exclaimed Carey. “This will be the biggest case of the century! Have you examined the people in the house? If not, let’s get busy—the butler first. Come along, Barlow! We want you to take an examination.”

To Hugh, as they returned to the front hall, the house seemed blue with policemen. Through the drawing-room windows he could see that the crowd which had blocked the side street now extended across Fifth Avenue. The servants had been sent to their respective rooms. Carey and Hugh examined Shane sitting upon his bed at the top of the house. He told them of having admitted Mrs. Clayton the night before, and how afterward, having locked the windows and rear entrance, he had gone to bed. The other servants were already upstairs. Mrs. Clayton had visited the house on two or three previous occasions, during his experience, but not in recent years. She had seemed very much agitated. She had had a bag in her hand large enough to conceal a revolver. Neither he nor any one else had heard any unusual sound during the night. The contents of the house were intact. He had never seen Mr. Devens with a pistol, and did not believe he owned one. His master had been in perfectly good spirits the night before. So far as the butler knew, he had no enemies. None of the other servants could add anything to Shane’s story. [158]

“This is no inside job,” said Carey, as they descended the stairs. “And burglary is out of it. Whoever killed Devens came here with the deliberate intention of doing so, and that person was Eileen Clayton. If we can trace the pistol to her she hasn’t a chance. Do you know where she lives?”

Jeffrey Quirk appeared at that moment. District Attorney Farley had gone to French Lick, he reported, leaving Redmond “acting district attorney” in his absence. The office had been telephoning all over town, but could find no trace of him anywhere. Every newspaper in New York was represented by at least two reporters on the sidewalk outside, all of whom seemed fully aware that Devens had been murdered.

“I don’t care what they print, so long as they don’t spoil the arrest,” growled Carey. “Our strong point is that the Clayton woman is banking on the case being taken for suicide. She’ll probably stay around, unless the newspapers tip her off that she’s wanted for the murder, in which case we can’t tell what she’ll do. I wish I knew where I could lay my hands on her. Of course, it’s only a matter of time, but——”

“Clayton!” interrupted Quirk.

“Yes, Clayton. Eileen Clayton. Have you heard of her?” asked the captain condescendingly. [159]

“Sure, I’ve heard of her. You don’t think she murdered Devens, do you?”

“I don’t think. I know it!” replied Carey tartly. “Perhaps if you know so much, my friend, you can tell me where to find her?”

Jeffrey Quirk smiled strangely.

“You’ll find her at the Blackwell Hotel,” he said.

“Ain’t goin’ to rain no mo’!
Ain’t goin’ to rain no mo’!
How in hell can the old folks tell——”

Moses Wellington, broom in hand, snapped the refrain in two and stiffened into the bronze statue of a Nubian spearman as Officers Wasserman and Burke pushed open the side door of the Blackwell. Cops! The absence of uniform did not obscure his instinctive recognition of their official character. “Fly-cops!” All his iniquities—*mala in se* and *mala prohibita*—swarmed about his ears shrieking: “Cheese it! Cops! Trouble for somebody!”

“Show us Mrs. Clayton’s room!”

Wasserman, the blue-eyed, fat-jowled “beer hound,” had suddenly developed a taste for blood. He fairly bayed.

Moses’ feet had become leaden carpet-sweepers. That gun!

“Get on, nigger! Get on!”

“Yassah! Yassah!”

Wasserman shoved the shaking Moses up the stairs ahead of them.

“Dat’s her room.”

“Wait downstairs, nigger. We want to talk to you.”

The two officers approached the door. There was no sound from within. Wasserman softly turned the handle. The door was locked. He rapped sharply. [160]

The sound shattered the first deep sleep Eileen Clayton had known for months. Wasserman’s rap brought her to a sitting posture. What was it? Again! Could it be that Moira had come already?

“Just a minute! Just a minute!”

She threw on a thin blue wrapper, put on her slippers, and opened the door. A heavy shoe thrust itself through the crack.

“Are you Mrs. Clayton? I am Officer Wasserman, of Headquarters.” He turned back his lapel. “Sorry to disturb you, but I want a few minutes’ conversation.”

That lost locket probably! What a relief!

“I’m not dressed yet,” she apologized. “Will you wait?”

Wasserman followed his foot with his knee.

“No. Get back into bed. You can talk all right that way.”

Already he was in the room.

“Won’t you please go out until I can put something on!”

“Get back to bed!”

In a flutter of embarrassment and indignation she pulled the bedclothes about her neck.

Wasserman swung up a chair and sat down.

“Where were you last night?” he asked.

Eileen hesitated. She must protect Dick.

“I spent the evening here in my room.”

“What time did you go to bed?”

“I went to bed—let me see!—about half past twelve.”

“Did you stay in this room all the time?”

“I went out for a little while.”

“Where did you go?”

“To see a friend of mine.”

“How long were you gone?”

“A little over an hour.”

Wasserman’s blue eyes were like a ferret’s.

“What was the name of your friend—the one you went to see?”

“I’d rather not mention the name.”

“Sorry! But you’ll have to tell me.”

“Why do you wish to know?” she played for time.

“I’m here to ask questions—not to answer them. Come! What was his name?”

So the officer knew it was a man. He probably knew all about everything! It would be wiser not to attempt any concealment.

“I went up to see Mr. Richard Devens on a matter of business. I left here in a taxi about ten-thirty. I got back a few minutes before twelve.”

“Where did you get your taxi?”

“I took the one that always stands in front of the hotel. They call the driver ‘All Night Kelly.’”

Wasserman stepped to the door and Eileen heard him whisper to some one in the hall. Whoever it was went downstairs. Wasserman came back.

“How long have you known Mr. Devens?”

What was this officer trying to do? It was none of his business how long she had known Dick!

“How long had you known Mr. Devens?” he repeated.

The change of tense startled her. Why did he say “*had*” known?

“I—I do not wish to talk about Mr. Devens.”

“You don’t, eh!”

Wasserman's ferret eyes played over the room.

"Do you keep a revolver?" he asked suddenly.

Her throat contracted. Why did he ask that! Could anything have happened? Oh, *could* anything have happened? [162]

"I—I—have—no revolver!" she gasped. Her voice sounded unnatural to her own ears.

"Ever had one?"

Eileen half-raised herself on her elbow. The room was silent save for the harsh clang of the surface car at the corner. A deadly faintness seized her.

"What—has anything—" she whispered.

"You might as well come across, Mrs. Clayton! Where did you get that revolver?"

She stared at him with eyes of glass. Wasserman leaned forward.

"Better tell the truth. Where did you get it?"

"I—I—don't know what you are talking about!" she stammered, on the verge of collapse. "Has anything—anything——"

"Just stay where you are!" ordered Wasserman. He got up and pulling open the bureau drawers one after the other, messed through them.

"How long have you been using that?" he inquired, showing her the needle.

"I don't use it—I never take drugs," she answered.

"What *do* you keep it for?"

"I had a treatment once. A doctor gave me a few *piqûres*."

Wasserman returned to the foot of the bed.

"I'll have to ask you to come over to the house with me," he said. "The captain wants to have a little talk with you. You'll have to get up and dress."

Eileen was conscious of a change in the officer's manner. Her instinct told her to be on her guard.

"Will you please go out while I dress?" she requested. "I cannot get up while you are in the room."

"You don't need to mind me. I'll look out the window," he said.

[163]

"But I can't dress with you here!" she protested, half-crying. "You can stand just outside the door and leave it a little open if you want to."

"Quit wasting time!" returned Wasserman. "You either get up and dress or you go as you are. It's nothing to me."

"Then keep your back turned!"

Wasserman pulled his chair to the window and Eileen dressed herself as well as she could, crouching behind the footboard. Then she went to the bureau and began doing her hair. The alert Wasserman heard the brush drop and caught her as she fell. The case was a cinch!

Hugh was waiting with Captain Carey in the matron's room of the Thirty-first when Wasserman and Burke brought Mrs. Clayton in, and he recognized her instantly as the woman he had seen first in the court-room on the afternoon he had met Moira, and afterward coming out of Hoyle & O'Hara's office next day. Her look was an acknowledgment that she too was conscious of their previous encounter. So this was the woman who had murdered Richard Devens! It was unbelievable that one so fragile could have put such a deed into execution. What could have been her motive?

"Do you want to examine the witness?" asked Carey, and Barlow, the police stenographer, laid his pencils upon the table and prepared to take down the examination.

"You had better do the questioning," answered Hugh, relieved that some one else should undertake the task of securing from the prisoner the information which might later send her to her death. Carey dragged his chair a few inches nearer.

"What is your full name?" he asked.

[164]

Mrs. Clayton hesitated.

"Won't you tell me why I am being asked these questions? I do not know who you are, even."

"This is Mr. Dillon, the assistant district attorney. I am Captain Arthur Carey, of the Homicide Bureau."

Hugh saw Mrs. Clayton recoil at the word. Had he not been sure of her guilt he would have felt the keenest pity for this helpless creature.

"Mrs. Clayton, where did you get the revolver you took to Mr. Devens' house last night?" asked Carey. His tone was politely businesslike. She looked at him without replying.

"Did you have a revolver with you?"

Still no answer.

"Is this it?"

Carey took from his pocket a rusty Smith & Wesson and held it out to her. Hugh noticed that her eyes avoided it.

"Has—has—anything happened to Mr. Devens?" she quavered.

"Mr. Devens is dead," answered Carey.

She winced and closed her eyes. Her hand crept to her throat.

"You are the last person who saw him alive. For your own sake you had better tell us all you know."

"I—I do not know anything about his death," she gasped. "I am frightfully shocked to hear of it." She tried to collect herself. "It is true that I went to his house last night. I was with him for three-quarters of an hour."

"What did you talk to him about?"

Mrs. Clayton compressed her lips.

"I have reasons for not wanting to tell what we talked about. Our conversation was—was—entirely friendly. He came downstairs with me and let me out himself. That is the last I saw of him." [165]

"Did the taxi-driver see him come down and open the door?"

"The taxi-driver was asleep inside the cab. I had to wake him up."

"Suppose he says he saw you come out of the house alone, and that it was dark?"

“He can’t say that—it isn’t true. When I left the house the hall lights were lit.”

“But suppose he does?”

“Then he would be lying!”

“Bring in the taxi-driver,” ordered Carey of the stenographer, who went out, returning immediately with Kelly.

“Is this the driver?”

Mrs. Clayton bowed to Kelly.

“That is Mr. Kelly,” she said. “How do you do?”

He did not return her salutation. Already he was aligned with the forces of law and order—all the more because he was an ex-convict and anxious to demonstrate that he could be relied on by those who had formerly been his enemies. All that his befuddled memory actually retained was an impression of Mrs. Clayton entering the taxi, and of his driving her away from a darkened house. He did not recall having been asleep. Even had he remembered it, he would have felt any admission to that effect to be ignominious. Hence he was very positive that for an hour he had impatiently awaited Mrs. Clayton’s return and had seen her come out of a house in which all the lights had been extinguished. And as opinions as well as suspicions are contagious, Kelly’s obvious impression of her guilt communicated itself to Carey, and [166] corroborated and strengthened the latter’s predetermination regarding it. When one who has participated in a crime, even unwittingly, shows that he is satisfied of the guilt of an associate, it is almost like receiving a confession from an accomplice. Thus Kelly’s laudable desire to hold himself out to the world as an honest, alert, and sober taxi-driver (instead of a soundly snoozing booze-fighter, recently discharged from Sing Sing prison after having served a five years’ term for burglary), actually had an astigmatic effect upon the vision of the Blind Goddess. To Hugh, as to Carey, Kelly seemed a disinterested and well-intentioned witness.

Kelly’s eye caught the revolver which still remained in Carey’s hand, and he instantly recognized it. Moses had exhibited it once in a playful threat to shoot him full of holes during a crap game. Of course she had got it off him! Should he tip Carey off to this it would be a knockout—make him solid with the cops forever. On the other hand, it would involve accusing Moses of felony, for the nigger had no license to carry a pistol—he was sure of that! And if he gave that away, the latter might get on his ear and in revenge turn him up to the police for highway robbery. Moses knew a great deal more about Kelly than was healthy. Together they had indulged in a number of little escapades which would not bear exposure. So Kelly resolved to say nothing about the antecedents of that revolver.

“That’s all, Kelly!” said Carey. “Did you have a bag in your hand when you got into the taxi?” he continued of Eileen.

At last she saw what they were trying to do! These men believed that she had gone to the house to kill Richard, [167] taking a revolver with her for that purpose. The sickening realization that such a suspicion was possible overwhelmed her even more than the terror of her predicament. Of course, should she explain the true nature of her feelings for Richard Devens, the absurdity of charging her with his murder would be manifest. But that would involve the disclosure of Moira’s parentage. She must keep their secret at any cost, for the sake of Richard’s memory, and that of the girl herself.

“Witness refuses to answer!” remarked Carey to the stenographer. “Once more, madam, did you ever see that revolver before?”

Eileen did not reply.

“Witness refuses to answer. Any questions, Mr. Dillon? No? Then I guess we’d better roll her fingers and hold her here for a while before taking her over to Fifty-seventh Street before Magistrate Blynn. We might want to examine her some more. Where’s Mrs. Murphy?”

Eileen steadied herself with her hand on the table. Were they going to lock her up? In a cell! Was there no one to whom she could turn for help? That young man—the assistant district attorney—he had a kind face—she had seen him with

Moira—he would understand! She felt that she would go mad if they locked her in a cell!

A stout, masculine-looking woman had come in and taken her stand by Eileen's chair.

“Search the prisoner, Mrs. Murphy,” directed Carey. “Brennon will take her finger-prints. Is there much of a crowd outside?”

“They're swarmin' all over the place!” replied the matron. “I never seen so many reporters in my life.”

“Well, lock her up, and don't let anybody speak to her until we come back. I'm going to run up to the Devens house again. Will you come along, Mr. Dillon?” [168]

Carey got up. So did Wasserman and Burke. Eileen addressed Hugh.

“May I speak to you alone?”

Hugh had never seen such desperation in the eyes of any human being. He looked at Carey, who nodded.

“Keep the stenographer!” he warned.

“I want to speak to Mr. Dillon absolutely alone.”

“You ought to have a record,” insisted Carey. “A stenographer isn't anybody.”

“Alone! For God's sake!” she begged.

“I will do as she asks,” said Hugh. The officers tramped out, closing the door, and leaving them alone together.

“Mr. Dillon!” said Eileen, “I know you are a friend of Moira Devens. I wish to tell you something in confidence. Will you treat it so?”

The request was put so simply that it did not seem to Hugh either unusual or improper.

“Certainly—if you wish,” he replied. “I will not repeat anything you say to me. I have no way of compelling you to talk, and if you do you may impose your own terms.”

“Then listen. It is clear that you all suspect me of killing Richard Devens. You think I went to the house with a revolver for that purpose. I did not. I see you do not believe me! But you will when I tell you everything! I bought that revolver to commit suicide with. I swear it to you. I do not know who killed Richard. He was the last person on earth to whom I wished any harm to come—Mr. Dillon! Believe me! Do I look like a woman who would lie to you?”

“Then why did you go to his house?” inquired Hugh.

“I went there to beg him to permit me to see my daughter—our daughter—Moira.” [169]

“Moira!” Hugh became rigid.

“She is my daughter by Richard Devens. He was my lover.”

The blood throbbed in his temples as he stared at her incredulously.

“Does—does she know this?” he asked at length.

“She knows nothing. He would have married me after his wife died, but my habits made it impossible. I had begun to take drugs, and although I did my best I could not stop, so for Moira's sake, and in return for a certain income, Richard induced me to promise never to see her. But I was her mother, Mr. Dillon! Of course you can't know what that means, but as the years passed I found I couldn't go on living without her. So I bought the revolver from Moses, the negro waiter

at my hotel—and I went to Richard’s house to tell him that, unless he would let me see Moira occasionally, I was going to kill myself. He was very kind, and persuaded me to give him the pistol. I know that if he had lived he would have arranged something. He might not have told her who I was, but he would have let me see her in some way. Then he told me I had better go home. He let me out. Kelly was asleep in his cab. The lights were burning in the front hall when we drove off. That is all I know. You see, Mr. Dillon, I am the one bereaved. I have lost my best friend. It would be absurd to imagine that I was responsible for his death. Now, will you let me go home?”

Apparently she had no doubt but that he would accept her statement without reservation. Could this astounding claim be true? Could Moira be the daughter of this bedraggled outcast charged with the murder of her father? It defied [170] belief. There was not the slightest physical resemblance between them. The woman was a drug addict. The story was probably only the fantastic offspring of a disordered brain. A “pipe dream”! It might even be a fixed delusion under the influence of which she had murdered Devens for a fancied wrong. And now she advanced it in her own defense. It was in effect material evidence tending to establish her guilt. And yet—! His mind reverted to the scene in the courtroom and to that outside the offices of Hoyle & O’Hara. If it were not true, the woman at least harbored that definite belief herself. Surely some mysterious connection existed between this unhappy creature and Moira! The prisoner gave no other indication of irrationality. Her manner and utterance were convincing. He remembered his first impression of the portrait over the fireplace—how unlike it was to Moira. He had known far stranger stories. This woman was at least a lady. Slowly the conviction asserted itself that so far as her relationship to Moira was concerned she was telling him the truth.

“Where was your daughter born?” he asked.

“Philadelphia. I was singing in grand opera in New York. I was very well known then.”

So it was true that the woman was an actress! He must be on his guard.

“What was the name of the waiter who sold you the pistol?”

“Moses Wellington.”

“You say you left the revolver at the house?”

“Yes.”

“Have you any idea who could have killed Mr. Devens?”

“None. Perhaps he killed himself.”

Again the thought! Whoever had killed Devens had placed the revolver in such a way as to suggest suicide. [171]

“You will let me go, now? I shall not leave New York. I will come whenever you send for me.”

She was clearly quite confident that her request would be granted.

“I am sorry, Mrs. Clayton,” said Hugh. “I have no authority to let you go home. The case must follow the regular routine.”

He perceived that he had inadvertently allowed himself to be placed in a highly ambiguous position. He arose and she did the same.

“You had better not do any more talking,” he said. “I will respect your confidence, but I do not want to go any further on that basis. It may become my business to prosecute you for murder—and I wish to be unembarrassed.”

“Murder! Prosecute me for murder!”

For a moment he thought she was going to fall. He stepped to the door. The matron was just outside.

“I think Mrs. Clayton needs some assistance,” he said.

“Well, did you get anything out of her?” inquired Carey as they returned to the room.

“Nothing that I can tell you,” said Hugh.

“How do you mean—’nothing you can tell me’?” demanded Carey, squinting at him.

“What she told me was confidential.”

“That don’t hold. She can’t get away with anything like that. I’m an old hand, Mr. Dillon. I know this business down to the ground. We’re glad to let ’em shoot their mouths off. It’s the way we get most of our convictions. But you mustn’t give her a chance to talk without taking the consequences.”

“I appreciate what you say, Captain Carey,” replied Hugh. “I may have made a mistake. But I must keep my promise.” [172]

He found it difficult to talk to Carey with any degree of naturalness, so staggered was he by what he had just heard. He no longer doubted the truth of what she had told him regarding her relationship to Moira, since he now perceived that, far from serving as an exculpation, her story immeasurably strengthened the case against her. It was a genuine “admission against interest.” That she had contemplated suicide could easily have been an afterthought. What more probable than that Devens’ discarded mistress should go to his house for the purpose of blackmailing him? Moreover, she had acknowledged that she had procured the pistol and brought it with her.

Yet honor forbade his making use of her statement in any way whatever. He had become the involuntary guardian of her secret. He was now the one person on earth precluded from establishing the real motive for her crime, or the preparation for its commission! Chance had placed the conduct of the prosecution temporarily upon his shoulders, and he must continue his functions until Farley’s return or he should be officially relieved, but ultimately he would have no choice but to go to the district attorney and say: “I have heard something which makes it impossible for me to be connected any longer with the preparation of this case. I must forget it as absolutely as if I had never heard it. You must put some one else in my place.”

Of course he might go ahead and trust to luck that some detective would make an independent discovery of the facts confided to him, in which event they could honorably be used. Carey might “turn up” the negro waiter, for example; or conceivably some evidence might be adduced which would establish the relationship between Mrs. Clayton and Devens. But in that case the woman would always believe that he had betrayed her confidence. He would be bothered and impeded at every turn by the knowledge which he had allowed her to impart to him. Had it been a ruse? He wondered! Was he leaning over backward? Was there any sense in being so scrupulous as all that? Did honor preclude his use of the facts disclosed, independent of her admission of them. Might he not be jeopardizing the public interest by running the thing too fine? Yet his instinct told him that having given his word he must live up to it in its full spirit. [173]

He was the prosecuting officer and he had no alternative for the present but to continue as such. The case was complete, the circumstantial evidence established Mrs. Clayton’s guilt to a mathematical demonstration. No further motive was needed than could be inferred from the act itself, provided her procurement or possession of the revolver could be shown. And that would probably be supplied by the police before many hours had passed, without assistance or suggestion from him. No doubt Carey’s men were already examining all the employees of the Blackwell Hotel—the negro Moses among them.

But what if some other assistant were put in charge of the case and should unearth the fact that the woman who had killed Devens had been his former mistress and the mother of his child? The respectability of the Devens name would be destroyed forever. Moira would be put in the incredibly shocking position of a daughter forced to appear as complainant against her own mother for the murder of her father. By continuing in the case might it not be possible for him to prevent this terrible disclosure, without prejudice to the prosecution? Was not his first duty toward Moira? He must make no mistakes. The different elements in this complicated ethico-legal problem presented themselves to his excited imagination like the jumbled parts of a disordered picture-puzzle. [174]

“What a crowd there is out there in the street!” he exclaimed, aghast at the swarms of people about the station-house.

Captain Carey chuckled.

“It’s nothing to the crowds there’ll be around the Criminal Court Building when you try this case! It’s going to be the most sensational trial the country has ever known. It will make the reputation of everybody connected with it. And it’s a ‘pipe.’ She hasn’t got a chance! Goes there with a gun, plugs him, puts out the lights and sneaks out in the dark, believing they’ll think he killed himself. You’re a lucky fellow, Mr. Dillon, with Farley out at French Lick Springs! You got everything your own way—handed to you on a gold plate!”

They walked down the steps of the station-house into a circle of camera-men—“Hold that just a minute, Cap!” Click-clock! “All right! Thanks!”—and as he climbed into the police-car several reporters stepped upon the running-board and began questioning him. He had nothing to say, he declared. Well, they had to have a story, and he had better say a few words or they would have to make something up. Had he any doubt about the Clayton woman’s guilt? He admitted that it was a strong case. Had he located the shop where the gun came from? He had nothing to add on that subject. Had he any knowledge of any past connection between “Old Man” Devens and Eileen Clayton, the beautiful diva? Nothing to say. Had he heard from District Attorney Farley? No. Had he communicated with him? Not yet. Would he have charge of the prosecution? That remained to be seen.

“Look here, Mr. Dillon!” whispered Captain Carey, “for God’s sake, give ’em *something*! We don’t want a frost. [175] Tell ’em about the revolver being put under his right hand while the cigar-butt was in his fingers. You’ll never have another chance like this as long as you hold office!”

But Hugh’s only thought now was for Moira. He must get back to her as soon as he could. A boy hopped on the running-board just vacated by the disgruntled reporters and thrust a copy of an evening edition beneath his nose.

“RICHARD DEVENS MURDERED!

MILLIONAIRE FOUND DEAD OF BULLET WOUND

EILEEN CLAYTON,

FORMER OPERATIC STAR, HELD AS SUSPECT”

Carey seized it avidly.

“You can have the whole front page to yourself for the next three months, if you want it!” he assured Hugh.

A dense throng filled Seventy-sixth Street to within half a block of the marzipan house, where it was held back by [176] a cordon of men. Hugh and Carey forced their way through the mob to the front steps just as the door of the morgue wagon was being closed. Richard Devens was leaving his house for the last time. Had his death been the wages of sin? A police officer stood on guard at the foot of the steps, another at the top. A third tended the door on the inside. Carey’s men from the Homicide Bureau were comparing notes with the precinct detectives in the drawing-room. Two process-servers, a stenographer, a draftsman, a photographer, and young Thorn, the deputy assistant in charge of the district attorney’s Homicide Bureau, were awaiting Hugh in the front hall, shepherded by Jeffrey Quirk.

“We’ve got our own photographs,” said Thorn. “And Tinker has the measurements for a diagram. The Headquarters men say they have found a few clear prints on the top of the desk, but everything else is just a blurred mess. I’ve taken statements from the cook, kitchen-maid, parlor-maid, laundress, chambermaid, and chore-man, but not one of ’em knows a damn thing, or has even so much as heard of Eileen Clayton. We’ve got to work the other end—her end, I mean—run down her past—find out how she’s been supporting herself, and that sort of thing. Maybe Devens was keeping her. I say, it’s a whale of a case, isn’t it!” His eyes were popping.

“If you’ve finished up everything you can go back to the office,” said Hugh. “I shall stay here for the present.”

“We can’t leave here yet,” explained Thorn. “We have to wait for Mr. Redmond. He’s ‘acting,’ you understand. We

have to report to him.”

“Where is he?”

“They located him at the Racquet Club about ten minutes ago,” answered the deputy. “He was playing court tennis with a marker. Gee! but he was sore when he found out what he’d missed. He said he’d be up inside of fifteen minutes, and that we should wait until he got here.”

That Redmond should have anything to do with a matter that touched Moira so nearly was exceedingly distasteful to Hugh. Even if for certain ethical reasons he might incline to feel that he should not continue in charge of the case [177] himself, he certainly did not wish his rival to assume control of it. Redmond would play it for every ounce of publicity it was worth. He would sacrifice every shred of privacy and decency. What was worse, he would spend every cent in the county treasury in a relentless ferreting down of Eileen Clayton’s history, in order to reveal a motive, and, if possible, to blacken her character. In that moment Hugh realized that in addition to his moral loathing for Redmond, he entertained for him a bitter and burning hatred.

He was about to go upstairs to see Moira again when Wasserman and Burke entered and asked for Captain Carey.

“Well, captain, we’re on the trail of the gun!” said the blue-eyed sleuth. “I’m afraid that the taxi-driver has double-crossed us after all. He’s very thick with all those coons down at the Blackwell, but he finally admitted to us that he thinks the old Smith & Wesson belonged to a nigger named Moses Wellington, who waited on the Clayton woman. He won’t identify it positively, but I guess he will when the time comes.”

“Where is this nigger?” snapped Carey.

“Blown!” exploded Wasserman. “He was around this morning all right. He’s soft on a wench named Tilly, who runs the cigar counter. But he hasn’t been seen since Kelly went back there about half-past ten. My idea is that the coon has got something on him, and that Kelly was afraid to tell us the whole story until he’d given the nigger a chance to beat it.”

Carey’s face darkened.

“You should never have let that ‘harp’ go until you’d squeezed him dry!” he cried. “Get busy now and turn that nigger up, or I’ll have you demoted. Call up Headquarters and tell ’em to send out a general alarm—watch all the terminals [178] and ferries. What does this nigger look like?”

“Just like a nigger, I guess!” growled Wasserman.

“Well, cover that Tilly girl!” ordered Carey. “That’s your one best bet! We can’t convict the Clayton woman without proving that she brought the gun here, and we can’t pin that on her without the nigger. We’ve got to have him, see? But if we wait long enough he’s bound to connect up with his woman.” He turned to Hugh. “What is it the French say: ‘Cherchez la femme’? Well, I’m off for another swing at the Blackwell; and another go at Kelly!”

Moira let Hugh take her in his arms without a word.

“Moira,” he said at last, “this is a strange time to tell you so, but I love you.”

“The best time to tell me,” she answered, “is when I need you most.”

“Then you love me, too?”

“I have always loved you, Hugh. Ever since that day in court when I saw you from the bench.”

“And I you!”

He held her close, in silence. The agony of her situation rendered words an offense. His mere presence and unspoken sympathy were all that he could give her. In the street below horns tooted and taxi doors slammed as the police and their

auxiliaries came and went. Footsteps pounded ceaselessly on the stairs. There was no longer that hush that marks the presence of the dead. Suddenly Moira spoke.

“Promise me something, Hugh! Take charge of the case so I can feel that it is not being handled by strangers who might have less consideration for my feelings than some one who cares for me. It is going to be hard enough without the additional suffering I might have to bear if they went into my father’s past. I want your protection, Hugh!” [179]

She lifted her head and kissed him.

“If it can be done—I promise!” he said.

“‘If it can be done’? Of course it can be done! Mr. Farley will surely honor any request I may make under the circumstances.”

“I will do anything you ask, Moira—at any time. I must go now. I will come back later.”

“Thank you, Hugh. It is the greatest comfort to have you with me.”

They kissed again and he went downstairs. What was he to do? As a reasonable human being and as an officer of the law he was convinced that Eileen Clayton had killed Richard Devens. Yet the exposure of their relationship involving, as it did, Moira’s illegitimacy, would cloud her entire life. If he retained control of the case it might be possible for him to protect her secret. On the other hand, how could he bring himself to prosecute this woman even if guilty of murder, knowing her to be Moira’s mother?

An almost unrecognizable Michael Redmond was standing upon the landing, talking to the group of men from the district attorney’s office. The sight of Hugh seemed to infuriate him. Without responding to the latter’s greeting, he called out:

“I am in charge here! This is my case!”

CHAPTER IX

“You are no longer needed!” said Redmond insolently. “I shall take charge of this case from now on.”

Why should Redmond so obviously gloat over his power to take the case away from him? Why should his attitude suddenly become inimical? Could he have been drinking at that hour of the morning?

“If you had been in your office instead of playing racquets at the club, you would have had charge of it from the beginning.”

Redmond’s eyes dwindled dangerously.

“You had no business butting in! You are not attached to the Homicide Bureau! At any rate, you should have waited for me.”

“Nonsense!” retorted Hugh. “I was sent for and I came. Nobody had any idea where you were. Somebody had to represent our office.”

“Where is the prisoner?”

“In the Sixty-seventh Street Station House.”

“Did you get anything out of her?”

“No.”

“Did she tell you anything?”

Redmond asked the question insinuatingly. He had evidently been talking to Carey.

“Nothing that I am at liberty to repeat.”

The acting district attorney clenched his fist.

“You can’t put over anything like that!” he cried. “If I am going to try this case—and I propose to try it—I intend to know everything this Clayton woman has told you!”

“You will never get it from me!” answered Hugh. “What she told me, she told me in confidence, and I so informed Captain Carey.”

[181]

“Yes, that’s what he said. You think you’re God Almighty, but you’ve a lot to learn yet, as you will find out.”

Hugh took a step toward Redmond.

“If you had not been drinking and a death had not just occurred in this house, I should ask you to step over into the park and let me teach you manners,” he said.

“Fire-eating as usual!” sneered the Honorable Michael.

Hugh pushed by him and put on his hat and coat.

“God help anybody who relies on your honor!” he remarked.

It is said that the mauling of a lion produces an anesthesia in its victim which renders the latter insensitive to pain, and

we likewise know that severely wounded men do not immediately suffer from their injuries. It was owing to some such provision of Nature that Eileen Clayton had been able to sustain her arrest, transportation to the station-house, and examination without collapse. In spite of her public career she had never been able to overcome a natural shyness so intense that all close contacts were distressing to her. The shock of being dragged from her bed, taken to the station-house and accused of Richard's murder had made her, for the moment, insensible not only to the acute horror of her position, but to those lesser indignities which ordinarily would have been agonizing. It was as if her astral body were the hovering spectator of what was happening to the earthly case of Eileen Clayton.

She saw the poor thing sitting in the matron's room in her tawdry hat and soiled chinchilla, and heard her questioned, badgered, and hectoring by one officer after another—by precinct detectives, men from the Homicide Bureau at Headquarters, captains, inspectors, and by representatives of the district attorney. She watched herself shrink and congeal under their bullying, blundering interrogations, experiencing a curious intellectual satisfaction at her ability to remain silent with respect to her relations with Devens and the ownership of the revolver. In a way it all—even the fact of Richard's death—seemed academic—an unreal pantomime, at the end of which she would probably find herself back in her bed at the Blackwell. For the time being she was sleep-walking and, fortunately for her, she was still in that condition when one of the headquarters men, having taken her finger-prints, led her across an area in the rear of the station-house and thrust her into a cell. It was about four feet by seven, one of a row opening upon a passage, and contained nothing but an iron shelf for a seat. She sat there staring dry-eyed through the bars, while the astral body of Eileen Clayton fluttered nearer and nearer to its effigy. [182]

She was conscious first of the smell of paint—in which was fused that of steam-pipes, cabbage, and suds. The cell was suffocatingly hot. Why was it painted dark red? Blood color! How long would they keep her there? Surely that nice young man who knew Moira would arrange for her release! Was it possible that Richard was really dead? She passed her hand across her forehead and found it covered with sweat. Her mouth was parched and sticky. Could she not ring for a glass of water? She looked about the cell. There was no means of communication whatever! Suppose she should be taken ill! The thought frightened her. "I want to get out!" she whispered. "I want to get out!" The walls seemed to be closing in upon her. She grabbed the bars of the cell door and tried to shake them, but they were immovable. [183] "Let me out!" she cried, this time out loud. The sound of her own voice filled her with terror. If somebody she knew would only come—even Moses! She had nobody—nobody at all! Nobody but Uncle Dan! "Mother!" whispered the gray-haired woman. "Mother!"

Footsteps on the asphalt of the area! A key rattled in the iron lock of the outer door. A shaft of cold air. "She's in there—third cell to the right," she heard a voice say. A stranger was standing in front of the cell.

"Mrs. Clayton—I am Assistant District Attorney Redmond."

At first glance she thought the nice young man had come back. Then she saw that this was another. He was smiling.

"Do you mind if I ask you a few questions?"

There was something about his smile that she distrusted.

"What do you wish to ask me?"

"Won't you sit down?" he inquired. "Do you mind if I smoke? Perhaps you would like a cigarette yourself?"

She shook her head, holding one of the bars in either hand.

"How long must I stay here?" she asked. "May I have a glass of water?"

"You may have anything you want—after I have talked with you."

"Couldn't I have it now?"

"When you have answered my questions." He leaned gracefully against the opposite wall.

“There is nothing personal about this, Mrs. Clayton. You know, of course, that I have nothing against you. On the contrary I am extremely sorry for you. If you answer my questions satisfactorily, I shall do everything in my power to secure your immediate release.” [184]

“But I thought that other young man was the district attorney.”

“He is out of it!” answered Redmond. “I am the one in authority. Perhaps there is something you would like to tell me. Why you went up to the Devens’ house, for example. How long have you known the family, may I ask?”

“A long time. Mr. Devens was an old friend of mine.”

“Why don’t you make a clean breast of the whole business, Mrs. Clayton? You were the last person known to have seen Mr. Devens alive. No doubt you can explain everything, but until you do you will naturally be under suspicion. You do not want to stay here any longer than necessary.”

“I have told everything already. Mr. Devens was alive when I left him about twelve o’clock. He showed me downstairs.”

Redmond took in a lungful of smoke.

“Where did you get the pistol that you took to the house? The one you told Mr. Dillon about,” he added, letting the smoke exhale slowly from his mouth.

“I said nothing to Mr. Dillon about any pistol!”

“Oh! Well, what did you tell him?”

“What I told him was confidential.”

“Why not be confidential with me, too? I stand in Dillon’s place. I am the only person who can do anything for you, Mrs. Clayton. I have entire authority. If you make a statement to me that satisfies me of your innocence I will see that you are set free at once.”

Eileen hesitated. He seemed straightforward and honest.

[185]

“I swear to you that I know nothing about the murder of Mr. Devens.”

“How do you know it was murder?”

“I don’t know. But you all seem to think it was. Could I have a glass of water?”

“Not unless you are willing to be frank with me, as I am with you.”

The weakness that drove her to the drug forced her to sit down. Never had she needed a stimulant as she did now. Redmond saw her hands tremble. He had known many victims of the habit.

“You look sick,” he remarked in a tone of pity. “Wouldn’t you like some medicine? I can get it for you—anything you like.”

A wave of temptation swept over her. Oh, for just one shot!

“I don’t feel very well,” she conceded. “My medicine is in my room at the Blackwell. Could you send for it?”

Redmond nodded.

“I think we can arrange about that—if you will answer my questions.”

An irresistible craving was dragging her toward the bars.

“What do you want to know?”

“I want to know what you told Dillon. If you could tell him, you can tell me, too. Then I’ll send over to the Blackwell and get you anything you like.”

“What I told him hadn’t anything to do with how Mr. Devens came to be killed.”

“Never mind! What did you tell him?”

Every atom in her being was crying out for respite from torture.

“Get what is in the top drawer of my bureau—and I’ll tell you,” she whispered, closing her eyes. [186]

“Now you’re talking!” he exclaimed heartily, striving to suppress his triumph. “And, because you’re getting sensible, I’ll tell you a secret. I’ve been over there already.”

He felt in his pocket and took out a package which he opened deliberately.

“See?” he coaxed, holding the silver needle just out of her reach. “Tell me the truth—what you told Dillon—and I’ll give this to you.”

“Give it to me first!”

“No. You’ve got to deliver the goods. Then——”

“Give it to me—!” she panted, reaching through the bars. “For God’s sake, give it to me! I won’t speak unless you do!”

“All right!” agreed Redmond. “If you promise to tell me two things—what you told Dillon, and where you got the revolver—I’ll give you a shot. Hold out your wrist.” He pressed the needle into it.

“Oh!” she exclaimed in an ecstasy of relief as life rushed through her veins. “Oh!”

“But that’s all until you talk!” he said, putting the instrument back in his pocket.

Instantly Eileen’s wilted spirit revived, her physical strength returned, once more her fatigued brain became alert. Trick her into some sort of a confession, would he?

“Come, now!” urged Redmond. “Out with it!”

Eileen looked at him slyly. On her face was the fixed meaningless grin that inevitably followed her use of the drug. Her color had returned.

“Why, Mr. Redmond,” she said in a thin, high voice. “I didn’t tell Mr. Dillon anything—and I didn’t have any revolver!” [187]

The procession of taxis following the one which carried Eileen to the Fourth District Magistrate’s Court numbered nineteen. She was accompanied by Wasserman and Burke. In the second car rode Redmond and Carey. The others were entirely occupied by gentlemen of the press and their associates of the camera and the crayon. Her exodus from the precinct house as well as her arrival at the Fifty-seventh Street Court, filmed by both Pathé and Kinograms, was shown on the news-reels of the moving-picture houses along Broadway at the performances that same evening. A squad of reserves rushed the crowd away from the doors, and held them back while the headquarters men led Eileen upstairs to the court-room, followed by the mob of reporters. Magistrate Blynn was hearing a charge of rape in the second degree, but he gladly suspended the proceedings in order to give full and immediate attention to an event of such superior importance as the arraignment of the murderess of “Old Man” Devens.

The blue-eyed Wasserman swore to a short affidavit in which he alleged that the defendant, Eileen Clayton, “did shoot and kill one Richard Devens,” and, Redmond having asked that her examination be set at forty-eight hours, she was thereupon committed to a cell in the prison below.

“If nobody gets to this woman, Judge,” remarked the Honorable Michael, leaning confidentially across the top of Blynn’s desk, “she’ll cave inside of twelve hours. She’s a dope fiend, and she can’t live without it. Of course her attorney might bring it in to her, but so far she hasn’t any lawyer, and I hope to God she won’t get one before we have another [188] chance at her.”

“I’ll try and facilitate you in every way, Mr. Redmond. I will give instructions that the rules are to be strictly enforced,” replied Magistrate Blynn. “She should not be able to get any dope in there. Excuse me, I think that that artist from *The Herald Tribune* wants to sketch us. How is that, Mr. Shrady? Can you see my face?”

All that morning Daniel Shay had sat on a bench in the crowded anteroom of the Grand Jury on the top floor of the Criminal Court Building, waiting to be called as a witness. Let them send him to jail! What did he care now? He would take whatever blame there was upon his own shoulders. The name of Richard Devens should remain untarnished—upon that he was fully resolved. He paid little or no heed to what was going on about him. His heart was too full. Dick was dead! By that time they would have found his body. Poor Moira would be distraught. He wished that he could go to her, but he felt a certain relief at being forced to remain away from the marzipan house by an order, as it were, of the court. So he sat there in a daze while Greeks, Armenians, Sicilians, and Chinamen pushed by him, and witness after witness responded to his name, arose, and passed through the door into the chamber of mystery beyond. Noon came and the Grand Jury filed out, a herd of tailored goats led by an old Billy in side-whiskers. Uncle Dan, not knowing what else to do, followed them down into court, where they huddled at the rail while the foreman handed up the regulation bunch of indictments to the judge, who bowed unctuously, and said:

“You may proceed with your labors, gentlemen!”

Then they straggled out to the elevators, Uncle Danny with them. He must go to the office, he supposed! It was the [189] moment of all others for him to be on hand.

A boy thrust an “extra” in front of his nose. Double Titanic!

RICHARD DEVENS MURDERED
EILEEN CLAYTON, EX-PRIMA DONNA, ARRESTED
ADMITS VISITING FINANCIER LAST EVENING

Eileen! The blood rushing to his eyes blurred his sight, and the pavement rose up to smite him. Eileen accused of killing Dickie! What a fantastic idea! He thrust a nickel into the boy’s hand, and crushing the paper into his pocket, staggered across Franklin Street to the Elm Castle. Good God! What made them think Eileen could have done anything like that?

It was another ten minutes before he had sufficiently mastered himself to read the report.

So that was where the pistol had come from!

Eileen was to blame for Richard’s death, for she had brought the revolver there!

Yet she was innocent.

But so was he innocent!

He felt a tremendous pity for both Eileen and himself—for Eileen because she was unjustly accused, for himself because he might be unjustly accused. He must go at once to the authorities and explain. He would go to young Dillon. The boy would help him. It was terrible to think of poor Eileen locked up in a cell. She must not be kept in confinement a minute longer than was necessary. She would go mad without her drug. He would go right back to the Criminal Court Building. He would explain everything fully. Somebody touched his arm!

“Mr. Shay, the acting district attorney wants to see you.” Wasserman was standing beside him. In his agitation Uncle Dan dropped his fork upon the floor. He looked at the detective helplessly. [190]

“Me? What about?” he stammered.

“He’ll tell you himself.”

“Maybe it’s the same thing I was subpoenaed before the Grand Jury for?”

“Was you before the Grand Jury?”

“No, only subpoenaed.”

He showed the subpoena to Wasserman.

“You was a friend of Mr. Devens’s, wasn’t you?”

“A very old friend.”

“Saw him ’most every day, didn’t you?”

“’Most every day.”

Wasserman handed the old man his derby hat.

“Well, come along over!” he said, taking the arm of Uncle Dan, who quailed at his touch. Could it be that they suspected him of having something to do with Dickie’s death after all? Perhaps the arrest of Eileen was only a blind. Suppose he admitted that the shot that killed Dick had been fired in the course of a struggle for the revolver? They would naturally conclude that he and Dick had quarrelled over the investigation of the A. A. & B. They might even say that he had killed Dick in order to stop his mouth—to prevent his becoming a witness for the State. It was bad! Bad! There would be nothing to meet the accusation but his own word. And they would never take that!

“You was in business with Mr. Devens, wasn’t you?” inquired Wasserman, as they recrossed the street. There seemed to Uncle Dan something ominous in the way he said it. He nodded. His throat was too contracted to permit of speech.

“Had he been subpoenaed too?”

[191]

It was clear that Wasserman suspected his connection with the homicide!

“Not that I know of.”

They went up in the elevator to the floor occupied by the district attorney. The corridors were alive with policemen, the pressroom full of reporters scribbling on yellow sheets which they handed through the windows to messenger-boys waiting outside in the corridor. Wasserman had difficulty in making a path for Uncle Dan through the milling throng. An air of excitement and of mystery pervaded everything. One of the reporters at the window spotted the detective.

“Who you got with you?” he asked.

“This is Mr. Shay—Devens’ side partner,” answered Wasserman over the sea of heads. The rush in their direction almost swept the old man off his feet. They acted as if they wanted to lynch him. Christ! His heart was thumping painfully. Wasserman shoved him ahead into the district attorney’s outer office, through the open door of which Uncle Dan could see a blond young man in a blue suit, pounding his palm with his fist, and haranguing a group about him.

“Got him?” he called out at sight of Wasserman.

Uncle Dan’s legs nearly gave way.

“This is Mr. Shay, Mr. District Attorney,” announced the detective, pushing Uncle Dan into the centre of the room, which seemed to him to be ringed by glaring beasts.

The young man in blue approached him unsteadily. Even in his fright Uncle Dan noticed the odor of whiskey.

“I am,” he announced as one who might declare himself to be the heir of a princely house—“I am—The Law! —‘Render unto Cæsar the things that are Cæsar’s’! Give me a cigarette, Tommy Todd!” [192]

He thrust his face close to Shay’s.

“Therefore, O Shay, harken unto the Voice of the Law! And trifle not! Mr. Todd here is the best stenographer in the United States—and he will take down your words e’en before they leave your lips. When did you last see Richard Devens in the living flesh?”

Uncle Dan’s tongue clove to the roof of his mouth. Why should he deliberately thrust his head in a noose which would be instantly yanked tight? Eileen was as yet only under arrest. She had not been indicted. The charge against her might be dismissed. There would be plenty of time in which to tell his story. When he made his explanation it had better be to the district attorney in person, not to a drunken sot like this.

“I saw Mr. Devens at his home about six o’clock last evening,” he answered.

“You did, eh! Who was present?”

“Mr. Devens, Mr. Hoyle, and myself.”

“How late did you stay?”

“Mr. Hoyle and I went away at about half-past six.”

“Um!”

Redmond lowered at him.

“How long have you known Mr. Devens?”

“About fifty-five years.”

“Pretty intimately, eh?”

“As intimately as one man can know another, I guess.”

“Did you know this Clayton woman?”

“I have met her.”

“How well did Devens know her?”

Uncle Dan, frightened as he was, perceived clearly that he must be careful not to furnish the district attorney with a motive for the killing.

“That I cannot tell you.” [193]

“Did you ever see her at his house?”

“No.”

“Did you ever see them together at any time?”

“Many years ago.”

“How many?”

“Twenty.”

“Um! Where have you met her?”

“I have called upon her at her hotel.”

The group about him took a new interest in Uncle Dan. Could he be an elderly roué in disguise?

“Um! You don’t say! Called on her at her hotel! How frequently?”

“About once a month.”

“How long has this been going on?”

Uncle Danny grew red.

“I have been calling on Mrs. Clayton for some twenty years. She is an old friend of mine.”

“Old friend of both you and Devens?”

“Of both of us.”

Uncle Dan saw that the beach upon which he stood was shelving off rapidly into deep water. The district attorney would surely learn of the contract by which Eileen was to receive a thousand dollars a month for life. Better get it over with!

“Mrs. Clayton was a pensioner of Mr. Devens’s. I understand he allowed her a thousand dollars a month. I have occasionally taken her a check from him.”

Redmond looked round triumphantly.

“Now we’re getting somewhere!”

Uncle Dan saw his mistake too late. He had become an essential part of the prosecution.

“If you will kindly remove your outer garments,” continued the acting district attorney, “I think we can keep you busy most of the afternoon. Just step into that little room back there with Mr. Tommy Todd, and tell him the story of your young life. After you get through with that, I’ll come in and together we will try to decide why Eileen Clayton killed Richard Devens.” [194]

It was after nine o’clock that evening before Uncle Dan was suffered to leave the Criminal Court Building. During the course of his six hours’ examination nearly every fact in his conscious and subconscious mind had been dragged forth by Redmond’s artful cross-examination, save that Eileen had ever had a child, and that the child was Moira Devens.

“I shall want you promptly at ten o’clock to-morrow morning,” had declared a miraculously sobered Redmond. “I shall shoot the case straight into the Grand Jury without bothering with an examination in the Magistrate’s Court. You’re going to be our star witness—the chief link in our chain. Good-night!”

Uncle Dan had never intended to be any such thing. At worst he had expected to wait and see what was going to happen, without in any way assisting in the happening. He had fully expected that after her examination before the magistrate, Eileen would be set free. There would be nothing to worry about, because she was entirely innocent. And then his pulse stopped! He, too, was entirely innocent, yet if he told his story he would undoubtedly be held criminally responsible for Richard’s death! Must it be one or the other of them?

He was getting more and more involved every moment. He had sworn to the deposition taken by Redmond. If he recanted now it would involve admission of perjury! Christ!

Well, if worst came to worst, he could come forward and tell the whole truth. If the Grand Jury did not indict, it would be much better to have kept still. He would make it plain to them that Eileen's guilt was quite out of the question. [195]

He sat up all night trying to invent some way to extricate himself. Clearly, there was nothing to do but to go on for the present. Should he now admit that he had lied to Redmond, it would vitiate any explanation he might attempt to make. They would accept his statement as true so far as it was incriminating, while treating it as false in so far as it was exculpatory.

He was down again waiting outside the Grand Jury room early next morning. The corridors swarmed with newspaper men. He was photographed twice by means of a magnesium flash, and so many reporters tried to interview him that he was finally tucked away out of sight in a side chamber.

"Mr. Shay! This way, please!"

The sound of his name roused him from the stupor into which he had fallen through fatigue and worry. He followed the officer across the hall, through the little door, and into a huge room where a lot of men were sitting in a semicircle. When he entered they all stopped talking and looked at him. The old Billy-goat in the centre—the one with side-whiskers—bowed with what seemed to Uncle Dan an ironic courtesy. "Excuse me for hanging you!" so to speak. Redmond was standing behind him. There was a little goatish stenographer by the door.

"Good morning!" bleated the foreman. "You are Daniel Shay? You were connected with Richard Devens in business? Very good! In the matter of the People against Eileen Clayton—You swear to tell-the-truth-the-whole-truth-and-nothing-but-the-truth-so-help-you-God-sit-down!"

Uncle Dan sat down. Strange pricklings were running up and down his spine. Torquemada was a piker compared to Redmond! He must be wary, or the cat would be out of the bag in no time. He must tell just enough and not too much. And he must speak that word in behalf of Eileen. The grand jurymen, having satisfied their curiosity, had begun talking again. The foreman rapped. "Order, gentlemen!" [196]

Uncle Dan steeled himself. They should not drag anything out of him that he did not wish.

"You knew Eileen Clayton?" Redmond was doing the questioning.

"Yes, sir."

"How long?"

"Twenty years."

"Did Richard Devens know her?"

"Yes, sir."

"How long?"

"At least twenty years."

"Did you ever carry money to Eileen Clayton from Richard Devens? If so, in what form?"

"I often took checks from Mr. Devens to Mrs. Clayton at her hotel—the Blackwell—usually for a thousand dollars."

"When was the last time?"

“About three weeks ago.”

Redmond’s glance enfleaded the profiles of the semicircle.

“Any questions? That is all, Mr. Shay.”

All? Uncle Dan was stunned. Was that all they were going to ask of him?

“Send in the next witness!”

Uncle Dan swallowed.

“May I say a word?” he said faintly.

“If you say it quickly!”

[197]

“I wish to say, gentlemen of the jury—I mean the Grand Jury—that the idea of Mrs. Clayton murdering Mr. Devens is ridiculous. They were the best of friends. In fact, from what they used to say I know they were very fond of one another.”

“Is that all?” asked Redmond sardonically.

“That is all, except——”

“Next witness!”

Uncle Dan found himself unexpectedly outside the door again. Did they call that an examination? Now that he was out of their presence he realized that he had been treated very cavalierly. They hadn’t given him half a chance. He could have exculpated Eileen entirely in another two minutes! He now actually believed that, if interrogated, he would have done so. Anyhow, he had not had to perjure himself again. That was a relief! To avoid the reporters, he slipped back and took a vacant seat in the anteroom. Would the Grand Jury indict? A moment later a bell rang inside. A rustle of feet. The members of the Grand Jury were filing out, joking among themselves. This time the foreman held but a single indictment.

“Stand back there!”

The crowd was so great that Uncle Dan could hardly squeeze into the elevator. It was worse outside the Criminal Term of the Supreme Court, which was packed to the doors, but Uncle Dan looked so like a grand jurymen that they let him in with the others, and he stood with them at the rail while the clerk stamped the indictment and wrote out a bench warrant. On either side was a solid bank of artists, camera-men, and reporters of both sexes.

Mr. Dollar blotted what he had written and bowed to Judge Barker, who bowed back at Mr. Dollar and to the world at large. His Honor knew that the grand jurymen would want to see the defendant arraigned, and so he did not immediately discharge them but held them, so to speak, “at ease.”

[198]

“Is the defendant there?” asked Mr. Dollar of Captain Lynch. “Eileen Clayton to the bar.”

Eileen did not see Uncle Dan, although she could have touched him as she took her place at the rail.

“Is the defendant represented by counsel?” continued Mr. Dollar pompously.

Ebenezer Hoyle and Ignatius O’Hara stepped forward.

“Enter the appearance of Messrs. Hoyle and O’Hara for the defendant,” said Judge Barker, with gratification. It was proper that a celebrated murderess should be represented by celebrated counsel. Mr. Dollar wrote something.

“Shall I proceed, Your Honor?” All sound ceased.

“Eileen Clayton, you have been indicted by the Grand Jury of the County of New York for the crime of murder in the first

degree. How do you plead: Guilty or not guilty?" He looked at Hoyle.

"We plead not guilty—with leave to withdraw within ten days and to demur or make such other motions as may be desirable, and we ask that we be furnished with a copy of the indictment."

Twenty crayons were sketching the haggard features of the woman at the bar, while twenty pencils reduced every word to shorthand. The historic moment would be perpetuated for all future generations.

"The defendant is committed without bail."

Judge Barker spoke the words with such an air of apology that no reasonable human being could possibly have taken offense. Even the spectators realized that in committing Mrs. Clayton to the City Prison, His Honor, so far from [199] having any personal animus toward her, experienced genuine regret. But the words fell like paving-stones upon Uncle Dan's heart. Should he speak out? There was still time! What should he do? He looked about terrified. Too late! She was already being led away. Remorse merged in relief! He would go over and see her in the Tombs that very afternoon. After all, there was plenty of time. If she were tried and acquitted there would be no necessity for his speaking.

The door had closed behind Eileen. The crowd held its breath—awaiting the next indication of the prisoner's unseen progress. A few moments later a dull clang signified that she was being led across the Bridge of Sighs.

Judge Barker smiled significantly at the grand jurors. In after years their children would rise up and call him blessed for having allowed their fathers to be present at a scene quite as memorable, from their point of view, as the surrender of Cornwallis.

"You may continue your labors, gentlemen."

He swept down from the dais, and the crowd struggled toward the door, while over their heads the eyes of the beautiful Blind Goddess followed the direction of the unfortunate victim being led to sacrifice.

"Hold on! All right, Jim!"

The deputy sheriff who was guiding Eileen by the arm arrested her progress at the other end of the Bridge of Sighs. A bolt was shot and an iron door swung inward, admitting her into a world of steel-barred shadows.

Tradition has it that the floor of the old Tombs used to rise and fall with the tide—an illusion heightened by the fact that its walls oozed dampness, and that the floor often was overflowed with water, which came from no one knew [200] where. It was not surprising that a poor wretch whose nervous system had been racked by alcohol, drugs, or fear of physical violence, should imagine that he could feel, and perhaps even see, the slimy pavement lifting by infinitesimal degrees under his feet. And it may not have been altogether imagination, for both the Tombs and the Criminal Court Building, its neighbor, stand in the centre of the site of what was once the old "Fresh Water" or "Collect Pond."

Where to-day the policeman leads his quarry along Centre Street, amid the thunder of trucks and the hooting of taxis, once lay a lake of peculiar beauty, fed by crystal springs, bordered by marshes, the nesting place of countless birds, where the only sound at night was the croak of the bittern, the only light the glow of some Indian fire.

From it the "Old Kill" or "Wreck Brook" straggled away to the East River across Wolfert's Marsh; while another brook, broadened in later times into a "canal" to connect it with the Hudson, flowed westward where now the traffic rumbles along the street that bears its name.

Gradually the Indians moved away from the "Collect," preferring the remoter fastnesses of the upper end of the island. Nieuw Amsterdam became New York, and the town stretched northward, reaching its fingers through marsh and woodland, until the pond became contaminated by factories and breweries, its surface discolored, its reedy beaches strewn with refuse. No longer was the water fit to drink. Soon the lake, polluted by the excrement of civilization, had been transformed into a noisome and miasmatic bog, a menace to the health of the city. Then it was ordered filled, and in

the very centre of what had been the loveliest piece of nature's handiwork within twenty leagues, was built the prison called "The Tombs"! [201]

Thus it was that the beautiful "Fresh Water," the fairest lake of Nieuw Amsterdam, became first a swamp, and then a human cesspool—a terrible attestation to the ransom which nature pays to progress.

Eileen, bewildered by what had happened to her, and as yet unconscious of her full danger, followed the deputy sheriff down a flight of iron steps, through a corridor and across the prison yard to the woman's prison, the only portion of the Tombs which had been left in its original condition when the structure was rebuilt.

"Come on! Don't stand gaping there!"

A matron in a blue-striped uniform seized her roughly by the shoulder and pushed her along a narrow passage to a door which she unlocked with one of the keys dangling from her belt. Eileen recoiled in spite of herself. She was standing on the threshold of a dark and smelly chamber, perhaps a hundred feet in length and twenty feet wide, lighted only by a few small windows high up near the ceiling, beneath which, on a wooden bench, sat a group of frowsy women of all ages, white and colored, in every variety of costume. At sight of her they set up a shrill cackling, interspersed with "boos" and cat-calls.

"Shut up, there! Come along, you!"

On the right a row of narrow cells, minus any communication with the outer air, opened directly upon the ward. Each contained a double-decker cot without mattresses, a chair, a small set bowl and tap. The air was insufferably hot and foul with the fumes of human bodies and of prison food. The matron opened one of the cell doors. Inside a hard-featured girl was lying on the lower cot. She had taken off her waist and shoes and thrown them upon the floor.

"Here's a buddy for you, Pinkie! Get in there!" The door clanged to. The girl eyed the newcomer malevolently. [202]

"What they got you for?" she snarled.

"I—I am indicted for murder," stammered Eileen.

"Murder!"

The girl swung her bare feet off the cot and sat up. Her manner became almost respectful.

"Say, you ain't that Clayton woman! My Lawdy!" She bounded to the cell door. "Say, girls! Who you s'pose I got week-ending with me? Eileen Clayton!"

Half-nauseated and in momentary fear of personal violence, Eileen climbed to the upper cot and threw herself face downward upon it.

"Moira!" she moaned, her face pressed to the stained covering. "Moira! My little Moira!"

Thus it was that by twelve o'clock noon of the day Richard Devens had met his death through the accidental discharge of a revolver in the hands of his friend Daniel Shay, most of the so-called civilized world, and much of the concededly uncivilized, knew positively that he had been deliberately shot down and killed in his Fifth Avenue residence by Eileen Clayton, a former star of the Metropolitan Opera; that by two o'clock the "extras," which had been run through the presses within a few minutes after the arrest, had been supplanted by early evening editions in which the murder not only dwarfed all other items of intelligence, but crowded them entirely off the front pages; and that by the following morning the X-ray of publicity had been turned fully upon the case and disclosed everything but the truth.

Overnight, newspaper "morgues," magazine files, and biographical dictionaries had supplied the forgotten data [203] necessary for the reconstruction—*ex pede Herculem*—of the past of both the supposed chief actors in the tragedy. The life-size features of Eileen Clayton as Cio Cio San balanced those of Richard Devens, the friend of Richard Croker

and newly elected treasurer of Tammany Hall, in square derby hat and burnsidies. Her night of triumph on which, after a performance of "Aida," she had been dragged up Broadway in an unharnessed Victoria drawn by gentlemen in evening dress, among whom it was said Devens had been conspicuous, was recalled, as well as the fact that the blue known as "Eileen" owed its name to her, and that an "Eileen Clayton" had once run second on Epsom Downs. Historic romance and present melodrama made their bow together hand in hand before the footlights of the press. Never had there been a case offering such newspaper possibilities.

There was no fact known to the police that was not also known to the public, and these facts, taken together, constituted a clear-cut and overwhelming case of circumstantial evidence, proving Eileen Clayton's guilt not only beyond a reasonable doubt but to a mathematical certainty. In two respects only could the evidence be regarded as in any way weak—that of motive, and the identification of the revolver—but it was pointed out that motive could be legally inferred when all the other necessary elements were present, and that, although it might add to the strength of the case could he do so, it was not technically necessary for the prosecutor to prove the genesis of the weapon.

It was generally held that Eileen Clayton's only hope of escape lay in the possibility of arousing a public sympathy so intense that it would exercise an unconscious control over the jury. And such a sentiment the press at once set out to manufacture. As usual, its logic was sublime. Why, it asked, should a woman of Eileen Clayton's reputation and standing seek to take the life of an elderly millionaire like Richard Devens—unless there were some hidden justification? And what could that justification be? At any rate, it must obviously be sufficient to motivate the act! Devens, the satyr, had wronged this angelic creature, and she had avenged his crime—perhaps unintentionally. [204]

But the plea of justification, so subtly advanced, did not prevent the newspapers from seeking to build up as strong a case as possible against the defendant. The more positive the proof, the clearer cut the issue would be. The Clayton case, by unanimous consent, became a "*crime passionnel*." How far would an American jury carry the "unwritten law"? Would it not, in the case of a woman of Eileen Clayton's beauty, charm, and professional reputation, infer, even in the absence of evidence, whatever was necessary to establish justification? Public opinion inclined to the belief that it might—that it certainly would if the district attorney left the slightest doubt in the jury's minds as to the ownership of the revolver.

The case became, quite naturally, the chief topic of conversation throughout the country, and the most distinguished minds in America gave it their attention. No famous sportsman, actor, prosecutor, psycho-therapist, parson, prize-fighter or publicist but expressed himself as being vehemently opposed in principle to any such doctrine as the "higher law," while nevertheless convinced that it was firmly imbedded in practical American jurisprudence. Every *cause célèbre* in which the defendant had been a woman was resurrected and revived. Lizzie Borden and Nan Patterson became once more familiar names; the significant feature, and one which might have aroused the interest of any student of sociology, being that in every instance it was conclusively assumed that Eileen Clayton was guilty, and that the problem at issue was merely whether the jury would let her off. That this attitude might, in fact, result in a jury ultimately letting her off did not seem to occur to anybody. [205]

The betting odds began and stayed about even. "Of course she killed him—but you know what juries are!" "Constitutional right of every woman to murder her lover!" "Well, I don't know as I blame her! There's probably two sides to it! If we knew everything—" Such was the general drift.

The fact that Devens' financial career had not been above reproach was also freely commented upon. He was generally referred to as having been of the "pirate" type. Just a common immigrant who had made millions quickly. A rough, uncompromising sort of fellow. Devil with women, probably! You know how heartless that kind of men are! Carefully nurtured, the impression grew that at last the one conspicuous doctrine of American juridical ethics was to have its supreme test. Had Eileen Clayton the moral right to take the life of the man who had wronged her? That was the question. There was no other.

Hugh's removal from the case gave him the greater opportunity to devote himself to Moira's affairs, and he spent much of his time at the marzipan house, relieving her of many of the more painful responsibilities inevitably devolving upon the bereaved and successfully guarding her from unwarranted intrusion. He had explained to her the first afternoon that so far as the prosecution was concerned his authority was ended, and she had confidently expressed the belief that as [206]

soon as the district attorney should return he would be reinstated. The Honorable Michael Redmond showed no intention, however, of anticipating any such possibility, and, while protesting the utmost reluctance at being obliged to do so, requested an immediate interview with Miss Devens. Moira begged to be excused. Hugh made the mistake of expostulating and Redmond, on the strength of “official duty,” and “in the interest of justice,” crashed through, preceded by a double bouquet of white violets.

It was a daring play, but he was a good actor, a diplomat, and Irish, and he was wise enough, now that he was sober again, to extol with unstinted praise the ability of his rival, declaring that District Attorney Farley, when he came back, would surely wish to have Dillon handle the case. Meantime, in view of his position as acting district attorney, he had no choice but to take charge of it himself. When it came to deciding who should conduct an important and delicate criminal trial, many things had to be considered. Facts apparently unimportant sometimes assumed unexpected significance and proved highly embarrassing. If he personally were district attorney he would not hesitate to have Dillon try the case, but District Attorney Farley might possibly feel that his deputy’s attitude toward the A. A. & B. and its officers, particularly since he had actually started a grand jury proceeding against them looking toward their indictment, would place him in an ambiguous position—that was to say, he could see how Farley might think it better to select a man who had been consistently friendly toward her father. She understood? Such things had a sentimental effect.

Moira concealed her surprise. She had not known of Hugh’s investigation of her father’s business enterprises. [207] That it should have coincided, in point of time, with his death gave it a sinister significance wholly unwarranted. Redmond, having planted one seed, proceeded to sow another. The springs of action, he meditated, lay deep below the surface. Human motives were subtle and complex. Cause and effect were often hard to relate to one another. For example, everybody knew the force of suggestion. A line or two in the newspapers might cause a dozen suicides. The fact that an investigation had been started into the A. A. & B. might have suggested the possibility of blackmailing her father to some one—to the Clayton woman. Did the latter know anything about the affairs of the A. A. & B. or the J. S. Burke Co., he wondered? He hazarded the query, he said, merely because he understood that Dillon had had a secret conference with the prisoner after her arrest, the nature of which he refused to divulge. With “errors and omissions excepted” such was the substance of his insinuation, delivered under the guise of examining Miss Devens as a witness, while proffering his deepest sympathy for her affliction.

He did his work artistically. Hugh’s conversation with Eileen could hardly be construed as having any bearing on the fact that he had brought criminal proceedings against Devens’ company, yet Redmond managed somehow to make it seem relevant, and even ominous. Moira had been subjected to a severe emotional strain, her father’s funeral had only just taken place, and anything reflecting upon his reputation for integrity naturally aroused at that moment a double resentment within her. How could Hugh have suspected her dear father of dishonesty!

She suffered his kiss when he came in that evening impassively.

“Is anything the matter, dear?” he asked, unconscious that her distress was in any way connected with himself. [208] “Why are you worried? Has anything happened?”

“Michael Redmond was here this afternoon,” she said.

“I suppose he made it quite clear why he had thrown me out of the case?” He could not prevent a touch of bitterness from creeping into his voice.

Moira did not respond as he had expected.

“Aren’t you rather hard on Mr. Redmond?” she inquired. “After all, as acting district attorney, he is responsible for whatever is done in the absence of his superior.”

“That is no reason why he should refuse to let me handle this matter, so long as he thinks me qualified!” He shrugged his pride into quiescence. “But on the whole,” he added unthinkingly, “I am very much relieved. I should have found it difficult to prosecute—this—this woman.”

“So Mr. Redmond seemed to think!”

Hugh was instantly alert again.

“What has he been saying to you?”

Moira laid down her work.

“Hugh,” she asked, “is it true that you had a private conversation with this woman in the station-house?”

“Why, yes!” he answered frankly.

“And that you are not willing to tell what it was?”

“I cannot tell what it was!”

“Why not?”

“Because I promised her not to do so. What she said was confidential!”

Moira’s face clouded.

“I don’t understand. It was your duty to get all the evidence you could against her. I don’t see why you should have put yourself in the position of being in her confidence!” [209]

Hugh’s wrath against Redmond boiled over.

“It’s like Michael Redmond to give you a distorted idea of what happened!” he answered indignantly. “When I went to the police station I found that she absolutely refused to talk to Captain Carey or any of the officers. She begged me to listen to something she had to say. She needn’t have told me. Perhaps I was foolish, but it seemed perfectly natural to let her speak. What she said had”—his infinitesimal hesitation did not pass unnoticed by Moira—“had nothing to do with her guilt or innocence. But I gave her my word to respect her confidence and I must keep it.”

“A very dangerous proceeding, I should say!”

“I did it, anyway! You wouldn’t have me break my promise!”

“Not if it really was a promise. Are you sure she told you nothing that would have embarrassed you in the prosecution of the case?”

Hugh lowered his eyes before Moira’s searching glance. What should he say? Of course what Mrs. Clayton had disclosed would embarrass him. It would extinguish any genuine desire on his part to see her convicted of the murder of Richard Devens. Yet he believed that her revelation would not stand between him and the full performance of his duty.

“It would embarrass me in a general sense, yes,” he answered honestly. “But I could put it aside and prosecute her just as I would any other woman.”

“It gets more mysterious every moment! Can’t you explain the nature of her statement?”

“You must not ask me,” he said. “You haven’t lost faith in me, have you, Moira?”

He leaned forward and took her hands in his.

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“Say you trust me, Moira!”

“Yes, I trust you, Hugh!” she said. Yet deep in her heart from that time on she kept wondering—as what woman would have not!—what secret understanding might possibly exist between Hugh and the woman who had killed her father.

That the Honorable Peter Farley should have been absent at French Lick Springs at that precise moment was unfortunate; for not only was he thereby deprived of a large amount of legitimate publicity, but attention was thus unnecessarily called to his habit of absenting himself at crucial moments in the company of other distinguished politicians from the field of his official duties. Of course there was no way of telling in advance when one person was going to murder another, but the public wouldn't understand that. They would think you ought to have known. He had received the glad tidings that a first-class homicide had been pulled off in his bailiwick while sitting naked in a mud bath. If he went back now, it would take him a couple of days to get there. Redmond was "acting." He'd handle the preliminaries well enough, but he would want to hang on to the case, and "Mike" was not the fellow for a big prosecution like that! You didn't want one of those "easy" boys. You needed a fanatic who could goad the jury into doing their duty! Sweep 'em off their feet! And he had to convict that woman! If she got away with it, she'd take his renomination along with her.

But if she did not, whoever prosecuted the case would be a possible candidate for governor. Had he been on his job—or rather had not "ill health required his absence from the city"—he and not Redmond would be issuing statements.

"Acting District Attorney Michael J. Redmond, when interviewed last evening, said positively that the apprehension of the negro Moses Wellington would be a matter of only a few hours. His evidence, Mr. Redmond added, was by no means essential, since steps had already been taken to trace the ownership of the pistol through its serial number. Mr. Redmond stated further that he intended to put the case immediately before the Grand Jury, in order to demonstrate, for once, that while criminal justice has 'an iron hand' it does not necessarily possess 'a leaden heel.'" [211]

"Stole that off me, damn him!" muttered Farley, wiping the mud from his right ear. The fellow had a nerve! No, he ought not to have gone away! He had handed it to Redmond on a gold plate. The mud took on a darker color. Redmond was a clever fellow—an astute politician. He'd make the most of this opportunity to get into the public eye and perhaps capture the nomination himself on the strength of it. It disgusted him that things had broken in such a way! You'd think to read the papers that Redmond was district attorney, and not he! The name of Farley was hardly mentioned, while that of Redmond was all over the front pages. If there was a conviction his assistant would be a national figure, as Folk or Heinze or Jerome had been.

How stupid of him not to have seen already that in Redmond he had a dangerous rival. He must go back at once, assume control himself, and put somebody else in to try the case—somebody who did not have Redmond's availability as a political candidate—like Dillon, for instance. This Redmond business was a bit thick! He'd show him who was district attorney! Climbing out of his mud pool the Honorable Peter dressed as quickly as he could, and betook himself to the telegraph office.

HON. MICHAEL REDMOND,
District Attorney's Office,
Criminal Court Building,
Cor. White & Centre Streets,
New York City. [212]

Leaving for New York to-night. Please turn over preparation of Clayton case to Dillon pending my return. Do not wish to overburden or embarrass you with additional work in performance of your regular duties. Congratulations on your masterly handling of case thus far.

PETER J. FARLEY.

"That'll take some of the starch out of him, I guess!" he muttered.

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CHAPTER X

The equipoise of the Honorable Peter J. Farley upon his return trip from French Lick to New York was not improved by the comments of the press regarding “Absentee Office-holding” and “Long Distance Prosecutors.” He had been led to believe by his political pastors and masters that his present tenure was but “a stepping-stone to higher things,” such as the gubernatorial chair at Albany, the Senate chamber at Washington (still harboring a fair number of God’s-green-footstool orators), or at least to a Supreme Court judgeship. A renomination was essential; he needed his salary, and he was inclined to make his present unfortunate predicament a personal grievance against the Blind Goddess. Justice!

He had not been back in his office five minutes before he had Redmond on the hooks.

“I am certainly glad to see you back, chief!” The suave Michael extended the eager hand of greeting. “I don’t relish this sort of responsibility!”

“Even when you make the most of it!” growled the Honorable Peter to himself. “Have you turned over this Clayton matter to Dillon?”

“I only got your wire yesterday noon, chief. I knew you’d be back this morning. I simply held the matter in abeyance. I wanted to talk to you.”

There was an assurance in the voice of the carefully tailored young man that aroused Farley’s ire.

“Wanted to talk to me, did you! You have got a nerve! I want to talk to *you!*”

“Why, chief—!” began Redmond, in startled propitiation.

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“I want you to know that I’m still district attorney of this county!”

“And I trust you want to stay so!” retorted his assistant tartly. Farley quivered with rage.

“What do you mean by that?” he snapped.

“You’ve got to convict Eileen Clayton or it’s all over with you. And you need me to do it!”

“I do, do I? I’ll decide what I need! You’re not the only trial lawyer in this office.”

“If you mean Dillon, he’ll queer the case for you. He’s a crank.”

“He’s the best man on the staff—yourself included.”

Redmond was astonished at the fat little man’s pugnacity.

“Don’t let’s make this personal, chief!” he said in a more conciliatory tone. “I’m only looking out for your interests. I don’t care who tries it; but I have an idea this case is loaded.”

“Loaded! If what the papers say is true, it’s a walkover.”

“That’s always the kind that blow up!”

“What do you mean?”

Farley could not erase the worry that stole into his face.

“Dillon has been talking to the defendant, for one thing.”

“Well, what of it? What did she tell him?”

“He won’t say.”

“Why not?”

“Claims it’s confidential!”

The Honorable Peter pressed a discolored ivory button on the desk before him.

“Send Mr. Dillon in here!” he ordered his attendant. “I’ll have a little talk with him myself, I guess.” [215]

He was under no delusion in regard to Michael Redmond. He could rely upon him no farther than the point where their interests lay in common. For Hugh he had by this time a high regard. He could depend on his giving him the straight goods. Half an hour later he issued a “flimsy” to the press, stating that he had assumed direction of the Clayton case and would conduct the trial in person, assisted by Deputy Assistant District Attorney Hugh Dillon.

“You’re making no mistake, either, chief!” Charley White assured him. “That boy can whistle the birds off the trees! I’ve watched him work. His juries do what he tells ’em, simply because he tells ’em to. Shall we play him up, chief? In moderation, of course, I mean!”

“Go as far as you like,” replied Farley, who feared no rival but the Honorable Michael, and wisely concluded that the more Dillon was “played up,” the more Redmond would be “played down.” “He’s a good boy—the best on my staff!”

“He is that!” agreed White, his mind reverting to the Renig case. “He’s honest, and the jury knows it. He’s got the right idea. Coming down to cases, chief, do you see anything peculiar in the Clayton woman being defended by Hoyle and O’Hara—Devens’ own counsel?”

“Is she? I never thought of that! I suppose they have a perfect right to defend her, though. Why not?”

White tossed away an obdurate match.

“Clever move on her part if they know anything about her relations with the ‘Old Man’!”

Farley nodded.

“Seals their lips, of course.”

“Another thing. Wasn’t it a curious coincidence, to say the least, that Devens was shot on the eve of a Grand Jury investigation into his own business?” [216]

“What’s that?”

“Didn’t you know that the Grand Jury had issued a duces tecum subpoena to Daniel Shay to produce all the books of the A. A. and B. and the J. S. Burke Co. before them the next morning?”

“No, I didn’t! Who was responsible for that?”

“Dillon.”

“That’s all right. I told him he could if he wanted to.”

White bent forward and traced upon the circumambient atmosphere a delicate mark of interrogation with the smoke of his cigarette.

“What does that mean?” asked Farley.

“Ever get a hunch, chief? I have one right now! Don’t shoot me when I say I think that there’s something phony about this case!”

“It’s the most conclusive case of circumstantial evidence I ever heard of!” protested Farley.

“Admit all that. Doesn’t it strike you as—unusual, let us say, that in addition to Devens’ personal attorney defending his murderer, the man who was trying to put Devens in jail is prosecuting her!”

“Perfectly natural under the circumstances.”

White leaned back.

“It’s all criss-cross—upside down! Besides, there hasn’t been any real motive shown. If Devens was keeping the Clayton woman, why should she want to kill the goose that laid the golden eggs? You haven’t any evidence that she brought a gun to the house. No jury is going to accept the identification of that revolver by a rummy old ex-convict. No, sir! The case looks good until you analyze it, but, when you do, it’s weak—not because there isn’t enough evidence, but because the evidence leaves you cold.” [217]

“What do you mean by that?”

“Well, to put it bluntly, I don’t think Eileen Clayton killed Richard Devens!”

District Attorney Farley came to an upright position.

“Why, *Charlie!*”

“I don’t care how perfect the case is. I ‘don’t believe it,’ as they say.”

“Then you must be crazy!”

“Our instincts are worth something.”

“Don’t you know that circumstantial evidence is the best evidence? Facts can’t lie.”

“So I’ve heard. I’m not quarrelling with your facts. I’m leary of your conclusions!”

“Well, for God’s sake, shut up about it!” anxiously besought the High Priest of Justice. “I only hope the jury that tries her won’t have the same opinion!”

Less than two hundred feet distant across Franklin Street, confined behind stone walls and a lattice of steel bars, sat the innocent woman thus caught in the web of circumstance. The desperate character of her situation had slowly dawned upon her in spite of Hoyle’s assurances. She did not like Hoyle. She had not sent for him, and did not know by what process he had become her legal adviser; but in her helplessness it did not occur to her to question its propriety. Even had she known the real reason—that he had seized upon his vicarious relationship to work his way into a sensational murder case—it would have made no difference. He was as good as any other lawyer! Her situation was hopeless. The papers all said so. Even if she could have told her story without besmirching Richard’s character and disclosing the secret of Moira’s birth, it would have been of no avail. The revelation would only have tended to supply evidence of motive now lacking. She must maintain silence, both for her own sake as well as for theirs. The jury would never convict her, Hoyle said. They “never convicted women of murder!” [218]

As she watched the degraded beings who shuffled past the bars of her cell, she told herself that death was preferable to a lifetime of imprisonment. She had never imagined such people to exist as those with whom she was now thrown in hourly contact; had never conceived of such foulness and obscenity of language as continuously polluted her ears. She shrank from the rough approach even of those who had only kind intentions toward her. Had it not been for her ability to get the drug she must have gone insane. Twice a week Hoyle slipped her capsules of cocaine concealed in the hollow

between his thumb and forefinger. Her eyes had now a continual glassy stare, her mouth was wreathed in a perpetual smirk. She offered no opposition to anything Hoyle suggested. He was her master because only from him could she get that which would assuage torture. The only person she wanted to see—with the exception of Moira, of course—did not come near her—Uncle Dan. But she was too drugged now to care. Nothing mattered. Her cot became Cleopatra's flower-bedecked barge, the corridor outside her cell the Nile, the Tombs the temples of Karnak and of Thebes. So while she quaffed Nepenthe's cup of oblivion, the sands of the hour-glass of legal delay ran out.

The efforts of those engaged in the preparation of the case were now concentrated almost exclusively upon the attempt to trace the history of the revolver found in Devens' library, by means of which he had presumably met his death. [219]

The testimony of the servants, including that of old Shane, established beyond any reasonable doubt that the defendant, unless the killing had been done by some one from within the house, had had what is known in law as "exclusive opportunity," for all the doors and windows had been found locked in the morning just as they had been left the night before, the front door being on the safety catch alone, as would naturally be the case if closed by one leaving the house unattended. Doctor Norris' autopsy had disclosed, as he had expected, that the bullet had smashed through the ribs and penetrated the aorta. It was now in Hugh's possession, a distorted and shapeless piece of lead concerning which it would be impossible to say whether it had come from that particular revolver or from any one of a hundred thousand others.

The possibility of suicide, however, was eliminated by the distance at which the pistol must have been held from the body as shown by the absence of powder marks about the wound, their corresponding presence upon the palm of the left hand, and the burn upon the cuff of the sleeve. Devens had been right-handed, a fact probably known to the murderer, who had accordingly placed the revolver upon that side of his victim.

The sole question was the identity of the slayer, and upon this the evidence was more than sufficient to go to the jury. The defendant, a woman whom he had supported for years, had gone to the house at a late hour, carrying a bag large enough to conceal the weapon found beside the body. She had left the house after having been closeted with the deceased for over an hour. The pistol had been identified as belonging to a negro servant in daily attendance upon her. It was [220] not necessary to prove any motive, although motive, if established, would naturally strengthen the case. Here it was not difficult to infer either revenge, jealousy, or blackmail. The legal test was whether the circumstances, as established, led to the irresistible conclusion of the defendant's guilt, and this they certainly did. As District Attorney Farley publicly declared, in one of several "interviews," carefully prepared, mimeographed, and distributed to the press, he had never had in his entire experience, nor, in fact, had he ever heard of, a stronger or more convincing case.

But, as in all murder cases, the weapon was the most important piece of evidence in the possession of the prosecution. Had it not been for Kelly's positive identification of it as one to which the defendant had had immediate access, there would have been nothing but her presence, at or about the time of the shooting, to connect her with the crime. It was the fact that the revolver had come from the Hotel Blackwell which, to use Wasserman's metaphor, was going to "put the skids under Eileen Clayton." If she had only been astute enough to take the gun away with her and hide it there would have been a question as to whether the evidence against her were legally sufficient to warrant a jury in finding her guilty beyond a reasonable doubt, since there would have been no evidence whatever tending to connect her with the possession of the weapon causing death. This, in itself, or at any rate if taken with the absurdity of trying to create the idea of suicide, was enough, according to Captain Carey, to show that the criminal was a novice, if not a fool. Had the murderer been a professional crook, they would have found no gun there at all.

Thus, the hitherto inconspicuous Kelly became an essential witness for the prosecution. In the absence of the [221] vanished Moses, he must be able to go upon the stand at the Clayton woman's trial and testify that she and the gun came from the same place. The fact that the negro who had owned the gun had disappeared, while it would no doubt furnish material for argument on the part of the defense, was not enough, in view of the rest of the evidence, to warrant the inference that he was the guilty party, and could be explained on the theory that he had been carrying a pistol without a permit, and did not wish to place himself within reach of the authorities. The case was an overwhelmingly strong one as it stood. But could Moses be found, and should he testify that he had loaned, sold, or given the revolver to the defendant, it would be equivalent to a mathematical demonstration of her guilt. As things stood it left a loophole for some sentimental or obtuse juror to pull a doubt through.

“I’d give a year’s salary to turn up that nigger!” said Carey. “Of course she got the gun off him. Nobody doubts that. The case is all right—but I wish we could pin the pistol on her tighter. Some ‘nut’ on the jury may get an idea the coon did it!”

Thus the rusty old revolver became the centre of interest for the little group composed of Captain Carey, Doctor Norris, Wasserman, Burke, Jeffrey Quirk, and the two or three younger deputies and “county detectives” assigned to assist Hugh. Nominally, everything was being done under the direction of the district attorney himself, who, it was announced, would personally conduct the prosecution with the assistance of Mr. Dillon. In point of fact, Farley did nothing except issue statements.

“But what is there for the old guy to do?” asked Wasserman. “He doesn’t know enough to try the case, and we’re doin’ all the work. All he’s good for is to come in and give the count after you’ve delivered the knockout. It’s lucky for you he got sore on Redmond!” [222]

This sentiment was frequently heard in the Criminal Court Building, dwarfing all other comment upon the case itself. Hugh was regarded as a child of Fortune—the Favorite of all the Gods. Never in the history of New York County, so far as could be remembered by the oldest court officer, had an unknown dark horse like Dillon suddenly emerged from the crowd and walked off with the money. He had come from no one knew where, had been appointed no one knew why, had been in the office less than a month, and was now about to prosecute the greatest murder case of this, or possibly any other, decade. Strangest of all, nobody grudged it to him!

On the other hand, the discomfiture of the Honorable Michael gave, for some reason, the extremest satisfaction. It developed for the first time that his domineering and patronizing ways had made him highly unpopular, and now that, owing to his being out of favor, all fear of his displeasure was removed, the general dislike made itself manifest. From the oldest assistant to the lowliest clerk all gloried in his discomfiture. There were, perhaps, half a dozen older men qualified to prosecute the Clayton case, but they were all political warhorses, and the selection of any one of them for so great a distinction would have aroused much jealousy among them and their political foster fathers. The choice of Hugh was an easy way out of what might have become an embarrassing situation, and envy at the newcomer’s securing [223] so choice a plum was submerged in gratification that one’s rival had not plucked it.

Redmond, however, took his defeat like a sportsman, hiding his chagrin and offering, magnanimously, to be of any assistance to his rival that he could. He had learned the lesson, often overlooked, that arrogance, while it wins easily, pays double losses.

Farley’s determination to make the prosecution a model of celerity, kept them all hard at work every moment of the day, and the strain began so to tell on Hugh that, on the advice of the chief clerk, he placed himself in the hands of one Pat Tuohy, an ex-prizefighter, who regularly exercised him, and superintended his diet and manner of life. It had never occurred to Hugh that one might have to go into regular training for the trial of a spectacular murder case.

Tuohy made him go to bed by ten o’clock, abjure all stimulants, exercise for two hours every afternoon, and subsist largely upon a strange and not altogether unpleasant drink known as “koumyss,” or mare’s milk. Under this regimen he developed an even greater vitality than usual, and Tuohy frequently mourned the fact that in his pupil, who had sacrificed himself to the law, the sporting world had lost a promising welterweight. From four to six each afternoon Hugh would put on the gloves for a few rounds, toss the medicine-ball, and finish up with several games of handball, after which he usually went uptown for dinner, often calling upon Moira in the evening.

The district attorney’s publicly announced intention of giving the case a speedy trial received the hearty approval of the defendant’s counsel, who took the position that their innocent client was entitled to be relieved from confinement at the earliest moment. As Carey pointed out, however, this ostensible reason was but a cloak for a more vital one. [224]

“Hoyle will try and force us to the bat before we have found the nigger.”

The identification of the revolver had become the axis upon which the case revolved. Carey’s attempt to trace its history by the serial number stamped upon it had proved abortive, the manufacturers having announced that the weapon was over twelve years old, and had originally formed part of a shipment to a wholesale house in Memphis, after which its

movements had become lost in obscurity. It was probable that in the course of its perigrinations before reaching New York it had changed ownership a hundred or more times. A search of the records showed that Moses Wellington had no permit to carry a pistol. That fact was quite enough to account for his absence. How demonstrate that it had ever been in the hands of Eileen Clayton? Had it been newer or differently constructed her fingers might have left their traces upon it. But a revolver offers little free space and the corrugated rubber of the butt, and the rust upon the ancient nickel of the barrel, disclosed no telltale print. There was only a confused medley of incomplete whorls and loops, by means of which any identification of the possessor was impossible.

Hugh had given his receipt to the property clerk at Police Headquarters for the revolver, which now lay in his office safe, and he and Quirk studied it constantly for some hitherto overlooked mark or peculiarity which might lead to a further clue of ownership. The “runner” indeed proved himself an aid of exceptional value, his services being crippled only by an extreme nervousness, for which Hugh could offer no explanation except, possibly, the lack of drugs. To the spasmodic twitching of his mouth and hands was added a tremor which at times even interfered with the clearness [225] of his utterance. Hugh, who had had no experience with drug-takers, assumed that he must be going through some frightful mental struggle—as perhaps he was.

To Wasserman had been entrusted the task of running down the past history and present standing of the special panel of jurors which had been drawn for the trial of the case. There must be no crooks, “dead ones,” anarchists, or sentimentalists upon it. A card catalogue had been prepared showing the business, religious affiliations, political bias, and social associations of each. At Norris’ suggestion an articulated dummy of Devens’ size had been constructed, in order to show the jury the exact position in which the body had been found, and the desk and chair of the murdered man had been brought to the Criminal Court Building to be placed in evidence at the proper time.

The case was now practically ready for trial; the defense ready and eager for a “vindication.” Only one obstacle intervened—the fact that Judge Barker was sitting in Part I of the Criminal Trial Term. Whereas Barker left nothing to be desired from the viewpoint of tractability, he left much from that of courage. In the words of Farley:

“Barker means to do what’s right; the trouble with him is that he’s weak. Like as not Hoyle might spring some crazy legal proposition on him, and he’d follow it just to show he understood it—even if Hoyle didn’t himself. He’s got a spine like a jelly-fish! You’ve got to have a convicting judge you can rely on in a big case like this. I’m goin’ to ask the governor to appoint somebody from upstate, who is accustomed to work with the district attorney—some fellow like Keen, of Buffalo, or Parr, of Owego. It’ll break Barker’s heart, I suppose! But one can’t yield to personal [226] considerations where the public interest is involved. I’ve got to convict that woman!”

Judge Barker protested vigorously, both by word and deed, against being thus ignominiously shoved to one side, even going so far as to put down the case for trial before himself—“temporarily.” This overt act did not help him, however, and since it aroused Farley’s indignation as “interference,” the relations between the two became somewhat strained, particularly as Judge Barker had sent word to the district attorney that he would “like to see” him, and the latter had neglected to come. Fate would have it, however, that they should meet accidentally at the Otesaga Club banquet to State Senator McManus, where the following conversation occurred in the cloak-room:

“I’m sorry you didn’t find time to run in and see me, Pete,” wheezed Barker, whose crumpled shirt bosom exhibited several brown stains. “I understand you are thinking of letting the Clayton case go over to next term. I wanted to ask you as a favor—we’ve been pals for a long time, old man!—to try the case before me.”

“But we can’t get ready, judge! God knows I’d like to!” answered Farley, searching intently for his tall hat in the pile upon the window ledge. “How about that one, Sam, with the bash in it?”

“Listen!” persisted Barker, for his political future hung upon the result of the conversation. He looked quickly about the room. Sam, the negro checker, was the only one there besides themselves. “Listen to me, old man! I know what you think of me. Maybe you’re right. I don’t pretend to be a great judge. But everybody knows I’m good enough to try the Clayton case, and if you move it before any one else, it will be a direct slap in the face for me.”

“But, Eddie—!” began Farley, who had salvaged his hat, and having removed the “bash” was ironing it with his [227] elbow.

“If you take the Clayton case out of my part, or away from me,” Barker hurried on, “it will simply ruin my chances for a renomination. My term’s up next December, and I’m an old man, Peter. We’re both old men! How would *you* like to have to get out and start practising law all over again?”

“I’m not taking the case away from you! You put it on the calendar yourself! You should not have done that!”

Barker flushed.

“I know I oughtn’t to have, Peter! But—for God’s sake, don’t you suppose a judge ever wants a little publicity? It’s only human to grab a little when we get the chance. And this is the biggest case since Nan Patterson, if there’s a conviction, it means you’ll be governor, Pete. And if I try the case there’ll *be* a conviction—don’t make any mistake about that! I won’t stand any nonsense from Hoyle. I can be damned severe when I want to!”

Farley removed a minute defect in the nap of his silk hat, without replying.

“If you drag one of those hick judges from upstate down here you may get some rulings that will surprise you. Those fellows don’t know anything about big criminal prosecutions. They have to stop and look up the law every time they rule.” Barker was pleading now. “I’ve been looking into the case a little, Pete. Suppose, for instance, that the governor assigned some fellow from the ‘Lower Tier’ who’d never got nearer a murder case than the crossroad grocery store, and some question arose about the admissibility of the pistol as evidence against the defendant?”

“How d’you mean ‘admissibility of the pistol’? Of course it’s admissible!” exploded Farley.

[228]

“I know it is! I know it is!”

“Then what are you talking about?” demanded the district attorney, all the more assured that his colleague was a “nut.” Who but Barker would ever have imagined that the pistol could be held inadmissible?

“I’m saying suppose some fool you might get from upstate took the position that the mere fact the pistol came from the defendant’s boarding-house was *too remote*—get me?—that you couldn’t infer any connection with the defendant from that? Where would you be then? The case would blow up!—And you with it!”

Farley paused in the act of putting on his hat. Such a possibility had never occurred to him. After all, there might be something in what Barker said.

“Do you realize that without the revolver you wouldn’t have any case?” continued Barker, perceiving that he had made an impression. “If you don’t get the gun in evidence you won’t even get to the jury! It will be a ‘flop.’ You’ve got to have a judge who is going to let in that gun, no matter what! One who is willing to hold that proof that the revolver was *accessible* to the defendant is enough. *And that is my opinion!*”

“Do you mean to tell me any judge could be a big enough ass to exclude that revolver?” asked the worried Farley.

“I certainly do. If it wasn’t for that taxi-driver being able positively to identify it as belonging to the waiter down at the Blackwell, you’d have no case—from my point of view. You better keep your eye on that gun! It’s precious!”

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Farley resolved to do so! With that in mind he came into Hugh’s room the next morning where Carey and Quirk were working with his assistant, and called attention to Judge Barker’s warning.

“Where are you keeping that revolver?” he inquired.

Hugh pointed to the “safe” in the corner. Farley grunted.

“That thing! I could cut a hole in that with my pocket knife! You’d better turn the exhibits over to Oscar Zinn when you’re not using them, and let him put them in the big safe in the property-room. Tell him I said so.”

“I guess that’s right, too!” commented Quirk as they climbed the iron stairs to the attic an hour later, carrying the exhibits

with them. “Anybody could have swiped them out of your room.”

“But who would want to swipe them?” asked Hugh. “Hey, Oscar! Come and open the door!”

The red-cheeked property clerk thrust a bundle into the recesses of a shelf and came forward jangling his keys.

“What can I do for you, Mr. Dillon?”

“We want to put these things in your safe.”

“Sure!”

Oscar unlocked the door and let them in. They were directly under the skylight, upon which, over their heads, the tiny feet of the cooing pigeons made little moving asterisks as they strutted about. The scene was like a picture by Velasquez shot with shafts of light, full of dark corners and half-seen objects. Rows of dusty trunks filled with the exhibits lined the walls. Beside a tattered uniform hung the yellowing skeleton of a murdered dough-boy. There was a veritable armory of knives, cutlasses, and firearms, each of which had taken toll of human life!

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Zinn kicked a trunk that discharged a cloud of dust.

“That? That’s the trunk that held the body of Elsie Siegel—you remember?”

He led them, while the pigeons fluttered peacefully overhead, past the iron shelves that, like mortuary bookcases, held the memoirs of crime, to the other end of the attic storehouse, where stood a huge safe.

“They’ll be all right there, Mr. Dillon!” Zinn assured him. “I’ll leave the door key with you when I go off duty, in case you want anything. Here’s the combination.”

[231]

CHAPTER XI

The district attorney's office is as dead at one minute after five o'clock on week days, and at one minute after one o'clock on Saturdays, as a dinosaur's egg. It was at precisely the latter hour that the good-natured Oscar entered Hugh's office and handed him, as he had promised, the key to the property-room.

"Have a glass of koumyss?" asked Hugh, opening the window and displaying a row of half-pint bottles upon the ledge. Zinn grinned and shook his head.

"No, thanks! Never formed the habit. I'll call in for that key about nine-thirty Monday morning—or, if you prefer, you can leave it with Tom Googins, the elevator-man."

Hugh poured himself a seething glass of koumyss and drank it off. The day had turned cloudy. He had planned to go uptown for lunch and, after a brisk walk, drop in on Moira for tea, but a spatter of rain on the window led him to change his mind. He would stay right there and put in the afternoon on his trial brief. He lit a cigarette and polished off another glass of the mare's milk.

What an extraordinary three months it had been! His equally short service in the Argonne had really been nothing [232] to it. His responsibility was enormous. It was almost as if he had been made a brigadier-general. Farley was practically leaving everything to him with the sublimest confidence! A funny lot they all were! He didn't suppose one of them would take the trouble to draw up a trial brief in any case, no matter how important. Yet from his point of view a trial brief was an absolute essential. Somewhere you ought to have a statement in concise and accurate form of every fact you expected to prove. Now was the best time, when everybody else in the building had gone home and he would be entirely undisturbed, to whip the document into shape. Drawing a pad of foolscap toward him Hugh took his fountain-pen and wrote:

"People vs. Clayton.
Statement of Facts——"

"I'll begin with the finding of the body," he said to himself.

He was still writing at six o'clock. Although he had had a couple more bottles of mare's milk in the course of the afternoon he felt very hungry. He got up and looked out of the window. It had stopped raining. The lights were beginning to come out. The Elm Castle was ablaze with them. It was only three months since he had inhabited those two small rooms above it. What a change since the day Moira had come down and urged his acceptance of Farley's offer! How much had happened!

He looked across at the windows of the Tombs—at the rows and rows of them. For every window there must be at least half a dozen prisoners, and perhaps many more. Somewhere down there—in the women's prison—would be Moira's mother! What had been her motive in killing Devens? To prevent her secret from ever becoming known, perhaps? Or an attempt at blackmail? Devens had probably refused and she had shot him? A mixed-up affair. Yet clear enough on the main facts. Deliberate and premeditated murder!

Going back to his desk he turned on the light and picked up his pen again.

[233]

Point 6. Deliberation and Premeditation.

That the defendant went to the house of her victim with the deliberate and premeditated intent to take his life is shown by the fact that she carried with her a deadly weapon. The pistol is the crux of the case. If it did not belong to Eileen Clayton, it was at least accessible to her. It is shown to have been in the possession of a negro who waited upon her three times a day. She procured it from him for a purpose, inferable from her act,

which speaks for itself. Motive is not an element necessary for the prosecution to establish. The law will infer a motive once the act is proved. But here there is an abundance of evidence from which a motive may be deduced—jealousy, blackmail, revenge. The identification of the pistol by Kelly, the taxi-man, is the cornerstone of the charge of murder. He says Moses Wellington showed him the pistol during a crap game, and that he had good reason to observe it. Why should he be mistaken? What motive could Kelly possibly have to deliberately perjure himself? Why should he come here and volunteer anything that is not true? On the contrary, are not his interests rather with the defense? Would he not naturally seek to protect the negro, who had no pistol permit?

Hugh laid down his pen. How strong a case was it, after all! Could Kelly really identify the revolver? Could *anybody* identify a pistol unless he noticed its number, or unless it had some marked individual peculiarity? How did this commonplace weapon differ from any other? Suppose the jury concluded that Kelly's testimony in that regard was too good to be true? They would never convict! He realized what relief would be his as an individual if, after he had done his full duty as a public officer, they should acquit. But meantime he must build up his case as strongly as possible. Incidentally he must get something to eat.

The elevator bell sounded like a fire-gong in the vast reverberating silence of the empty rotunda, and it seemed [234] hours, not seconds, before he heard the clang of the door below and the rattle of the sheaves over his head.

"Everybody gone?" he asked of Googins.

"You're the last, Mr. Dillon. Sure—there's no one in the building as late as this!" answered Tom, as they flickered down past the various corridors and mezzanines to the gloomy catacomb on the street level.

"Don't you ever get nervous staying here all night by yourself? Suppose some strong-arm man came along?"

"And for what would he be harmin' me?" returned the elevator man. "I ain't got no money. I guess no burglar would be after tacklin' the Tombs or this place if there was any others to choose from."

"Doesn't anybody ever come in here?"

"Once in a while a bum turns up to get warm, or a drunk that's lost. I find 'em here sometimes when I come down from making my rounds."

"I should think you'd be afraid some one would jump out from behind a pillar!"

Googins laughed.

"Go on with you, Mr. Dillon! Puttin' such thoughts into me head and tryin' to scare me! There's no one comes in here means any harm!"

Hugh passed out into the soft, sooty night, where the darkness seemed to coagulate knee deep upon the oily pavements. Here and there a yellow blur showed the location of street lamps, toward which occasional white faces seemed to steer, only to tack away again. The thought of eating at the Elm Castle repelled him. Why not go uptown and get a good dinner? He could take the subway, dine at the Biltmore, and be back at work by nine o'clock. He followed his inclination, had an excellent meal in the grill, watched the dancing for a few moments and returned to the Criminal Court Building [235] with the intention of completing his trial brief before going home.

The neighborhood was deserted. Even Pallavachini's harbored no merry-makers. Would Ignatius O'Hara be upstairs, he wondered, lying as of yore in his shirtsleeves on the broken-down old sofa? Resisting the temptation to visit his former quarters, he turned into the black shadows about the side entrance of the building. That was no idle jest about some one jumping out at one! An ideal spot for a robbery. The narrow unlighted passage between the swinging door and the cavern below the rotunda could easily secrete a dozen strong-arm men. He inspected it carefully before entering. Even when safely through it and in the pool of light in the centre of the dim vaulting, he watched the black patches behind the arches and pillars nervously. A faint halloo from the highest mezzanine answered the bell. Googins was on his rounds. Presently

the bird-cage elevator came clanging down.

“Thought you’d gone home!” commented the old man, accepting a cigar.

“I’ll probably work most of the night,” answered Hugh.

They shot upward, passing in succession the darkened hall of entrance with its winding staircases leading to nowhere, the mezzanine containing the now empty detention rooms, the corridor upon which the main court-rooms opened, the clerks’ offices, the district attorney’s office—to the top floor, where Hugh’s office was located, under the iron stairs leading up to the garret.

Hugh turned on all the lights in his room and moved his chair so that it faced the door. The unusual stillness made him creepy.

“I’ll come an’ give ye the once over now and agin!” said Googins. “If ye need anything—holler!” [236]

Hugh listened as the car rattled down into the bowels of the building and stopped. One could get used to anything, he supposed; but he was glad he didn’t have Googins’s job. It was bad enough to be sitting up there in the full blaze of the electric bulbs. What a difference light made! Well, now to his brief. He glanced over what he had last written:

“Point 6.
“Deliberation and Premeditation.

“. . . The pistol is the crux of the case. The identification of the pistol by Kelly, the taxi-man, is the cornerstone of the charge of murder. . . . Why should he be mistaken?”

Once again there hovered in the back of his mind an enervating doubt. What was there about this particular pistol that enabled Kelly to identify it so positively? So far as he could observe it looked like any other revolver. What had Kelly said in his affidavit on that subject? He searched for it, but Kelly’s deposition was not in the safe where he thought he had put it. Neither were any of the other papers relating to the case. He remembered now that he had taken everything upstairs to the property-room along with the exhibits that morning. He could not work without them.

He wondered if he could open the big safe up there and get the stuff out. The combination was on a piece of paper in his pocket, the key to the property-room lay on the desk beside him. He could at least make a try at it.

Taking a flashlight from the drawer of his desk, Hugh went out into the corridor and gazed up the winding iron staircase leading to the roof. He tried to recall the topography of the top of the building. All he could remember was the elevator penthouse. Mean sort of place that! Turning on the flash he started briskly up into the blackness. [237]

A wheezy groan above his head started the perspiration from his temples. The sheave wheel, of course! Googins was coming up on his rounds. The thought gave him great encouragement, although it would have been difficult to say just what assistance Googins could have been in an encounter with a ghost. Ghosts? If the shades of the departed hovered anywhere, it would be here about their relics! It became warmer and warmer as he ascended. He sensed that he was approaching some obstruction—the door to the property-room, of course. He was there at last. He could feel his heart—the stairs were steep! Where was the keyhole? Phew! How dusty everything was!

The door opened and the shaft of the flash bored into the darkness beyond. He swung it and a skeleton leaped at him out of the obscurity. He kept the spotlight on the cavernous eye-sockets until he should become acquainted with the pleasant fellow. Just an old exhibit hanging by a wire! That row of skulls and bottles—they hadn’t been touched for years! Where was that damn safe anyway?

He closed the door behind him and shot the light along the alleys of shelves, gilding the edges of the trunks and barrels that had acted as makeshift coffins for the murdered dead, and glinting upon the piles of homicidal implements, the heaped-up daggers, cutlasses, knives, and firearms. Over his head the artificially illuminated night shone palely through the thick, wide skylight. No stars there! Only the reflection of distant electric signs. A soft murmur made him stop

breathing. Pigeons! He laughed out loud. Imagine being startled at such a thing as that! It was a friendly sound. So [238] he wasn't alone up there under the roof!

Afraid? What on earth was there to be afraid of? He would as soon be there in the dark as not! But why was he trying to reassure himself that way with baby-talk? Was he reliving, perhaps, some former experience in which amid the dark groves of the primeval forest he had been startled by strange beasts? What was that? He held his breath, his heart thumping like a daraboukeh. A padded, noiseless noise, felt rather than heard! Motionless he stood there under the skylight, surrounded by misshapen bizarre and fantastic evidences of crime, conscious that he was not alone.

There was something—somebody in the garret besides himself! A cat perhaps. No other animal could be there. A cat— attracted by some grewsome odor undetected by human nostrils! In the darkness at the further end a board creaked. That was no cat! An icy comber of benumbing fear swept over him. Only a fell purpose could bring another being there at such an hour. And that other was aware of his presence—mayhap was about to spring upon him! Standing as he was, with the torch in his hand, under the glow from the skylight, he was a fair victim. But should he extinguish the flash it would be a notification to his adversary that he was on his guard, and doubtless precipitate an attack. He must preserve an appearance of nonchalance. He began to hum a popular air.

Prickling waves raced after one another over his body. Such tension was not to be endured. Another creak! At least let him know what this invisible terror was! Hugh threw the shaft of light toward the end of the attic. Outlined in the circle was the figure of a man upon his knees before an open safe. Instantly he leaped to his feet. Something gleamed in [239] his hand. Hugh ducked to one side. There was a jet of flame, a deafening detonation. The doughboy's skeleton fell to the floor with a rattle, followed by a jingle of glass as the bullet sped upward through the skylight. Crash! The burst of flame shot toward him again.

He dodged behind the shelves, extinguishing the flash. He was at the dog's mercy! The attic was thick with smoke. Would Googins hear? Should he crouch there and allow himself to be shot down in cold blood? The place was still as death, save for the dripping of fluid from a shattered bottle behind him. The fellow was evidently waiting for him to make a move indicating his position. The next shot would be a better one. If only he had a weapon! His hand, feeling along the shelf, came in contact with something round and smooth—a skull. "Alas, poor Yorick!" To what base uses! Gripping the thing by the eye-sockets, Hugh flung it in the direction of the safe. It struck with a crunching noise. Crash! Crash! The attic was lit twice as from lightning flashes. Now was the instant for following up the attack.

Hugh sprang toward his invisible foe with the clubbed flashlight. A bullet sang by his ear. He struck furiously and closed with his assailant, struggling for the revolver thrust against his abdomen! What a rotten way to die!

Locked together they staggered around the attic, straining and cursing, falling against objects that gave and swayed or toppled to the floor, now entangled in wire, now smashing whole rows of bottles, clutching vainly for weapons as they reeled past the shelves.

Then Hugh wrenched his right hand free and from behind struck his adversary a stunning blow on the head with [240] the flashlight. The grip on his body loosened. Again he struck, and again. With a cry only half human the man sank to his knees, then fell over upon his back with Hugh's knees upon his chest, his fingers around his throat. Was the dog shamming? He seemed utterly relaxed. Something warm was running into Hugh's mouth, and there was a loud buzzing in his head. To his surprise the flashlight still worked. He held the light to his assailant's face. The mask it revealed was that of an old man with a totally bald pate—a weazened, pock-marked, livid, yellowish face capped by a smooth white skull—the face of Jeffrey Quirk!

There was no room for doubt as to his identity. Quirk! Miserable traitor! Hugh lifted the right hand and removed the revolver. It had a familiar look. All the shells had been discharged. He had interrupted Quirk in an attempt to abstract it from the safe, and the "runner" had emptied the remaining five loaded chambers at him. Lucky the scamp was a dope fiend, or one of them might have found its mark. But Quirk!

A heavy pounding upon the iron stairs and the door behind him was thrown open, revealing an officer in uniform, pistol in hand.

“What’s all this?” he demanded.

Then everything went wobbly for Hugh, and the garret turned into a crossword puzzle that flickered like an electric-sign. He was going down a rabbit-hole feet first with his head on the policeman’s shoulder—down, down, into the dark——.

“How you feelin’?”

There was a strong smell of brandy. His throat burned. Googins’s face looked anxiously into his.

“All right, I guess,” responded Hugh, dimly aware that they were in his office, and that Jeffrey Quirk was sitting collapsed in a chair, his arms dangling, his head wrapped in a bandage and sunk on his breast. [241]

The policeman was writing in his notebook.

“How about it?” he asked. “Googins says this guy works for you. What was the trouble?”

Hugh did not answer. The complexities of the situation appeared to him at that moment to be enormous.

“Yes, he works for me,” he said finally. “He’s one of our process servers. To be frank with you, I think he’s ‘cuckoo.’ If you don’t mind I’ll handle the affair myself. You don’t know anything about it—*do* you?”

“Not if you say I don’t, Mr. Dillon.” The officer folded his notebook and replaced it in his pocket. Hugh motioned toward his desk.

“You’ll find some cigars in that right-hand upper drawer—good ones!—help yourself.”

The officer did so. As he started for the door he said:

“I see how you’re going to try that Clayton woman next week. She croaked ‘Old Man’ Devens, all right. I hope you get her! Good night, sir!” He went out. Googins lingered behind a moment.

“I put back the gun and locked the safe,” he said. “If you want me I’ll be right outside.”

Hugh turned to Quirk.

“Why did you do this?” he asked sternly. “I supposed you were my friend!”

The runner struggled to his feet, took a few steps and sank on his knees by Hugh’s chair.

“I swear to God I didn’t know it was you, Mr. Dillon! I thought it was Googins. That would have been bad enough, I know. But I didn’t know it was you! Before God, I didn’t!”

“Why did you open the safe?”

Quirk looked furtively at the closed door.

“I had to, Mr. Dillon. Hoyle made me! He said we had to have the revolver or Mrs. Clayton would go to the chair.” [242]

“Hoyle!”

“Yes, sir!”

CHAPTER XII

The stars in their courses were warring for the renomination of the Honorable Peter J. Farley. The unfortunate circumstance that the Devens murder had occurred while he was playing truant was far outweighed by the overwhelming fact that it had occurred at all. The feeling was general that only a first-class district attorney could have supplied a homicide of such a gilt-edged character for the edification of the public, and that gratitude was in order. People began to remember about Farley. His oratorical gifts were duly referred to in the press. He “loomed.”

He would probably have loomed in vain, however, had it not been for the sudden reappearance of Moses Wellington within two hours after the offering of the \$1,000 reward by the New York *World*. There being no strings to it whatever, and the money being payable to whatever person should produce him at the Park Row editorial offices, or furnish information resulting in his apprehension by the police, he was promptly turned up by the Tilly girl herself, who personally delivered the negro and carried off the money.

“Sure, I give her the gun, cause she said as how she was afraid to go walkin’ ’round at night. Sure, boss! Miss Clayton she give me a coupla dollars for it. I didn’t know you had to have a license. Honest to God, I didn’t!”

The missing link in the evidential chain had at last been supplied. Eileen Clayton was now proved to have been the owner of the pistol found beside the body of “Old Man” Devens. She could, in the parlance of the Criminal Court [244] Building, have been “convicted by a three-years-old child.”

The importance of the revolver in the eyes of the defense had been shown by Hoyle’s attempt to procure its abstraction through Quirk, but under the rules of evidence the prosecutor would not be allowed to prove that Quirk’s act had been instigated by the defendant’s counsel, since a defendant might well be ignorant of any such nefarious effort made by his attorney to get him off, and such effort might be made even if he were wholly innocent.

Quirk now cringed to Hugh as he formerly had to Hoyle. Frantic for lack of cocaine, suffering tortures of remorse, in terror of being sent to prison, he was in a pitiful condition. But his discharge of the five remaining shells now made him a necessary witness as to the original condition of the revolver when it should be offered in evidence upon the trial, and he was naturally ready and willing to make amends for his dereliction by making a clean breast of everything—if the court would let him.

“Of course the judge won’t permit you to explain that Hoyle put you up to stealing the gun! That would be too damaging to the defendant! All Mr. Dillon will be allowed to ask you is whether the revolver is in the same condition as when you took it out of the safe and, if not, to account for the difference. *But*,” and here the Honorable Peter looked significantly at the prospective witness, “if O’Hara, or whoever should be trying the case for the defense, should ask you in cross-examination *why* you did it, then they will have ‘opened the door,’ and you can go ahead and spill the whole story. And in that case,” he added pensively, “hand it to ’em strong!”

“They won’t!” interpolated Hugh. “O’Hara is much too good a trial lawyer.”

“Well, don’t forget to run it in if you can! Hoyle’s telling you they had to have that revolver at any cost is the next [245] best thing to the defendant asking you to do it herself!”

Farley was feeling highly optimistic. He now even regarded himself as rather fortunate in having Barker to try the case. It was a good thing to be able to go straight to a judge and talk things over. Some of those upstate Republicans, if you spoke to them in advance, acted as if you were trying to corrupt them! The kind of judge he liked was the sort who the first day of the term would lunch with you at Pontin’s, pinch you under the table, and say with a wink: “Well, Mr. District Attorney, I guess between us no guilty man will escape!” And carried something on his hip, too, maybe.

He hated a judge that put on dog. If you got in a tight place why shouldn’t you discuss with the judge the best way to get out of it? After all, no sane man looking for re-election would want an acquittal in an important case like this.

He was lucky, too, in having made it up with Redmond. He had tried to convey the impression to him that his reason for

selecting Dillon to act as understudy was that, had he chosen the Honorable Michael, he would have wanted to give the latter an entirely free hand instead of really trying the case himself, as he now proposed to do. Another reason was Dillon's intimacy with "Old Man" Devens and familiarity with his affairs, as well as Miss Devens' personal request that Hugh be allowed to conduct the prosecution. Under the circumstances he couldn't very well refuse, *could* he? Redmond graciously admitted the force of the argument. Of course, Farley went on, Dillon was young and rather a hot head, and for that reason, as a favor to him, he hoped Redmond would go into court and follow every step of the trial. You [246] never could tell what might happen. For example, he, Farley, might be taken suddenly ill. In that case you couldn't let the boy go it alone without some older man to advise him. Would Redmond mind doing that? There would be other big cases coming along. Redmond expressed his gratification at his chief's display of confidence.

"The old fathead!" he commented. "I wonder if he really thinks he can pull the wool over my eyes like that! All the same I'll be in court—with bells on!"

The case was now fully ready for trial; the stage completely set. All day long crowds hung about the doors of the court house, gazing vaguely at the Bridge of Sighs and at the Tombs. A corps of "star" reporters and "special writers" augmented the regulars in the press-room, and borrowed desk space in the offices of amiable deputies who thus hoped to attain at least casual mention. The corner of Franklin and Centre Streets took on the general aspect of a country fair. A "hot dog" man usurped a point of vantage near the side entrance. An improvised telegraph office sprang up in the centre of the rotunda, connected by a cable with the roof. Supplementary telephone booths appeared along the side walls. A lunch-counter arose among the pillars of the crypt. Photographers swarmed in the corridors and on the sidewalks. Pontin's opened an extra dining-room. The judges' chambers fluttered with fashionably dressed ladies from the hinterland of "uptown" under the escort of smart young men. An unwonted atmosphere of elegance invaded the locality. The Criminal Court Building began to come into its own.

The Commissioner of Jurors upon Farley's application had drawn a "special jury" of four hundred talesmen, with [247] a tentative or reserve jury of four hundred more, since it was recalled that eight hundred had been required in the Molineaux case. From this number it was hoped that a dozen might possibly be found sufficiently impartial to decide upon Eileen Clayton's innocence or guilt—honest, fair-minded citizens who had no fanciful prejudice against either circumstantial evidence or capital punishment, and who would "accept the law from the court" without confusing it with their own personal ideas of what should or should not be.

The Clayton case was the only subject of conversation within the Criminal Court Building. Interest in daily routine lagged, the members of the professional staff finding it more entertaining, if not more profitable, to gather in one another's offices for the purpose of discussing the probable tactics to be employed, and the various exigencies that might arise. Would the defendant take the stand? If she did not she was, according to every known precedent, surely doomed. If she did, what would be her defense? "Eileen Clayton's Secret" was what the newspapers called it. Would she be forced to disclose it? Would the evidence compel her to tear aside the veil that now concealed her intimacy with the dead?

Judge Barker was much distressed at the limited seating capacity of his court-room. He was terrified lest he offend some one who wished to be present at the trial. If he could have thereby made greater room he would gladly have erased Liberty, Equality and Fraternity, Lachesis, Clotho, and Atropos—even the Blind Goddess herself—from the walls.

His gratitude to Farley was boundless. He would show them what a real judge should be like. His rulings should [248] go echoing down the corridors of time. "As Judge Barker said in the famous Clayton case—" would be an impressive phrase upon the lips of future advocates.

Hugh, in his office on the top floor, and oblivious to this flummery, was in a state of nervous tension that deprived him of both sleep and appetite, overwhelmed both by the responsibility of his position and the irony of being forced to prosecute for a capital offense the mother of the girl he loved and who loved him. For it was on the basis of an accepted suitor that he now saw Moira daily, and tried to help her bear up under her terrible ordeal. He and Uncle Danny dined every evening at the marzipan house. The old Irishman needed his encouragement almost as much as did the girl, for those few weeks had turned him into a senile wreck of his former self. A week before the trial he took to his bed. The shock of his friend's death had been too much for him, the doctors said.

“Order in the court! His Honor the Justice of the Supreme Court!”

Judge Barker, his face wearing a self-conscious smile, emerged from the anteroom and ascended the dais, pausing for an instant before taking his seat, to contemplate with satisfaction the brilliant spectacle of which he was the central figure. They were all, every one of them, regarding him with eyes of awe—waiting for him to sit down. Let them wait! Justice should move with dignity! Ah, the Mayor’s wife was trying to bow to him! He must not show her too much deference—publicly! She too must wait! He breathed hard. A distinguished gathering, almost as fashionable as a first night! [249] Was that artist sketching him—or was he doing old Dollar? He had never seen so many reporters! The whole room was packed. Below, within the rail, favored writers, sporting men, actors, and distinguished members of the bar, were crowded in with the district attorney’s professional staff. And all looking at him! He stood there savoring the supreme moment. “The eyes of all wait upon thee, O Lord!” It was unction to his dried bladder of a soul. He bowed and arranged his robes. He sat.

The level of heads sank bobbing before him. He smiled cordially at the Mayor’s wife. There was the jury. He must not forget the jury! “Good morning, gentlemen!”

Yes, and there was the defendant herself. He had temporarily forgotten all about her. He must see to it that there should be no false atmosphere of sympathy! After all, she was nothing but a dope fiend who had run amuck. Everybody knew, these people had no moral sense. He had lost a good friend, a strong backer, in Dick Devens. She deserved to be made an example of!

“Bang!”

“Order in the court. People against Clayton—continued!” intoned Mr. Dollar.

“Are you ready to open your case, Mr. District Attorney?” asked Judge Barker politely.

Hugh arose with a slight inclination toward the bench, recalling his vision of Moira that first afternoon, not so long ago, when he had been on the other side of the bar defending poor Paul Renig.

The throng about him was so great as almost to impede his movements. Behind him the reporters were already [250] furiously scribbling upon yellow sheets, which they handed to impatient little boys in uniform. Not a word he uttered but would be flashed all over the country in less than three minutes! Not a gesture made by either side but would be chronicled; not a ruling but would become a precedent.

Once more he looked toward the bench, and this time raised his eyes above it to the Blind Goddess—almost in supplication. The hand holding the crystal ball of Truth was extended toward him. What was Truth? Was this cumbrous machine of which he was a cog capable of ascertaining it?

“If the court please,” began Hugh, “Mr. Foreman and Gentlemen of the Jury. It now becomes my duty to outline for your assistance the proof which the State proposes to adduce before you, in support of its contention that the defendant—Eileen Clayton—is guilty of murder in the first degree.”

He spoke quietly. It was no part of his function to attempt to inflame the passions of the jury by dwelling upon the obviously more sensational aspects of the case. Eileen appeared to be in a state of coma. O’Hara listened intently, making an occasional note. Hoyle, for some strategic reason of his own, was not sitting at the counsel table beside his partner, but occupied the end of a bench behind him near the reporters. There was nothing to be heard in the room but the scratching of pencils and the sound of Hugh’s voice as he outlined the history of the alleged crime. He had concluded his speech in fifteen minutes.

“Great!” whispered Farley, as he sat down. “You’ve got the jury to a man. A clear, concise statement of fact! Couldn’t have been better. We must make it short and snappy like that all through. Who’s your first witness?”

The initial hour was taken up with technical proof regarding the plan of the Devens house, the location of the [251] furniture in the “den,” the identification of the body at the morgue, the introduction of photographs and diagrams, and Doctor Norris’s testimony as to the cause of death. O’Hara asked few questions, and those that he did ask were

obviously directed to the possibility of suicide. Yet, while the evidence was in itself uninteresting enough, it was listened to by the jury and those in the court-room with the closest attention. It was clear that all of them felt that it was impossible to forecast what unexpected bit of testimony might not prove vital.

The proof of the actual *corpus delicti* was followed by that of Captain Carey, who identified the revolver as found by him on the right side of Devens' body, of officers Wasserman and Burke, and of Boyle the stenographer, who had taken down the short examination of the defendant at the police station. This occupied the court until the recess time, and left remaining for the afternoon session only those witnesses whose testimony would directly connect the defendant with the crime: Shane, the butler; Daniel Shay, and the negro Wellington, who had been brought from the House of Detention. The first round was over. No blood had as yet been drawn. When the gong rang again the adversaries would clinch and it would be a fight to a finish.

Judge Barker looked at the clock and then nodded to Mr. Dollar, who arose in all the grandeur of his office.

"The court will take a recess until two o'clock. Let all remain seated while the jury pass out. Follow the officer, gentlemen!"

Old Gallagher unfastened the little door at the end of the jury-box, and the twelve men who, in order to attain celebrity and three dollars per diem as members of the Clayton jury, had sworn that they had no objection to either circumstantial evidence or the infliction of the death penalty, collected their garments, and studiously avoiding the eyes of the defendant, filed out. [252]

It is a fact established by many generations of professional observation that those who are about to send a human being to his or her death will not look at their victim, and in this case it did not pass unobserved by the reporters. The cards, they saw, were clearly stacked against Eileen Clayton. The issue was too simple to permit of being befogged. There was no chance for a fight on technicalities. The jury was obviously "hard boiled." These twelve stock-brokers, life insurance agents, realtors, shipping-clerks, and "retired" business men, had already reached the conclusion that the trial was a mere formality. In spite of their asseverations to the contrary, they had formed a fixed opinion as to the defendant's guilt from reading the newspapers long before they had been summoned as talesmen. They did not "presume the defendant innocent." They, quite logically, presumed her guilty, and would duly find her so, unless some unexpected legal excuse presented itself, under cover of which, on the slightest tip from the judge, they could exercise an even more arbitrary mercy. They belonged to what O'Hara called "the standing army of the gibbet," old and tried legal executioners, their record for convictions duly registered in the secret card-catalogue concealed beneath the district attorney's table, thus:

"Michael Murphy, 517 W. 137 St.—59, widower, retired, ex-contractor. Tammany R. C. Brother-in-law of Police Inspector Cronin and Deputy Chief Clerk Macklin, Dept. Gas, Water & Electricity. Served on Hood (murder 1st), McManus (murder 1st) and Balinski (acq.) juries."

Juror Murphy, ostensibly a rather thick-witted but honest old Irishman, would be summoned to the witness chair upon the "voir dire," as it is called, to be examined as to his fitness to serve as an impartial juror. The defendant's counsel, knowing nothing of the widowed Murphy's history in the possession of the prosecution, would arise and the following farce, or something like it, would be enacted: [253]

By the defendant's counsel: Mr. Murphy, would you give the benefit of every reasonable doubt to the prisoner?

Mr. Murphy (benignly): Sure, that would be my duty, wouldn't it?

By counsel: And, naturally, you would presume her innocent until you were satisfied to the contrary by

competent evidence?

Mr. Murphy: I should require the district attorney to prove the defendant's guilt to my mind beyond any doubt.

By counsel: Do you know of any reason whatever why you could not make a fair and impartial juror in this case?

Mr. Murphy (simply, innocently, reverently): I do not.

By counsel (smiling): Thank you, Mr. Murphy. You are entirely satisfactory to the defense. You may take your seat in the box.

Justice?

"All right, officer! Clear the court-room."

Instantly half the mob began struggling to gain the exit while the other half swarmed to the rail for a closer glimpse at the woman on trial. The deputy sheriff tapped Eileen upon the shoulder and, like an animal in an abattoir, she arose and followed him around the runway to the door leading to the prison pen, where she would be kept during the lunch hour.

Hugh gathered up his papers and escaped with Farley through the judge's robing-room, where Gallagher was helping Barker out of his silk robe. In his shirtsleeves he resembled a fat restaurant waiter more than a justice of the Supreme Court. "A demi-tasse, please!" [254]

"Going all right, isn't it?" he asked Farley.

"Fine!" answered the D. A. buoyantly.

One of the court officers forced a passage for them through the crowd that milled about the telephone booths and the elevators. There was a strong odor of sandwiches, coffee, and bad cigars throughout the rotunda. Some of the spectators had brought their lunch. Others procured it at the cafeteria. None left the building. Newsboys were hurrying about offering extras:

DILLON OPENS PEOPLE'S CASE

BULLETINS:

10.31. Mr. Justice Barker takes seat on bench.

10.35. The defendant is brought in.

10.38. Asst. Dist. Atty. Dillon begins address to jury.

Criminal Court Building, Criminal Trial Term, Supreme Court, New York, N. Y. (by special wire): In the most densely packed court-room within human memory the State has just begun to lay before the jury the evidence by virtue of which it hopes to send Eileen Clayton to the electric chair.

Her picture stared at him from the centre of the page, flanked by a smaller one of himself. A crowd of admirers followed them to the elevator reserved for the use of the judges and the district attorney.

"Great work, Mr. Dillon!" Googins's voice had a proud ring. "Sure, you'll be the next district attorney, I'm thinkin'!"

Once upstairs, Hugh closed the door and locked himself in his office. Now that the excitement of the trial was behind him, he found that his knees were shaking. The room was ablaze with sunlight. How cheerful, how peaceful it was [255] with its red carpet, its leather chair. He threw open the window to get a bottle of koumyss. The air was sparkling and glamorous; the sky full of drifting white. What a day for the woods and fields! A pigeon fluttered from the cornice to the window-ledge beside his hand, and stood there nervously. Down below behind the wall of the Tombs the prisoners

were walking monotonously to and fro—to and fro. Again he saw the frightened face of the woman he was prosecuting. Why had she looked at him that way? Was it possible that she had not done what she was accused of? To allow such a thought to intrude itself into his mind might be fatal to his case. He was the People's advocate. This was no time for idle speculation.

He closed the window, drank off the koumyss, and sat down in the armchair. But the thought kept coming back. Did he really believe in the infallibility of circumstantial evidence? Was he himself absolutely convinced of her guilt? He told himself that he was! His mind could not reach any other conclusion. She had procured the pistol and carried it to the house! To imagine that she had taken it there for any purpose other than to shoot Devens—when Devens had been shot—was simply fantastic. That was not a reasonable doubt! And he would convince the jury that it was not, if they needed to be convinced, which his instinct told him they did not. He knew that he had already won their confidence—that unless it came to an open split with Judge Barker they would do what he asked them to do, even to dooming the woman at the bar to death. Curious what an influence he seemed to have over other men!

Yes, there would be a conviction! He would be the hero of the hour! He would be shown in the news-reels coming out of the Criminal Court Building, smiling and taking off his hat. He might, on the strength of it, be selected as the Fusion candidate for district attorney! He might even beat Farley! He would have a career. There was no end to the possibilities in the event of his success. For the first time he really felt the thrill of being the centre of public interest. He might even become Mayor of New York, as Moira had encouraged him to believe. [256]

How? Upon the dead body of her mother!

A shadow darkened the opaque glass of the door. A knock. He opened it. A slight figure dressed in black stood upon the threshold—Moira herself. In his excitement he had forgotten that she was a necessary witness—that she alone could absolutely fix the time of the defendant's visit to the house. Besides, Farley had insisted upon her presence for its sentimental effect upon the jury. He closed the door again and took her in his arms.

"I'm sorry to have to subject you to this, dear!" he said. "But I shall let you go as soon as possible. I shall ask you only a few questions."

"But I want to testify, Hugh! I want to do my part. I only wish I could testify to more!"

He took her hand, thankful for her sake that he was in charge of the prosecution. Suppose Redmond had been the one to try the case! The fellow might have managed, somehow to worm Eileen Clayton's secret out of Uncle Dan. If he had, what capital he would have made of it! In his own hands, if he took proper care, the past would be quite safe. Her mother should be made to pay the penalty for her crime; but should not be pilloried for her shame. Moira must never know! Should never know!

"It will be over in a few minutes!" he said. "To-night I will come to see you and tell you everything that has happened. We must go down now to the court-room. It is already five minutes to two." [257]

She shuddered.

"I hate the thought of all that crowd!"

"You can sit in the judge's anteroom until it is time for you to testify!"

She put on her veil and together they went to Judge Barker's chambers. He had already gone upon the bench and Mr. Dollar was polling the jury. The throng was greater than ever. The defendant was in her place. Several of the jurors smiled at the pale young assistant district attorney. Unconsciously they all felt his honesty and sincerity of purpose. They knew that they could trust him.

But as Hugh, on the point of calling his first witness, faced the bench, he realized that a change of atmosphere had taken place. The court-room was tense with a peculiar electric quality. It was as if, by common consent, all that had gone before was to be taken as the merest preliminary. The real issue—that of the defendant's personal connection with the homicide—was only now to be fought out.

The demeanor of O'Hara had markedly altered. Heretofore he had been lethargic, almost indifferent. Now he watched Hugh like a lynx. The whole poise of his big body seemed to say: "Now, young fellow, let us see how you are going to prove that my client had anything to do with this!"

"Please ask Miss Devens to take the stand," said Hugh!

A swish of papers came from the reporters' table. This was what they had been waiting for! The rows of onlookers on the benches craned their heads toward the door behind the jury-box leading into the judge's robing-room. A moment later Moira entered, took her seat in the witness chair, and at Judge Barker's request removed her veil. Mother and daughter faced one another. [258]

"Stage play!" muttered O'Hara loud enough for the sixth juror to hear. But that gentleman gave him an unsympathetic shoulder. He had a girl of almost the same age. Suppose some one should make an orphan of *her*?

"Miss Devens," said Hugh, after the oath had been administered. "You are the only daughter of Richard Devens?"

"I am," answered Moira.

"Do you know this defendant?"

"I have seen her twice, at a distance only. Once in this court-room about three months ago, once in the street the following day. Never to speak to. I suppose my answer is 'No.'"

As she spoke the color came slowly back into her cheeks.

"On the night of your father's death as you were about to go to bed, did you observe anything from your window?"

"I saw a taxi turn in from Fifth Avenue and stop before the house. A few seconds later the front door banged. I looked at the clock. It pointed to ten minutes to eleven!"

"One more question," said Hugh. "Do you know whether or not your father owned or kept a revolver in the house?"

"I never saw my father with a revolver. I never saw one in the house. So far as I am aware he did not own or use one."

"That is all I have to ask."

Moira had kept her eyes fastened upon Hugh's face. [259]

"We should have been quite ready to concede Miss Devens' testimony without dragging her down here into court," said O'Hara. "I have no questions, Miss Devens."

Two of the newspaper artists had stolen back of the jury-box and were making hurried sketches of both the witness and the defendant. Moira allowed her eyes to turn toward the lawyer. They met those of her mother, who, with a stifled cry, half rose from her seat and extended her arms as if entreating mercy. O'Hara shook her roughly by the shoulder.

"Sit down!" he growled. "Do you want to convict yourself?"

Eileen sank back. But the harm had been done, and the great American public were duly apprised of the sensational appeal made by the prisoner to the daughter of the man she was alleged to have murdered.

Moira was followed upon the witness stand by Shane, the butler; by Daniel Shay, who testified cautiously to the payment of regular sums of money by his employer to Mrs. Clayton; and finally by the negro Wellington, who positively identified the revolver as having been sold by him to the defendant on the day of the homicide.

The case had gone heavily against the defense throughout the entire afternoon, the negro's testimony making the chain of circumstances apparently complete and her guilt conclusive. O'Hara's cross-examination had been becoming gradually more and more caustic. Hoyle still occupied the same seat as before on the front bench of spectators. He now stepped

forward and whispered to his partner. Hugh knew well enough what he was saying, and that they were preparing to make their stand on the admissibility of the revolver, claiming that, although repeatedly identified, it was not admissible in evidence, owing to the fact that it was not in the same condition as when discovered beside the body. The final play of the prosecution in this drama of life and death was about to be made. All in the court-room sensed the approaching climax. Even the pencils of the reporters were stilled. [260]

“I offer the revolver in evidence,” said Hugh.

Instantly O’Hara was on his feet.

“Let me see it!”

Hugh handed the weapon to him. O’Hara showed it to Hoyle and both examined it with obvious curiosity.

“I object to its admission, upon the ground that it is admittedly not in the same state as when found beside the body of the deceased,” declared O’Hara with assurance. “The testimony is unanimous to the effect that when it came into the hands of the authorities but one chamber had been discharged. All six chambers of this revolver are empty.”

Judge Barker, unprepared for this little surprise, raised his eyebrows. Dillon should have “put him wise.” He hesitated.

“Objection sustained!” he ruled finally, “unless the prosecution can account by proper evidence for the change in the revolver’s condition. I suppose you can do that, can’t you, Mr. Dillon?”

“I can. Will Jeffrey Quirk please take the witness-chair?”

From the group of attachés behind District Attorney Farley the former “runner” arose and made his way behind the jury-box to the witness-stand, where he was sworn.

“You are a process-server attached to the office of the district attorney of this county?” asked Hugh.

“I am.” [261]

Quirk clutched the arms of the chair to conceal his nervousness.

“Was this revolver now offered in evidence in your care and custody?”

“It was.”

“Is it in the same condition now as when you first received it? If not, in what respect?” continued Hugh.

“When I got it, only one chamber was empty. Now there are six.”

“Can you explain how that comes to be the case?”

Quirk moistened his lips around which played an apologetic grin.

“Sure. I fired them off.”

“That is all,” said Hugh. “Unless you wish to examine further, Mr. O’Hara. Do you?”

A murmur of amusement ran over the court-room, as a cat’s paw of wind ruffles the smooth surface of a pond. O’Hara took his cue from it.

“I certainly do!” he replied, pretending to conceal a smile. He could at least relieve the tension by introducing a note of jocularly into the case, and he had more than once saved a client from the chair by invoking that method.

“So you were indulging in a little pistol practice, were you?” he inquired jocularly.

“You might call it that,” admitted Quirk.

“Where were you when you relieved your feelings in this way?”

“Upstairs—in the property-room.”

“You were just feeling a bit happy? I don’t suppose you aimed at anything in particular, did you?”

Several members of the jury seemed to find the examination amusing. They liked hearing O’Hara make a goat of this grotesque-looking fellow. [262]

“Yes, I did.”

“Oh, you did, did you? What was it, a cat?”

“No. It wasn’t a cat.”

“Could it have been a rat?” persisted O’Hara, winking at the jury.

“No. It wasn’t a rat.”

“Neither cat nor rat! Well, perhaps you’ll be good enough to tell us what you were firing at up there?”

No sound was audible throughout the court-room. Quirk’s forehead below the line of his wig was beaded with drops of sweat.

“If you want to know, I fired those five shots at Mr. Dillon,” he answered in a raucous voice.

The jury sat up.

“At Mr. Dillon!” ejaculated O’Hara, incredulously.

“Yes—at Mr. Dillon, only I thought it was somebody else,” reiterated Quirk.

“What did you say?” inquired Judge Barker. “Who did you say you discharged this exhibit at?”

“Mr. Dillon.”

“You do not mean you aimed it at him!”

“Yes.”

Judge Barker stared at the witness.

“Proceed, Mr. O’Hara!” he remarked after a pause.

The officers were having difficulty in keeping order. Those in the rear of the room were standing up in order to see better what was going on. What was it the witness had said?

“Sit down there! Keep your seats!”

“H’m! So you were firing at the assistant district attorney!” went on O’Hara, determined to make the most of this extraordinary situation. “Dear me, couldn’t you find any rabbits to practise on? Perhaps you’ll tell us why you selected him for a target.” [263]

“I was trying to steal the revolver out of the safe. He caught me at it. I fired at him to make a get-away.”

The statement shattered the silence that had hung upon his answer. The crowd's gasp of astonishment was followed by the tumult of an angry sea. The jury leaned forward in their seats. The reporters sprawled across the tables toward the rail. "Order there!" "Order!" Farley and Hugh alone sat unperturbed amid the storm. O'Hara's eyes sparkled with a new hope. Had he stumbled upon something? Was he, in some unforeseen fashion, about to snatch victory out of defeat? He failed to see Hoyle's desperate gesture of warning. Hoyle had told him nothing. His deeds were done in secret. The firm's right hand knew not what its left hand did.

"Why did you try to steal this exhibit?" The question leaped at Quirk with O'Hara's accusing finger. Farley hugged himself. The trap was about to be sprung—the unexpected, but hoped-for, moment had arrived. It was too late for O'Hara to stop his examination now. The jury would insist on a solution of the mystery as their right. So would the press! So would the public! So would Barker!

Jeffrey Quirk, caught between the devil Hoyle on the one hand and the deep sea of criminal responsibility upon the other, writhed in his chair, twisting his hands. It was Judge Barker's chance to take the spotlight.

"Answer the question!" he ordered sternly.

The tumult ceased, but the wave was merely gathering to break again. Quirk summoned all his courage. Yes, cost what it might he would give them the truth! Now, at last, he would throw off the old man of the sea who for so many years had clung upon his shoulders! He would rid himself of Hoyle forever—show him up for what he was—a blackmailer [264] and an instigator of crime.

"Because—" he began. Then he shrank back in his seat, his eyes fixed in terror upon the face of Hoyle, who had crept forward to the bar. Habit reasserted itself. No, he dared not! But he must give some excuse! He caught Farley's exultant expression, and the latter's words flashed into his mind. "Give it to 'em strong!" He must not let this opportunity slip to help Mr. Dillon. He cleared his throat.

"Because the defendant asked me to. She said unless I could get the revolver she'd go to the chair!"

The tempest broke. The reporters' table became the centre of a whirlwind. O'Hara stood there dazed. The lie was as shocking as it was gigantic. Utterly preposterous! Yet unless contradicted the jury would believe it! Quirk's testimony would absolutely force his client upon the stand! Should he go on with his cross-examination in the hope of demonstrating the absurdity of the testimony? He had no idea what further perjuries Quirk might have in contemplation. He was trapped.

"Drop him! Drop him!"

Hoyle hissed the words desperately in his ear. O'Hara made a vain effort to appear nonchalantly incredulous.

"Oh, indeed!"

"Have you any more questions?" inquired Judge Barker, unable to conceal his satisfaction, and with the air of one gracious to another in misfortune. Relays of little boys were rushing out of the court-room with their fists full of yellow copy. The benches were in an uproar. The jury looked at one another significantly. Hoyle had taken a seat beside his partner. The defendant was staring straight in front of her. It was doubtful if she had even heard the testimony. Hugh gripped Farley by the knee.

"It's a lie!" he whispered. "It was Hoyle—not the defendant—told him to do it."

[265]

"Shh! Keep still!" replied his chief. "It makes no difference who told him to!"

"It makes a difference whether the testimony is false or not!" retorted Hugh.

"Don't get so excited! If the testimony isn't true, the defense can deny it."

Hugh was already on his feet. Farley yanked him down again.

“Sit still!” he ordered roughly. “I am running this case. I won’t have you ditching a perfectly good conviction. How do you know but what she did tell him to—just as he says?” For the first time during the trial the district attorney arose in person.

“The People have no re-direct examination,” he announced with a smile at the jury.

No one better than Judge Barker knew the dramatic value of a good court-room “curtain.” In all his experience there had never been a better one. It was seven minutes to adjournment. He signalled to Mr. Dollar.

“Hear ye! Hear ye! All persons having business with this court may now depart. This court stands adjourned until tomorrow morning at ten o’clock. Let the jury pass out, gentlemen.”

Hugh followed Farley to the latter’s office. He could not believe that the district attorney actually meant to let the record stand. His chief closed the door and lit a cigar.

“Listen!” said he, thrusting his hands behind the tails of his cutaway and canting the cigar toward the upper branches of the rubber plant. “This woman is guilty as hell—and everybody knows it. But, if we go stirring up a mess over Quirk’s testimony, the jury may get the idea that the whole case is a frame-up. If they think he’s lying it will raise a doubt in their minds, and the best we’ll get is a disagreement.” [266]

“But if you do nothing, his testimony is bound to convict her.”

“Well! Don’t you want to convict her?”

“Not on perjured testimony!” answered Hugh fiercely. “It is a great deal more important to preserve the integrity of the administration of criminal justice than to convict Eileen Clayton!”

“But we aren’t affecting the integrity of our procedure. We don’t know that Quirk’s testimony is not true. He’s our witness. We vouch for him. We ought to stick by him. At any rate, we can wait until the defendant denies it.”

“But she has a right to stay off the stand, and if this story is allowed to remain, she will be forced to testify, and so be deprived of her constitutional privilege!”

“Constitutional fiddlesticks! You can’t be on both sides of a case. The woman is guilty. We’ve got some duty toward the public!”

“That’s what I think! Why don’t you send for Quirk and find out whether or not he’s lying?”

Farley chewed savagely on his cigar, waving his fat little arms.

“By God!” he shouted. “I always thought you were crazy, and now I know it! I’m sick of your holier-than-thou attitude and all the high-falutin’ stuff you pull about duty and morals. Our duty is to send up the guilty, without being too damn particular how we do it. If we were we’d never convict anybody. What do you want to do? Get up in court and tell everybody your best witness has perjured himself?” [267]

“What I propose doing, if I stay in the case, is to find out from Quirk how far his testimony is untrue, and then make a public statement to that effect. There’s nothing else an honest prosecutor could do!”

“There isn’t, eh?” Farley’s face had taken on an ugly look. “You’ll find out whether there is or not!”

“I said ‘an honest prosecutor!’”

Farley rang for his attendant.

“See if Mr. Redmond is in the building, and if so, send him here to me,” he ordered. Then turning again to Hugh: “Unless you are prepared to carry out my instructions, I shall have to ask for your resignation. I can have no one in my office who questions the integrity of my motives. Either you go ahead and try the case as I want it tried, or I put Redmond in your

place! Luckily he has been in court all the time.” His anger had cooled a little. After all, the boy was just a fool. “Look here, Dillon! Let’s cut all this out and forget it! You’re throwing away the chance of a lifetime. If you go ahead and convict this woman you’ll be famous. If I take you out of the case it will be your finish. I like you, Dillon. We can travel along together. How about it?”

It was just at that moment that Redmond entered briskly.

“You sent for me, chief?”

Farley held him off with a gesture.

“One moment! How about it, Dillon?”

But Hugh had already started for the door.

“You have my resignation,” he said shortly.

As he climbed the stairs leading from the district attorney’s office to his own he realized that it was not the loss of his position or even the opportunity to gain a national reputation that dismayed him, but the fact that Moira’s mother [268] would now certainly be convicted. He had undertaken the prosecution only because he believed that by so doing he could protect Moira from the revelation of the scandal connected with her birth, while at the same time doing, as he conceived, his full duty by the public.

He saw now that he had been mistaken. It was humanly impossible to detach himself from his personal relationship so as to approach his task in a proper official attitude. He could never have demanded Eileen Clayton’s life at the hands of the jury. He knew that all along at the bottom of his heart he had hoped something would happen to render a conviction impossible. Not that he did not believe her guilty! He was absolutely certain of it. In defying Farley the only consideration that had moved him was one of personal honor. He was there to fight for Justice; not to dethrone her. This Farley frankly proposed to do, on the ground that the end justified the means!

But what could he do? Was he to stand mute and allow Eileen Clayton to be convicted of murder upon evidence which he knew to be perjured? Was it not his duty to arise at the opening of court next morning, and expose this travesty upon justice? Had he not sworn to support the Constitution of the State and of the United States? And did not these guarantee to every defendant a fair and impartial trial? They did indeed! But had he no other loyalties? Did not his position impose silence upon him? He was not the district attorney. He was but the latter’s salaried aide. What he knew of the Clayton case he had learned in a confidential capacity. Was not his obligation of loyalty to his chief absolute, even if his chief was himself disloyal? What a mess! His honor stood rooted in dishonor! He must keep his mouth shut, hoping that [269] justice would somehow triumph in the end.

Mechanically he began to empty the desk of his private papers. To-morrow he must start his career for the third time. What would the future bring to him? He made a bundle of his belongings and tied it up with a piece of string, which he found in one of the drawers. He could send for his pictures and the red leather armchair later on. Good-bye glory! Good-bye fame! He would never be district attorney now. Not without a pang he turned his back upon the little room where he had experienced his first thrill as a public prosecutor. With his bundle beneath his arm he was about to close the door behind him when a process-server thrust a paper into his hand,—a subpoena commanding his appearance the following day in the Supreme Court as a witness in the case of “The People against Eileen Clayton.”

CHAPTER XIII

The newspaper headlines next morning dramatized the dénouement of the afternoon session. The sensational testimony of the witness Quirk, brought out inadvertently by the defense itself, had clearly sealed the defendant's doom. Throughout the entire United States there was hardly a human being who did not know that Eileen Clayton had been shown to have instigated a criminal attempt to make way with the most important piece of evidence in the case against her, resulting in a homicidal attack upon the assistant prosecutor by one of his own men with the same revolver. Never before had so much legal melodrama been compressed into so small a space of time. Had the slightest doubt existed in the public mind as to her guilt hitherto, it was now entirely removed. Eileen Clayton, it was confidently asserted, had no longer a chance of escape—unless she took the witness-stand in her own behalf and by some unexpected revelation succeeded in arousing the sympathy of the jury.

Hugh had not slept. With smarting eyes he had seen the dawn from the Queensboro Bridge. Only there, with the fresh breeze from the sea blowing back the hair from his forehead, could he make a pretense of thinking. All night he had sat on a bench under one of the towers, watching the lights of the tugboats on the river below, and the sudden flares of the distant blast furnaces on the Williamsburg side, while high over all the Metropolitan Life lifted its white torch among the stars. If only there was a torch to light the path of duty!

There were so many duties! So many loyalties, often seemingly inconsistent and as often positively conflicting and nullifying one another—to one's friends—to one's job—to one's employer—to the public—to one's private sense of honor—to one's love. Had he been a fool to resign? What was his obligation to Farley? Should the fact that he had worked under and for him seal his lips when he knew that the old rascal was about to do something crooked? [271]

Must a public officer protect another public officer who proposed to do a public wrong? Surely he could not assent to that! Yet could he, to prevent that public wrong, reveal something known to him only by virtue of his confidential relationship? And, if not, did the mere fact that he was no longer holding office change the situation? Yet, could he in any event stand silent and see the mother of the girl he loved convicted of murder on perjured testimony? So his thoughts ran back and forth like the electric trains across the bridge, weaving a skein that grew ever more tangled, until the east paled and the giant red arrow, that shoots slowly through the night until it hits its golden mark and then begins all over again, had faded from the sky.

The sun had crept up over Long Island City and turned the drab buildings on Blackwell's Island to bronze before he started to walk back to Manhattan. He leaned over the side of the bridge and looked down at the line of convicts filing from one building to another on Blackwell's Island. Ants! Microcosms! Life was all so unjust, what difference did it make what happened to any particular individual? For the conviction of how many of those down there was he personally responsible, he wondered? He wouldn't remember them, even if he saw them. Prison fodder! One man "turned out" simply because the assistant in charge thought his case too troublesome to prosecute, another "sent up" because the next assistant didn't like his looks. All chance! A rotten world! He could smell cabbage all that way up! It must be fierce to be locked in a cell and fed through the bars like a beast! [272]

He found a crumpled cigarette in his pocket, lit it and tramped across the bridge to Fifty-ninth Street, where he bought a cup of coffee and a "hot dog." His mind, in spite of its inability to solve his problems, had a strange clarity. He felt curiously free and untrammelled, as if his vigil upon the bridge had had an ennobling and spiritualizing effect.

The crowd was fighting its way into the Criminal Term when he reached the building, and he allowed himself to be dragged along with it, taking a seat far back in the court-room. He had been subpoenaed by the prosecution, but he had no desire to sit with his former chief.

He perceived that his sympathies were all on the side of the defendant.

"Bang!" They were all getting up. What a greasy little fellow Barker was!

"Bang!" They were all down again, and that old horse Dollar was bowing and smirking to the jury as he called their

names. From where he sat he could not see Justice at all, so bedimmed was she. Mr. Dollar had resumed his seat with his usual complacency.

“Bring in the defendant!”

The crowd swung around in its seats the better to see. Eileen, haggard almost beyond recognition, walked wearily to her place, and sat down beside her counsel.

Michael Redmond arose. The jury were puzzled. Where was their young friend Dillon? What was this smartly elegant, slightly supercilious youth with the Apollo locks doing in his place?

“If the court please,” said the new prosecutor, “with the exception of a single witness the People are prepared to rest their case. I make this announcement so that the defense may not be taken unawares.” [273]

At that instant Hugh caught sight of Moira sitting inside the rail within a few feet of where Redmond stood, her eyes fastened upon the face of the prosecutor, who returned her an encouraging smile. Then stepping to the bar Redmond called out in a stern voice:

“Hugh Dillon—take the stand.”

Even then Hugh did not realize the depth of Redmond’s perfidy, although he was fully aware of hostility in both tone and glance. What did they want him for? Something about the pistol, he supposed. It gave him a queer sensation to be sitting up there in the witness-chair, all by himself. The fact that the jury bowed to Hugh as he sat down appeared to annoy Redmond, who deliberately interposed his body in a way effectually to prevent him from seeing Moira.

“Your name is Hugh Dillon? A former member of the district attorney’s professional staff, I believe,” he asked with a subtle sneer.

Hugh nodded.

“Answer the question so the stenographer can hear you!” directed Judge Barker brusquely.

“I was,” replied Hugh.

“Did you have a conversation with the defendant in this case at the Thirty-First Precinct Station House on the day of the arrest?”

“I did,” answered Hugh.

He saw the whole thing now! What an unbelievable cad Redmond was!

“Will you kindly tell the judge and jury what she said to you,” suggested Redmond airily.

“One moment!” O’Hara leaped to his feet. “I object! I should like the opportunity to put a preliminary question. Was this conversation confidential?” [274]

“It was,” answered Hugh. “I promised the defendant to regard it as such.”

“I move to strike out the latter part of the answer as immaterial and irrelevant!” cried Redmond.

Judge Barker shook his head.

“Let it stand,” he said. “We do not want any error in this case,” he added, to the jury, as it were.

“I renew my objection to the question on the ground that it calls for the disclosure of a privileged communication,” urged O’Hara.

“The law recognizes no communications as privileged on the ground of confidence, unless made to a priest, a physician, or an attorney. In receiving the defendant’s confidence, this witness certainly was not acting in any one of those capacities,” said Redmond.

“Let me ask another question,” went on O’Hara. “When you promised the defendant to keep her disclosures to you inviolate, did you do so in your official capacity as an assistant district attorney?”

“I object to that on the ground that a district attorney who is presumably”—Redmond dwelt on the last word—“acting in the People’s interests, has no authority to give any such assurances to a defendant. He cannot play fast and loose, on both sides of a case at once. He must be loyal to his clients.” The malicious implication sent the blood to Hugh’s forehead. What did Redmond know of loyalty!

“I will overrule your objection. Let us hear what the witness has to say for himself,” remarked Barker with the smile of an expectant cat. “Answer the question, Mr. Witness. When you made this private agreement with the defendant to [275] keep secret what she told you, were you, from your own point of view, acting as the district attorney’s representative?”

The sarcasm in his tone was a plain intimation to the jury that he regarded such conduct as highly reprehensible and in the light of a betrayal of the public interest. Hugh faced him.

“I did not stop to analyze the situation,” he answered. “The defendant made me a voluntary statement, relying on my promise to respect her confidence. Otherwise she would not have made it. Whether I gave her my word as an official or as a private individual is, to my mind, immaterial. I shall respect it in either event.”

Judge Barker’s scalp grew faintly pink. This was close to contumacy!

“It is clear that the witness made the defendant a solemn promise in his official capacity as the representative of the district attorney of this county,” declared O’Hara.

“Which he had no authority or right to make,” thundered Farley, arising to his feet.

“The district attorney represents all the people, including every defendant. The witness received her statement as an attorney. The law must respect her confidence,” retorted the lawyer.

“Do you claim that a murderer is at liberty to make a confession to a public prosecutor, and then assert that it was in confidence?” demanded Redmond, moving to one side.

For the first time that morning Hugh looked into Moira’s eyes. Indignation and resentment were blended there with scorn. And yet he was doing it all for her! She *must* understand. But she deliberately looked away from him.

They were all standing now—O’Hara, Hoyle, Farley, Redmond—even some of the lesser lights. Judge Barker’s [276] skull glistened as it always did in moments of high mental tension. Silence held the court-room. His words fairly clattered against the walls.

“I have no means of knowing what form this alleged promise of confidence took. I have no means of knowing whether, in fact, any such assurance was given. To permit a witness to decide when, or when not, a communication was made in confidence would open the door to great abuses. I shall hold that any promise or agreement made by this witness to keep secret the disclosures made to him by the defendant was outside the scope of his authority. He was not her attorney. He was the public prosecutor. He could not act in a dual capacity. His promise of confidence was, if made, the mere assurance of an individual—and hence not privileged. I direct the witness to answer the question. Read it, Mr. Stenographer.”

The stenographer ran his finger through his pothooks.

“By Mr. Redmond,” he translated. “Will you kindly tell the judge and jury what she said to you?”

“Answer the question!” repeated Judge Barker threateningly. The crowd held its breath. Had Eileen Clayton confessed her guilt to the witness? Was the testimony of Quirk to be capped by something even more sensational?

“I will not!”

The answer was instantaneous. The judge had become purple. His hand clenched his gavel.

“I direct you to answer, and I warn you that a refusal to do so will subject you to the penalty for contempt.” He breathed heavily.

“I refuse.”

[277]

“Let the witness state his grounds,” suggested Farley. “If he claims that his answer would tend to degrade or incriminate him——”

“I make no such contention,” flared Hugh. “I refuse to answer on the ground that to do so would be a dishonorable betrayal of a private confidence. If that is contempt, then I am in contempt.”

He hurled the gauntlet straight in Barker’s face. For an instant that craven wavered.

“I should like to ask the witness in view of his refusal to answer,” insinuated Redmond, “if it is not the fact that until very recently he was a member of the firm of Hoyle and O’Hara, now representing the defendant?”

Hugh did not deign a reply. Had he been near enough Redmond he might have been guilty of homicide himself. Judge Barker beckoned to Mr. Dollar, and conferred with him briefly. The clerk seemed reluctant. He had no original ideas and anything out of the ordinary upset him. Reaching down to a lower drawer, he found a paper and handed it to the judge.

“I will give you one more opportunity to answer the question,” said Barker threateningly, and when Hugh did not reply, “Mr. Stenographer, note that the witness remains silent.”

Moira had withdrawn herself from Hugh’s view. He did not care what they did to him. The judge was fumbling with the pages of the Code.

“I adjudge that the witness Dillon is in present contempt of this court for refusing to testify, and”——his voice faltered——“I direct that——he be committed to the City Prison until he purges himself of his contempt.”

“I except to Your Honor’s ruling,” answered O’Hara. “I ask that Your Honor withhold the committal until I can sue out a writ of habeas corpus.”

[278]

“That is not necessary,” interrupted Hugh. “I do not wish any writ. I am quite ready to go to jail. I thank Mr. O’Hara for his offer of assistance, but I wish it to appear clearly upon the record that he does not represent me in this matter. I have no attorney——except myself——and I may have a fool for a client,” he added grimly to the jury.

They did not respond. His temerity had shaken their confidence and aroused their doubts. Half the reporters had started for the door. It was the story of a lifetime. Judge Barker had never committed anybody to jail peremptorily like that before. It wasn’t done. The customary course was politely to inform the victim that unless he behaved himself he must “show cause” before some other judge why he should not be fined fifty dollars. This was “rough stuff.” Barker’s gavel brought the confusion to a standstill.

“For the last time, do you desire to purge yourself of contempt?”

“I shall not violate my personal honor.”

Judge Barker took up his pen and wrote.

“The witness is committed!” he said huskily. “Captain Lynch——!”

O'Hara was on his feet again.

"I except to this entire procedure, and move to have this committal set aside, on the ground that it is unwarranted by law and highly prejudicial to the defendant."

"Motion denied! The witness stands committed. You may proceed with the trial, Mr. District Attorney."

Captain Lynch conducted Hugh up the iron stairs to the prison pen without speaking. He had conceived a great [279] fondness for the boy. During all the years he had presided over the peace of the Criminal Trial Term he had never seen any one who so impressed him with his sincerity, courage, and disinterestedness. But Captain Lynch had a high regard for the law, and the fact that the judge had ruled was enough. He had difficulty in making Grady, the keeper of the prison-pen, understand that Hugh was actually in custody. Sure, there must be some mistake! Hugh assured him that there was none. He was a prisoner. Grady, shocked at the idea of a "district attorney" locked in a felon's cell, offered to let him sit outside, but to his embarrassment Hugh refused. He wanted to be locked up. He would go through with it. He had done the only thing possible to a man of honor. The words of John O'Connor in the Parnell proceeding came to his mind: "I know what my code of honor is, my lord, and I intend to adhere to it." So did he, Hugh Dillon, know what his code of honor was. And so, clearly, did Redmond, who had deliberately taken advantage of it to stage a scene that would inevitably satisfy the jury that Eileen Clayton had confessed her crime to one who for private reasons, in spite of his official position, was really seeking her acquittal.

The "prison pen" of the Supreme Court, Criminal Trial Term, consists of two cells, each about fifteen feet in length by seven feet in width, facing one another on either side of a steam-heated chamber at the head of an iron staircase, leading upward from the rear door of the court-room. These are for men only; female prisoners, after they have climbed the stairs, being taken across the corridor to the "women's pen," near the sheriff's room.

In his first excitement Hugh paid little attention to his surroundings, but suddenly he found himself feeling faint. [280] The temperature could not have been less than ninety degrees Fahrenheit. Both windows were tightly closed, and the stench from the open closet in each cell filled the room. Stain overlapped stain upon the cement floor. The bars were sticky from the palms of murderers and thieves. Even the bench upon which he was sitting had a patine of prison grime. Disease lurked in the corners. A filthy place! He tried to imagine it filled with men and boys pacing up and down, waiting to be taken out and tried.

From time to time the door banged at the foot of the flight of steps and the atmosphere was momentarily diluted with a current of air slightly less foetid than that of the cells. The only other near-by sound was the intermittent rustle of the keeper's newspaper. Occasionally there were others more distant—the clash of iron—the dull reverberation of the subway—smothered cries—the trample of feet overhead—the rumble of trucks. Luckily he was equipped with cigarettes. He wondered what they were doing down there in the court-room. The papers must be full of his commitment already. "Deputy Assistant District Attorney Dillon Dismissed and Committed for Refusing to Testify." They'd make the most of it! That cur Redmond! He and Farley and Barker had framed the whole thing up between them overnight. They should never extort his secret from him! But how could he convince Moira of the sincerity of his motives? Could he blame her for thinking him a traitor? He tried to put himself in her position. All she knew was that he had thrown up the case at a crucial moment, and defied the judge by refusing to disclose what the defendant had told him. It certainly must have had a queer look. She might justly suspect almost anything. A stab below the belt—that question of [281] Redmond's about his former connection with Hoyle & O'Hara!

A draught jerked the smoke of his cigarette sideways. Footsteps echoed on the stairs. He recognized Farley's voice. Grady came to the cell door and unlocked it.

"Come on out. The district attorney wants to talk to you."

"Then he can talk to me here where he put me!" retorted Hugh.

Grady regarded him doubtfully for an instant, and then retired. A moment afterward Farley appeared outside the bars.

"It is not necessary that you should be locked up, Dillon!" he said, striving to hide his embarrassment by a tone of

mingled reproach and impatience. "In fact, this entire performance would be quite unnecessary if you would only be reasonable. I understand your feeling that you should respect a promise, even if made to a defendant, but you should realize that the matter is no longer in your hands. The order of the judge releases you from any further responsibility. Private agreements have to give way to the public interest. I hope you will reconsider your position. There is still time. The defense is now making the customary motion to take the case from the jury for failure of evidence. The court will then adjourn until two o'clock. After that it will be too late. The summing up will begin."

"What is it you wish me to do?" Hugh had remained seated during Farley's harangue.

"Obey the order of the court as your oath as an attorney and as an officer of the county requires you to do," returned Farley, sententiously. "You are placing yourself above the law."

"Do you think Barker is following the law in plotting with you how to convict this woman? Do you think Redmond is following the law in trying to force me to disclose what I learned under a promise of secrecy, given in my official capacity, and upon which the defendant implicitly relied? Do you think that you are following the law when you are willing to let this case go to the jury on perjured evidence? If you are, then the law had better be changed! No, Mr. District Attorney, you and the law can go straight—downstairs again!" [282]

Hugh selected another cigarette and lit it with irritating deliberation. Farley's jowls shook with suppressed wrath.

"All I can say is, Dillon—you're a damn fool!"

"Thanks!" replied his former assistant cheerfully. "I'm satisfied to remain whatever kind of a fool I am! I prefer it to your variety."

For some reason which Farley could not clearly determine, their relative positions appeared to have been reversed. He, and not Hugh, was on the defensive. At any rate, he retreated, leaving the field to his adversary.

Once more Hugh contemplated his position. Any one could see that Farley was nervous. He was not ordinarily the kind of man to take that sort of a risk. Redmond undoubtedly had put him up to it. The fellow would leave no stone unturned to get a conviction! But what a chance they were taking! How could any of them be sure but that, if goaded to desperation, he might not give the story of Quirk's perjury to the papers? The answer was simple, and it was twofold. First, they were shrewd enough to know that his sense of honor would prevent his making public what he had learned in a confidential capacity as Farley's assistant; and second that there was really nothing that he could say, except that Quirk had never revealed to him the fact of the defendant's complicity in the plot to steal the revolver. Already, probably, they had a detailed affidavit from the witness bolstering up his statement, and setting forth time, place, and surrounding circumstances, sufficient to meet any such attack on Hugh's part, which would now be attributed to his desire for revenge. [283]

And Moira! By this time, no doubt, Redmond had supplanted him in her confidence, if not in her friendship! Her look of scorn had been like a javelin thrust.

Muffled thunder rolled below. Court had adjourned. Grady shoved back his chair and got up. The draught that came from the bottom of the stairs was cold this time. What a relief! They must have emptied the court-room and opened the windows. He arose, stretched himself and stepped to the barred door of the cell. Mrs. Clayton was being brought upstairs to the women's pen. At sight of Hugh she stopped.

"I want to speak to Mr. Dillon a moment," she said to Grady.

"Sure! Talk to him all you like!" returned the keeper sympathetically. "He can speak to you outside, if he wants to. I'll leave ye alone."

For the second time Hugh came face to face with Moira's mother. She thrust her emaciated hand through the bars.

"Mr. Dillon,—I—Oh, how can I thank you! I know now how much you must love Moira! I felt it from the beginning. I am going to be convicted of a crime I know nothing about. All the circumstances are against me. But, [284]

whether I am convicted or not—whether I am—am—executed or eventually set free—I beg of you to promise me one thing: that you will never tell Moira who I am. Her happiness is the only thing that matters. I must stay out of her life. Promise me! It is the last request I may make of anybody upon this earth!”

Hugh lifted the delicate hand to his lips.

“I promise you that!” he answered. “And I reverence you for asking me. Whatever happens, I will never tell Moira the secret you confided to me.” He paused. “I have not believed in your innocence, Mrs. Clayton, but now I do.”

The summing up for the defense in *People vs. Clayton* occupied the entire afternoon, during which period Hugh remained in confinement. No further attempt was made by Farley, or any one in his behalf, to communicate with him, and at the adjournment he was led across the Bridge of Sighs to the Tombs, and locked in a cell for the night. He, nevertheless, ate his supper and slept soundly. His career had gone to smash, but he had a clear conscience and had kept his self-respect. Looking back calmly over the last three days, he did not see how he could have acted differently at any juncture.

Morning came and once more he was taken back and placed in the Criminal Term pen. Repeated attempts had been made by the reporters to get in touch with him, both in the City Prison and in the detention cell, but he had declined to be interviewed. All he wanted was to be left to himself—with a sufficient supply of cigarettes, which luckily were easily procurable.

Reports of Michael Redmond’s masterly summation for the people came up the iron stairs from time to time. It was said that a more eloquent address had never before been delivered in the Criminal Court Building, and when he concluded, there was no one in the court-room who was not satisfied that the guilt of Eileen Clayton had been established, [285] not only beyond any reasonable doubt, but beyond any possible doubt whatsoever. As the assistant district attorney had so convincingly pointed out—“facts could not lie.”

He concluded his peroration at a little before four o’clock, and Judge Barker immediately charged the jury. There must be no time for them to get cool! His charge, prepared with the aid of the district attorney’s “Appeal Bureau,” with a touch here and there from Redmond himself, was concededly a model of legal exposition, and the subtlety with which he drove the judicial knife into the vitals of the defendant rivalled the dexterity of a Spanish bull-fighter delivering the *coup de grâce*.

The jury retired at five o’clock, taking the revolver with them, and Eileen was remanded to the women’s pen, on the floor above, to await the result of their deliberations. News that a verdict might be expected had caused a vast crowd to assemble around the building. A special squad of police had been detailed to preserve order and found plenty to keep them busy. No one left the court-room. And in the centre of the spotlight, at the feet of the Blind Goddess, admired by all, sat Fame’s Great Triumvirate—Barker, Farley, and Redmond, each dreaming of higher things—of place, popularity, and power—to which he might climb, not upon the stepping-stones of his own dead self, but upon that of Eileen Clayton.

Hugh had now “stood committed” thirty-four hours, awaiting the pleasure of the same judge who had once [286] assured him that his appointment would give “universal satisfaction.” In the excitement induced by his defiance of Judge Barker he had not particularly minded what had happened to him. His fight with Quirk in the property-room, the overstrain of the trial which he had conducted for eleven days, the stormy scene with Farley when he had handed in his resignation, his sleepless night of quandary upon the Queensboro Bridge, the moral dilemma which had resulted in his being adjudged guilty of contempt, had induced a condition in which his body had become an almost insentient thing, like a ball and chain attached to his real personality and anchoring it to earth. He had been beyond physical discomfort or pain. Merely to go to jail in the service of his Goddess—the Blind Goddess—had been something to glory in!

But now the prolonged confinement began to have its effect, and the foulness of the air to nauseate him. By evening he had so far lost pride as to accept Grady’s invitation to sit outside. He could imagine the physical and mental torture that Eileen must be experiencing, as she sat alone waiting to be dragged forth as a sacrifice to the Blind Goddess under the ancient Talionic law of “eye for eye, tooth for tooth.” Was it possible that he was living in the twentieth century of the Christian era? Why did not some of these wise men who had isolated the bacteria of diphtheria and yellow fever turn the searchlight of science upon the origins of moral disease and devote themselves for a space to the study of criminal

reformation?

Would the world be any safer if this fragile sinner, who cowered over there in dry-eyed terror, were tied to a chair with electrodes at her wrists and temples, and burned to death by electricity? An absurd supposition! What sort of a Deity was this blind goddess of justice? Did her gentle beauty hide an insatiate wrath like that of the terrible gods of Babylon and Chaldea? Did she demand a life for a life? Was that part of her blindness? In this wonderful moment, when [287] the phrase of the "Fatherhood of God and the Brotherhood of Man" had taken on a new significance through the scientific conception of a universe in which the physical and the spiritual melted into one, were we still invoking the barbaric doctrine that "whoso sheddeth man's blood by man shall his blood be shed"?

A door banged, followed by a shuffle of feet at the foot of the stairs. The jury were coming in. If no sparrow fell without divine solicitude would not the Heavenly Father watch over Eileen Clayton, who surely was of more value than many sparrows? Was there a Heavenly Father?

"It's a conviction!" whispered Grady. "Shh! Don't let her know!"

Hugh gripped the back of the keeper's wooden chair.

"All right, Jim!" Grady shouted to the officer at the foot of the stairs.

A moment later Eileen was brought across from the women's pen. Hugh put his arm about her.

"The jury is in!" he said. "I will go with you!"

Grady offered no opposition. He was glad to have somebody "take her off him." Women of that sort were apt to make a scene, faint, or have hysterics.

Preceded by the officer, Hugh supported Eileen down the stairs. The crowd in the court-room was so great that he could not see the judge—a forest of people. Automatically he followed the prisoner as she was led around the room. Nobody noticed him. The eyes of all were fixed upon the murderess of Richard Devens as she took her place at the bar. The jury was already in. Farley and Redmond sprawled side by side at the counsel table. Moira, her face covered with her veil, was half hidden in the corner behind the jury-box. Several persons sat upon the dais beside Judge Barker, and the [288] ringside seats inside the rail were filled with persons eager to be in at the death. The nebulous light from the chandelier high overhead, the intent gaze of the spectators focussed upon a single central point, the shadowy periphery of the picture, gave the scene a Rembrandtesque quality.

Mr. Dollar bent over and, pretending to be looking for a book, surreptitiously ran a small comb through the silver wavelets of his forehead. He made a cult of perfection, and had a commonplace book on the first page of which was written in a beautiful running hand: "Who sweeps a room as in thy cause makes it and the action fine." But Mr. Dollar insisted on his audience. And now, having straightened his braided lapels, adjusted his cuffs and otherwise concentrated attention upon himself, he arose, made an impressive obeisance toward the bench, and then, facing the twelve men in the box, enquired in a sort of Gregorian chant:

"Gentlemen of the jury, have you agreed upon a verdict?"

"We have," answered the foreman, slightly doubtful of the etiquette demanded by the occasion.

"The jury will arise!" continued Mr. Dollar in exaltation induced by the consciousness of authority. Even Judge Barker had to give way to him! They arose.

"Gentlemen of the jury, look upon the defendant. Defendant, look upon the jury. How say you, gentlemen, do you find the defendant guilty or not guilty?"

The twelve, in recognition of Mr. Dollar's dictatorial supremacy, made a pretense of turning toward the woman at the bar. But they did not look at her.

“We find—the defendant—guilty—as charged—in the indictment,” replied the foreman, experiencing a slight difficulty of utterance, since he was only a novice. Hereafter he would be a regular. The announcement created no excitement, since the nature of the verdict was already known. The crowd’s expectancy was not as to its nature, but merely as to whether or not the defendant would scream or throw a fit on hearing it. She did neither. [289]

“Of murder in the first degree?” enquired Mr. Dollar lightly, as if the degree were of no particular importance but merely to get it quite straight.

“Of murder in the first degree,” echoed the foreman, feeling suddenly faint.

Mr. Dollar bowed.

“You may be seated, gentlemen.”

Judge Barker looked highly gratified.

“Thank you, gentlemen!” he seemed to say. “Thank you extremely! I felt sure that you would act like men!”

The jury sat down uncertainly, and Mr. Dollar, having resumed his seat, turned over the indictment and stamped something on it with a rubber stamp. Captain Lynch had taken his stand by the prisoner, holding in his hand a slip of paper to which he now and again referred.

“All ready, captain,” sang Mr. Dollar, holding his pen in mid-air.

“How old are you?” enquired Captain Lynch of Eileen.

She murmured something in reply.

“Forty-nine,” he called back to Mr. Dollar. Then in rapid succession: “No—Hotel Blackwell—housewife—No—No—Yes—No—Protestant.”

Mr. Dollar blotted the back of the indictment.

“What date would you like for sentence?” inquired Judge Barker pleasantly.

“We have no preference,” answered O’Hara. [290]

The judge conferred with Mr. Dollar.

“I will set it for the twenty-first. The defendant is remanded. Adjourn court, Mr. Dollar.”

O’Hara stepped back, surrendering Eileen to the captain, who started with her along the runway. Even Mr. Dollar could not refrain from following her retreating figure with his eyes. He would forever wear this conviction as one of his choicest plumes.

Judge Barker swung his chair toward the twelve voters in the box.

“Gentlemen of the jury,” he said in honeyed accents, smiling down upon them like an Olympian in a moment of nectarial relaxation, “I congratulate you upon the manner in which you have so fearlessly performed an unpleasant duty. I wish to compliment you upon the attention with which you have listened to the evidence and the patience and intelligence which you have exhibited under a heavy responsibility. Permit me to say that in my opinion you could have reached no other verdict, and that it is entirely consonant with the conscience and opinion of the court. In view of the arduous and difficult character of your services, and exercising the discretion vested in me by the statute, I shall make an order allowing you each an additional five dollars per day for the time you have spent here. In bidding you good-bye I feel that I voice the sentiment of the community when I say: ‘Well done, good and faithful servants.’ That is all. You may now return to your wives and families. You are discharged—with the thanks of the court.”

He beamed. The foreman cleared his throat. The barest courtesy demanded some reply. He arose awkwardly:

“I hope—I may be—er—permitted to say that the admiration is—is mutual,” he stammered.

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“Thank you! Thank you!” smiled His Honor. “Good day, gentlemen!”

The jury streamed out toward the door. Judge Barker swept the crowded court-room with his eye. Was it all over so soon? Who was that standing there in the corner by the window? Dillon! He had forgotten all about him.

“Bring that man to the bar!” he ordered.

“This way, Mr. Dillon!” directed the officer.

Barker hardly looked at him.

“Discharged,” he remarked laconically, then turned and offered his hand to the state senator’s lady upon his right.

“Hear ye! Hear ye!” intoned old Gallagher. “All persons having business with this honorable court may now depart. This court stands adjourned until next Monday morning at ten o’clock.”

Hugh’s knees were trembling. People were crowding all about him, and there was a curious seething in his head. Yet everything seemed far away. He saw Moira shaking hands with Redmond. She was saying something to him very earnestly, and he was smiling at her. Smiling, smiling villain! She must not be contaminated by staying near the beast! Ah, she had left Redmond. She was coming toward him. At last he would be able to explain everything to her.

“Moira!” he cried. “Please—Moira——”

But at sight of him she turned quickly away.

“Moira!” he cried in anguish. “Please—Moira——!”

Where had she gone? Where was the light? What were all those flickering shadows? That sound like a cataract? Moira would be just to him! Of course she would be! He had been loyal and kind and fair with her! Surely he had been! [292] Always! And she had been fair to him—beautiful Moira! Up there! Always holding up the crystal ball of truth—and the scales—He raised his eyes to where he remembered seeing her last—up there on the wall—Moira! But there was nothing there. The panel was empty—black—blackness—darkness everywhere——

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CHAPTER XIV

When Hugh again made use of his eyes the black wall had become white, and a young man, who very much needed shaving, was looking down at him with a critical air. At first he thought he must be still in the prison-pen, and that the young man was Grady the keeper, but the place was too small and too bright, and the young man had on a white linen jacket. There was a pervading odor of antiseptics, and he was in bed, undressed.

“You’re all right!” said the young man cheerfully. “Just lie still for awhile.”

“What day is this?” asked Hugh, quite satisfied to obey.

The young doctor laughed.

“This is Thursday. You had a slight syncope. But you’re doing fine. You’ll be out in a couple of days.”

“Has anybody asked after me?”

“About three of the four million inhabitants of Greater New York—through their representatives the press.”

“I mean anybody—special?”

“No—nobody ’special’ so far as I am aware.” His expression was quizzical but kindly. “After all, you only came in last night, you know. I wouldn’t talk too much if I were you. I’ll drop in on you in an hour or so.”

He went out. So Moira had not even enquired as to his condition. He drank the last drop of the cup of misery, glad to be where he could curl up and stick his face into the pillow as if he were a little child, his weakness generating an intense self-pity, in the midst of which he dozed off again.

It was afternoon when he awoke, and this time, beside the doctor, there was an orderly with a cup of soup and some bread and butter. He became conscious of the unpleasant quality of his rough cotton nightshirt. The soup had a tremendous “kick.” [294]

“Coming back with a rush!” approved the doctor. “But nothing doing until to-morrow!”

Hugh’s spirits sank again. So there was to be a to-morrow, and a to-morrow after that—an indefinite succession of empty to-morrows! Another beginning—this time with all the handicap of his sensational collapse, if not disgrace, as a public prosecutor! A jolly mess he had made of everything! Eileen Clayton to be sentenced in less than a week; Moira convinced that he had betrayed his trust. He must get up and try to put things straight. But they had taken away his clothes! Wasn’t there a bell that he could ring? He began fidgeting about. Why didn’t somebody come and let him get up? He tossed himself into a temperature.

“Bundle of nerves!” thought the doctor. “Too bad! I wonder who this Moira person is he raves about. He couldn’t be in love with a blind woman, could he?” Hugh was not discharged from the hospital until Monday afternoon, and he was astonished to find how unstable the sidewalks around Bellevue were. The steps of the marzipan house seemed mountainous, and after pressing the bell, he had to lean against one of the marble goddesses for support. Shane answered. He looked very old.

“Miss Moira is not at home, Mr. Dillon,” he said.

“When do you expect her back?”

“I—really—don’t know, sir.”

“Please tell her I called.”

“Yes, sir.” His eyes refused to meet Hugh’s.

Could Moira have given Shane orders that he was not to be admitted? How was he to explain if he could not see her? With Redmond’s poison already distilled in her ears would she trust him? She believed Eileen Clayton guilty, and the verdict against her to be a just verdict. Even if he should tell her just what Quirk had done, she would probably take Farley’s attitude that there was no reason to assume that he had not told the truth. Perhaps it was the correct attitude at that! You could not be always looking for flaws and loopholes in your own case. There was even a legal presumption that a witness was telling the truth. [295]

But her own mother! Surely there must be something he could do! Now that the defendant had been actually convicted in part upon false evidence, did so-called “professional honor” any longer seal his lips? Yet could he, even under such circumstances as these, run from one camp to the other bearing tales? Could he, for the purpose of assisting O’Hara to obtain a new trial, betray Farley to him? If the victim were not Moira’s mother, would such a course occur to him? Was he not allowing his ideas of honor to be colored by personal considerations? He must take a detached view, if he could. But how could he!

No answer was returned to the letter sent from his apartment begging Moira to see him, and each time he called her upon the telephone he was told that she was not at home. Evidently she was fully decided to have no more to do with him. It was as if the marzipan house had sunk beneath the waves, leaving the ocean of his existence empty. He stared toward the horizon for some sail, but could see nothing. Amazing, what he had been through! Had any other young lawyer, he wondered, ever had a like experience?

He doubted it, although every case in the criminal courts was a melodrama. Every prosecution for crime, no matter how simple, was of necessity a struggle for life, since the conviction of the defendant meant his social extinction. The Clayton case was sensational, but no more so than many others. The daily panorama of the criminal courts rivalled the most lurid of screen pictures. Yet the real melodrama lay beneath the surface. [296]

The legalized battle for the body of the prisoner was of small moment compared to the struggle that went on for the souls of the contestants between the angels of darkness and those of light. He, Hugh Dillon, had been the real centre of a moral conflict far more vital than that which had been waged over Eileen Clayton. He had fought for honor. He had gone down for honor. He would gladly die for honor—if only he knew where honor lay! In such a tangle of loyalties how could you tell which was the right thread to lead you through the moral maze? Did his duty to the public, to administer the law under his oath of office, involve a larger loyalty than that of obeying a superior officer, jointly engaged with him in the public service? Was not the personal loyalty of subordinate to leader the most necessary of all loyalties? In the long run, might not the “nearer” loyalty be the most important for the reason that ultimately the success of all other loyalties depended upon it? Why, if it was all so confused and contradictory, should one bother one’s poor head about it, or break one’s heart, or let one’s self be torn by shrapnel, or—be crucified? Could it be that in this human life, irrespective of all else, the thing that mattered was to be loyal to Loyalty itself?

The Clayton case continued to hold its place as the chief topic of public interest and during the next week editorial writers throughout the country congratulated their readers upon the fact that the integrity of the American jury system had at last been triumphantly vindicated. The “unwritten law” had received a knockout if not a death blow. The judge, the prosecutor, the police, the jury—who had so courageously risen above considerations of sentiment and rendered a verdict of murder in the first degree—all were given laurel wreaths of public approval. Woman’s license to kill had been revoked! [297]

Upon the political futures of the individual principals the result was immediate. Judge Barker, who up to that time had been regarded as an amiable nonentity, shoved upon the criminal bench to pay a minor political debt, now became a figure of distinction, mentioned as deserving and almost certain of receiving a Supreme Court nomination. It was pointed out that the arbitrariness of his selection as a judge had been the fault of the system and not his, and that whatever his original lack of qualifications they had long since been remedied by experience. Fourteen years at \$17,500 a year represented a public investment of \$245,000. Were taxpayers to throw away a quarter of a million dollars? Barker had served the county long and faithfully. Was it to discard an old and tried servant who had demonstrated his character and ability by his masterly handling of one of the most important murder trials in the history of the city?

As for Farley, it put him as far beyond the other aspirants to the office of district attorney as the tall-hatted equestrian who rides the snow-white charger in solitary grandeur at the head of the procession precedes its van. "The best district attorney New York ever had!" was the modest claim put forth in his behalf. Who should deny it? The impression [298] gained ground that in prosecuting and convicting Eileen Clayton he had, somehow, shown extraordinary courage.

Redmond was now undisputed king cockerel of the district attorney's office, and his crow could be heard at all hours echoing loudly along the corridors, while policemen, detectives, and process-servers ran to do his bidding. His word, for the time, was law, and whom he bound was bound, and whom he loosed was loosed. Indeed, as he strode across the rotunda accompanied by his bodyguard he not remotely resembled a Roman senator surrounded by his lictors. He and Farley had a copper-riveted gentlemen's agreement that if he boosted his boss for all he was worth for another term, afterward, when Farley ran for governor, the latter would appoint Redmond as his successor district attorney. This being generally known, he was hailed as heir-apparent, and given royal honors.

The district attorney's office which, owing to Farley's well-known pusillanimity, had deteriorated into a hum-drum mediocrity, was re-established in public interest.

One final scene in the melodrama remained to be enacted—comparatively unimportant to anybody save the defendant herself—the imposition of the death penalty.

The newspapers had striven to keep public interest at white heat in order that the story of the sentence might carry the maximum news value, but as the day drew near it became apparent that no artificial stimulus was needed. The Clayton woman had not taken the stand in her own behalf; hence the evidence against her stood uncontradicted. She had, save for her short conversation with Hugh in the station-house, remained mute from the moment of her arrest—nothing had been unearthed as to her more recent past.

The reason for her crime continued to be a matter of conjecture, and the fact that she had not seen fit to deny [299] Quirk's testimony was taken as conclusive evidence that she was afraid to subject herself to cross-examination. Her silence proclaimed that she had a secret, and made her a woman of mystery. Would she, now that she had come to the end of her tether, reveal it in some last appeal to the judge? Would she tell the story of her love-life with Richard Devens? Would she draw aside the curtain that hid their last meeting? Surely she would not be so inconsiderate as to go to her death without opening her lips, and thus leave forty million newspaper readers disappointed!

Among the most curious in this regard were Farley and Redmond, who, after a brief absence at Atlantic City, had returned together to take up the responsibilities of office. To give them due credit, it should be said that the conscience of neither troubled him in the slightest. They both honestly believed Eileen Clayton to be guilty, and that she had been found so by due process of law. The surprising testimony of Jeffrey Quirk, to the effect that the defendant had personally instigated the theft of the revolver, they regarded purely as a windfall. They were not accustomed to look gift witnesses in the mouth. Evidence was evidence—and the stronger the better. If testimony was susceptible of attack it was up to the defense to demolish it, and if it were false Eileen Clayton could have denied it. She had not seen fit to do so, and hence obviously it must be true.

As to the putting of Hugh upon the witness-stand, Farley regarded it as nothing less than a stroke of genius upon Redmond's part. There had been a Napoleonic quality about it in his opinion. And the law was flat. Only a priest, [300] or attorney, or physician could refuse to disclose a communication made by a defendant. Dillon had put himself above the law and had been taught a salutary lesson, which presumably would have its effect upon all other young "holier-than-thous" in a like position.

That Quirk had absolutely disappeared had no significance one way or the other. He had not returned to his duties in the process-servers' office, and had not been seen since he left the witness-stand after giving his testimony upon the last day of the trial. Redmond had intended to get an affidavit from him, merely as a protection, in case he might attempt later to alter his evidence. But it was not important. No wonder Quirk had fled after admitting under oath, in open court, that he had been guilty of a homicidal attack upon a public officer! He could be sent up for twenty years—attempted homicide while in the commission of a felony! Farley felt, on the whole, that Quirk's departure relieved him of official embarrassment.

The Criminal Term, upon the day set for the sentence of Eileen, was almost as crowded as upon the day of her conviction, the only difference being that now the jury-box was pre-empted by the reporters, which somewhat relieved the congestion outside the rail. The faces of the audience, however, seemed to Hugh—who had taken an inconspicuous seat at the end of one of the benches—to exhibit an even more callous curiosity than those present at the trial itself. Those at least had had the excuse of attending a well-fought and exciting legal battle, in which a human life was at stake. These sought only the morbid thrill of hearing that life sentenced to extinction.

The great melodrama was practically over; the asbestos about to rattle down, the actors gathering mid-stage for the final tableau. How like a play it really was! An all-star cast! [301]

| | |
|---|------------------------|
| The Time-Serving Judge | MR. EDWARD BARKER |
| The Ambitious District Attorney | MR. PETER J. FARLEY |
| His Unscrupulous Assistant | MR. MICHAEL REDMOND |
| The Pompous Clerk | MR. PATRICK DOLLAR |
| A Pair of Shyster Lawyers | MESSRS. HOYLE & O'HARA |
| The Chief Detective | CAPT. ARTHUR CAREY |
| A Rich Irish Contractor | MR. RICHARD DEVENS |
| His Beautiful Daughter | MISS MOIRA DEVENS |
| His Loyal Associate and Lifelong Friend | MR. DANIEL SHAY |
| A Process Server | MR. JEFFREY QUIRK |
| The County Medical Examiner | DR. CHARLES NORRIS |

and

| | |
|-------------|----------------|
| The Accused | EILEEN CLAYTON |
|-------------|----------------|

Witnesses, detectives, policemen, court attendants, reporters, messengers, spectators, etc. All “in person”!

Hadn't he forgotten somebody? Who was missing? Yes!

| | |
|-------------|-----------------|
| An Idealist | MR. HUGH DILLON |
|-------------|-----------------|

Through the high windows the spring sun burned down in white fury upon the group of men chatting inside the rail, upon the reporters sitting in the jury-box, upon Judge Barker who was rereading the carefully composed speech he intended to deliver when imposing sentence:

“Eileen Clayton, after a full and fair trial in which you were given the advantage of every legal protection [302] afforded by our Constitution, a jury of twelve citizens, chosen by your own lawyers, have unanimously found you guilty of murder in its first degree. It is now my painful duty to sentence you, and I have no desire to add to the misery of this moment by prolonging it any longer than is necessary.

“There are, however, a few things which I should say for the benefit of the community at large. One concerns what is called circumstantial evidence, against which, unfortunately, there has always been a lingering and totally unreasonable prejudice. Your conviction will do much to relieve this and clarify the lay mind upon a subject of vital importance to the administration of justice. For what is called circumstantial evidence is the best possible evidence. ‘Circumstances,’ says Burnett in his learned work upon the Common Law of Scotland, ‘are inflexible proofs; witnesses may be mistaken or corrupted, but things can be neither.’ Edmund Burke, the distinguished orator and statesman, gave it as his opinion that ‘when circumstantial proof is in its greatest perfection, that is, when it is most abundant in circumstances, it is much superior to positive proof.’ Most authoritatively of all, the great philosopher Paley asserts: ‘Circumstances cannot lie.’

“So when a case like the present is brought to public attention, it becomes meet and proper for the judge responsible for the conduct of the trial, to take occasion to point out the unreasonableness of the bugbear of prejudice which still persists in spite of these solemn declarations by the wisest lawyers of our time.

“Eileen Clayton! No human eye saw you discharge the revolver at the body of Richard Devens, no human brain could

perceive the mysterious mental processes by which you formed the intent to kill him, but that you did form such an intent, and acting upon that intent, went to his house at night and shot him with deliberation and premeditation, has been established to the satisfaction of the jury beyond the possibility of any doubt—and by what?—by circumstantial evidence! That it is at least equal in value to that of direct evidence has at last been demonstrated.”

It was “good stuff,” Barker assured himself, and he only hoped he would accent the words upon the right syllables. But after all, the press would be given carefully mimeographed copies. [303]

Mr. Rawson, the deputy sheriff of Sing Sing, was on hand to receive the prisoner and convey her to the place of execution, where she would be lodged in the death-house pending her appeal. He was a ruddy little man with a large white moustache, and he needed only a scarlet Canton flannel gown and cap to look exactly like a Salvation Army Santa Claus. Seeing that the judge was unoccupied, Mr. Rawson arose and timidly approached the dais.

“Good morning, Mr. Warden!” exclaimed Barker heartily. “How are you? You are looking very well. You always look well! Prison life must agree with you!”

Mr. Rawson twinkled and shook as if it was the night before Christmas, and he had just come down the chimney.

“Thank you, judge, I can’t complain! I trust you’re the same. Fine weather we’re having. Up where I live the plum blossoms are out. And the forsythia.”

“You don’t say! How is Mrs. Rawson? I trust she’s doing nicely!” Barker spoke with solicitude.

“She’s doing pretty well, thank you, judge. You know she’s never very well.”

Mr. Rawson’s blue eyes became slightly watery.

“I know!” responded Judge Barker. “It is very hard!”

It was already ten minutes past the hour, and the press boys were getting a bit restive. Everything was set. Hoyle and O’Hara were already seated at the counsel table. Judge Barker smiled at them, grateful that he had succeeded in preserving such amicable relations throughout the trial. Sometimes when a lawyer lost a murder case it made him sore with the judge—especially a “murder in the first,” and there had been cases where the strain of a prolonged trial, followed by his client’s conviction, had driven an attorney entirely off his head. Curious how differently people were affected by the same sort of thing! Barker had once seen a convicted murderer electrocuted at Sing Sing, and had not minded it—that is, not really. How dry his throat was! [304]

He lifted the piece of blotting-paper which preserved the drinking water in the goblet beside him from the contamination of the surrounding atmosphere, and took a sip. He had only sentenced one other person to death, and that had been a negro, who had grovelled on his knees at the bar, howling for mercy. But there would be nothing as sensational as that this time. Why didn’t they wear black caps when they imposed the death penalty, as they did in England? It added a lot to the impressiveness of the ceremony. In England a judge was somebody. They knew how to do things over there! He cleared his throat, less because it was necessary than to attract attention.

“You may send for the defendant, Mr. Dollar!”

It galled him that Mr. Dollar and not he was the one privileged to announce the entrance of the defendant:

“Eileen Clayton to the bar!”

The words boomed over the heads of the spectators to the door leading to the pen.

“Eileen Clayton to the bar!” came in a muffled reverberating echo from the inner cavern. The officer in the rear of the room opened the door, bent over and fastened it back with a stop. He did not do this on ordinary occasions. [305]

The crowd drew to attention. They were a fresh lot for the most part—who had not been present at the trial, and had had

no previous opportunity to see the woman who had murdered “Old Man” Devens. In the silence of expectancy they could hear the clash of the barred door above, followed by a vocal murmur and the lisp of shoe leather on iron. She was coming down. Coming down for the last time!

“Eileen Clayton to the bar—for sentence!” repeated Mr. Dollar with the crispness of a new bill as the prisoner, under the escort of two officers, reached the rail, and O’Hara arose and took his stand beside her. The hush of death fell upon the room. Would she keel over upon hearing her doom pronounced? Or was she so nervously exhausted that the agony of this final cup would pass from her? There was no one there so light-minded as not to feel the menace of that moment, in which a mere man presumed, as a result of an antiquated judicial mechanism, to say that another’s life should be taken, and to order it done.

Judge Barker felt it, and his fat face became unaffectedly solemn. While he looked a model of judicial composure up there on the bench, his ears were buzzing and his vision was little more than a dappled blur. They all felt it. Even Farley, Redmond, their hired cohorts, and those of the “standing army of the gibbet” who had returned to view the scene of their great experience, felt it—that arrogant challenge to the Almighty purpose when we snuff out the candle and transmute that which was palpitating with life into dead clay. Did Hoyle feel it? Who shall say? His round, pink face had all its [306] habitual placidity. His cold, blue eyes betrayed nothing of what might be going on within the smooth, white, diving-helmet of his skull. But O’Hara felt it. His rough features wore a look of brooding melancholy.

Barker took another sip of water and glanced down at Farley, who got up and made a slight inclination toward the bench. Out of deference to the occasion he was wearing a cutaway, spats, and patent leathers.

“I move,” said he, in the same mellifluous voice in which he read the novels of Samuel Lover to his crippled sister Bridget, “I move that the sentence of death be pronounced upon this defendant.”

He sat down. There was no movement at the bar. Judge Barker looked toward where the defendant was standing.

“Eileen Clayton, have you anything to say why judgment of death should not be pronounced against you?”

Silence. A shoe squeaked. O’Hara was bending toward his client.

“No, Your Honor. She has nothing to say.”

The judge nodded at Mr. Rawson, the deputy sheriff, who promptly stood up.

“Eileen Clayton,” began Judge Barker, “after a full and fair trial, in which you were given the advantage of every legal protection afforded by our Constitution——”

“Sit down there!”

The interruption came from a court officer trying to repress a spectator, who insisted on struggling to his feet. “Sit down, you!”

Judge Barker paused, his heart in his throat.

“What is this unseemly disturbance, Mr. Officer,” he enquired. “Remove that man!”

The man drew himself up to his full height. It was Jeffrey Quirk.

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“I insist on being heard!” he shouted. “She says she has nothing to say why sentence should not be pronounced against her—but I have! She was convicted on perjured testimony. She is entitled to a new trial.”

He struggled along between the benches until he reached the aisle. For an instant the judge’s heart quailed. Had they got anything on him? Of course they hadn’t! Properly handled——!

Farley and Redmond, realizing simultaneously the dangers of the situation, were instantly on their feet.

“This is entirely improper!” cried the district attorney hotly. “If the defense has any evidence of irregularity it should bring it to the attention of the court on a motion for a new trial—not by means of stage-play. We object.”

Quirk had by this time forced his way to the bar beside Eileen. Captain Lynch gazed enquiringly toward the bench. Barker was hopelessly bewildered.

“I—what—is all this, Mr. O’Hara?” he asked lamely.

All the blood had left Hoyle’s cheeks. Leaning forward he laid a restraining hand on his partner’s arm.

“For God’s sake,” he whispered, “keep him off the stand—at any cost!”

But O’Hara was unwilling to relinquish his apparent advantage.

“This is totally unexpected, Your Honor, so far as I am concerned,” he said. “This is not my witness. But if what he says is true it is ground for a new trial. I ask that he be sworn and examined.”

“It should be done in the proper way!” protested Farley. “On affidavit and notice.”

“I want to be heard!” insisted Quirk. “I testified falsely. I—I want to square myself!”

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They were all on their feet now, and the reporters had left their seats and come crowding forward. The murmur of angry waves filled the court-room.

Judge Barker once more conferred with Mr. Dollar.

“This is a matter for the conscience of the court,” he said finally. “Let the witness be sworn.”

Captain Lynch took Quirk by the arm and led him to the chair.

“Once more—we protest against the examination of this witness—at this point in the proceedings,” said Farley. He was disgusted with Barker, who should at least have given them time to prepare. Quirk’s face was an unearthly color. What was he? Man or beast? Quick or dead?

“Now go on!” ordered Judge Barker, once more assuming an air of authority. “What have you to say?”

The runner grabbed the arms of the witness-chair tightly.

“I lied, judge.”

“You lied? How?”

“When I said the defendant told me to take the revolver. I did not see her after her arrest. She never said anything of the sort to me.”

He stared limply at Barker, who, conscious of his judicial inadequacy, looked from Farley to O’Hara, and back again.

“If this is true, it is of vital importance!” he remarked.

“But how can we know that it is true?” demanded Farley. “He is trying to recant his testimony. It happens every day in the week. We are always getting letters from people who say they perjured themselves on the witness-stand. What happens is that the defendant’s family get after them, and appeal to their sympathies——”

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“Well, that has certainly not happened in this case!” exclaimed O’Hara. “This man was in the pay of the district attorney. If there has been any subornation of perjury it has not been in my office!”

“Do you mean to suggest that anybody in my office induced this witness to commit perjury?” shouted Farley.

O'Hara shrugged his big shoulders.

Judge Barker turned to the witness.

"You admit you committed perjury?"

"I do."

"Did anybody intimate to you that it was desirable to make it appear that the defendant had asked you to steal the revolver?"

"No."

"Well, how did you come to do such a thing?"

"I thought it would help Mr. Dillon to get a conviction."

Judge Barker stared at him incredulously.

"Do you know what the consequences to yourself of such an admission are likely to be? Of perjury in a trial for murder?"

"I do!" answered Quirk.

"Are you quite sure Mr. Dillon did not suggest to you that if the defendant's connection with the pistol could be shown it would be of material assistance to the prosecution?"

"No."

"Did anybody else make such an intimation?"

Farley tried to signal to him with a scowl.

"If the court please!" firmly protested Redmond, trying to save the situation, "the witness has already stated that he acted on his own initiative. The important fact is that he admits perjury. Is there anything to be gained by delving into his motives?" [310]

The corner behind the witness-chair was now a solid mass of scribbling reporters. They lifted a bank of expectant faces to the bench. To disappoint them would have been inhuman.

"I repeat," said Barker: "Was such an intimation conveyed to you by anybody—and if so, by whom?"

"Yes!" answered Quirk. "By Mr. Farley—the district attorney."

A hush followed the thunderclap. Then the storm burst. The court-room was in a turmoil.

"Your Honor, this is an outrageous and unmitigated lie!" thundered the prosecutor. "Will Your Honor permit this self-confessed perjurer to sit there and traduce the reputation of a public officer? You see now what this sort of loose procedure leads to!"

But O'Hara had no intention of losing his advantage. He swept Hoyle aside, deaf to his jabbering.

"Tell us what the district attorney said to you!" he directed theatrically. Barker had lost all control.

"Mr. Farley said if I got a chance, to give it to you 'strong'—so I did!"

"I'll say so!" roared O'Hara with a hollow laugh. "I'll say you did!"

The district attorney lifted a pudgy hand as if to still the tumult about him.

“Now tell us, who *did* persuade you to steal the revolver?” he asked significantly.

Attention once more swerved from the prosecutor to the witness.

Quirk’s interlaced fingers were white. His parched lips seemed to refuse to emit a word too sinister to be uttered. [311]

“Mr. Hoyle” he whispered, crouching in the chair as if awaiting instant annihilation.

A mocking laugh rippled over the court-room. This was too good! A bit thick! The man was crazy! He would be accusing the judge next! And Barker did in truth, feel rather uneasy. This drug-fiend, writhing on the St. Lawrence’s gridiron of the witness-chair, was palpably shooting wild—obviously bent like an escaped murderer run to earth on selling his life as dearly as he could. The accused attorney gave a quizzical smile.

“Thank you!” he remarked with smooth irony. “I suppose it is my turn now.”

It was a fatal error. Only the lash and the pitchfork can hold the caged tiger in subjection. The beast in Quirk leaped at his former master with a snarl.

“Yes,” he retorted in the hysterical tone of a child left alone in darkness. “You’re right! It is your turn! This time you get what is coming to you!”

“If the court please!” protested O’Hara, “haven’t we had enough of this indiscriminate slander? This man is a drug-fiend. As Your Honor knows, he worked for Mr. Hoyle and myself before being employed by the district attorney. Are you going to permit him to sit there and spread upon the record whatever lies he may choose to invent—smear everybody!”

“The galled jade will wince!” sneered Redmond.

“Bah!” shouted Hoyle, “let him say anything he wants.”

“I will allow him to state any fact explanatory of how he came to commit his alleged perjury,” said Barker. “If he gave false testimony against the defendant upon her trial, I may have to set aside the verdict. I shall have to decide [312] whether he is telling the truth now, or whether he told it then. His story as to how he came to commit his perjury—if he did commit it—is of the highest importance. Let the defendant be seated! Go on now, and tell us anything bearing on your attempted theft of the revolver.”

Quirk settled himself in his chair.

“Yes, Your Honor,” he replied. “I worked for Hoyle and O’Hara seventeen years. The last part of the time I lived with Mr. O’Hara over Pallavacini’s Restaurant. Mr. Dillon lived there, too, until Mr. Hoyle fired him for not taking the Kranich case against the A. A. and B. Mr. Dillon refused because Hoyle and O’Hara were Mr. Devens’ attorneys.”

“I object! This is totally irrelevant!” interposed O’Hara.

“I will receive it,” replied Judge Barker. “Do not interrupt the witness.”

“When Mr. Dillon was appointed an assistant district attorney, Kranich brought the case to Mr. Farley, and Mr. Farley assigned it to Mr. Dillon with the idea that he would throw it out——”

“Will Your Honor permit this!” gasped Farley.

But Judge Barker had seen a Great Light! This would turn the town upside-down, and if he was going to stay right-side-up he must cut loose from the whole damn bunch and jump on the band-wagon of Reform. No matter how you looked at it this business about the revolver was obviously rotten. He must lead the way through the murky shadows of corruption bearing in his hand the uplifted Torch of Truth. He would purify the bar—clean out his court—throw out the money-changers. “Barker for Mayor”!

“One moment!” he admonished his erstwhile ally. “Mr. Witness, did you tell the district attorney that Mr. Hoyle induced you to steal the revolver?” [313]

“Sure! After Mr. Dillon caught me at it, I told both him and Mr. Farley.”

The prosecutor shot a malignant look of hatred at this wise and suddenly upright judge. The dog was going to double-cross them! Arise like the Phoenix from the ashes of their reputations.

But Barker affected not to notice it. He seemed to be pondering something.

“Did you ever tell either Mr. Farley or Mr. Dillon that the defendant was responsible for what you attempted to do?”

“No. I told them the truth—about Mr. Hoyle.”

Judge Barker sternly returned Farley’s glance.

“Then, Mr. District Attorney, when the witness Quirk testified that the defendant herself asked him to steal the revolver, you knew that he was testifying falsely, did you not?”

“I knew nothing of the kind!” replied Farley angrily. “I do not know it now.”

“Um!” Judge Barker caressed his chin meditatively. “Proceed, Mr. Witness!”

“I was telling you how Mr. Farley expected Mr. Dillon to throw the case against the A. A. and B. out of the office because he had appointed him at Mr. Devens’ request. Well, Dillon did throw Kranich out because he decided Kranich was a blackmailer, but then he started proceedings himself before the Grand Jury. Nobody had expected that. He did it on his own hook, because he concluded the A. A. and B. was crookeder than Kranich. That is where I came in. Somebody had to know what he was going to do next. So Mr. Hoyle got me a job in Mr. Farley’s office, and I got myself assigned to Mr. Dillon. Whenever he said anything about the case against the A. A. and B. I told Mr. Hoyle.” [314]

District Attorney Farley had been whispering to Michael Redmond. If they didn’t stop it somehow, he said, they would all be ruined. He now arose.

“If the court please,” he announced, “what this witness has already said makes it plain that he is totally unworthy of credence. As it was in part upon his testimony that the defendant, now awaiting sentence, was convicted of murder in the first degree, and as he now admits that his testimony was false, I consent to an order setting aside the verdict and granting a new trial.”

“I will reserve my decision,” replied Judge Barker drily. “You may go on, Mr. Witness.”

Farley clenched his fists. So Barker was going to roll them all in the mire, was he!

Quirk, perceiving that a previously hostile judge had unexpectedly become a sympathetic one, gained courage.

“Then Mr. Devens was killed, and everybody forgot all about the A. A. and B. Hoyle grabbed the case for what publicity there was in it——”

“I object to any such statement!” interjected O’Hara indignantly.

“That is what Mr. Hoyle told me himself!” returned Quirk.

“Allowed! Go on!” from Barker.

“The only chance to beat the case was by getting rid of the pistol. Hoyle sent for me and told me to get it any way I could. I never saw the defendant.”

“But why,” persisted Judge Barker, “did you do this thing? It is no explanation that Mr. Hoyle told you to do so—even

assuming that to be true.”

Quirk’s eyes had fixed themselves upon Hoyle’s face with the look of a bird hypnotized by a snake. The attorney returned it with a cold, imperturbable and steady stare. Was he baby or boa-constrictor? [315]

“Because,” Quirk’s voice faltered, “I have to do what he says.”

He tore away his glance.

“When I came to testify, I saw Mr. Hoyle looking at me, and—I couldn’t—bring him into it. And then I remembered what Mr. Farley had said, and it occurred to me that it was a good way to help Mr. Dillon to get a conviction, and anyhow I thought that it didn’t make much difference—so I just said Mrs. Clayton told me to. I know it was wrong. I wasn’t myself. I’m different now. When Mrs. Clayton was convicted I was frightened and ran away. I thought they might find out in some way what I had done, and put me in jail for perjury. So I hid myself. I read in the papers how Mr. Dillon was put out of the case and locked up for contempt, and it made me think. This may sound queer, judge. But Mr. Dillon is the finest man I know. He went to jail because he didn’t want to do what he thought was wrong. I got thinking about that. For five years I’d been doing everything Mr. Hoyle told me to do, because he could send me up any time he wanted to. I was afraid to go to jail. Yet here was Mr. Dillon ready to go—ready to lose everything he had. It made me feel pretty mean.”

Quirk’s voice had strengthened. He had become almost eloquent.

“He’s a fine fellow, judge! He never did a crooked thing in his life. I came back to New York, but I was ashamed to go to see him. Then day before yesterday I ran smack into him. He made me go home with him and talked to me. We talked all night. He said he couldn’t do anything himself—yet, because he had been in Mr. Farley’s service, and he couldn’t honorably turn on him and tell what he knew so long as there was any other way out of it. He said I was that other way. He told me a lot of things, judge. Things I’d never thought of. He said it was a grand thing to go to prison if you went for the sake of the truth. And you ought to go with a smile on your face. By the time he got through I was ready to go. I almost wanted to go. He made me promise that I’d come here to-day and tell everything I knew. He came here with me. You can send me to prison for as long as you want, judge—I’m a free man from now on, wherever I am!” [316]

Farley had got up again.

“I move that this witness’ statement be expunged from the record!” he said.

“I will let it stand for the present,” remarked Barker contemptuously. “I am not concerned at the moment with the ethics of this unusual situation, nor for that matter with the accuracy of the facts. The question is whether I shall grant a trial on newly discovered evidence.”

“As to that,” replied Farley, “if the motion is granted, I ask that the case be set down for trial on the first Monday of next term.”

“The defendant is remanded!” snapped Barker.

So it was to start all over again, this hopeless contest with the inevitable! Must she once more go through the prolonged torture of a public trial? Better the end at once! For the first time in the history of the proceedings Eileen spoke.

“I do not want another trial,” she said wearily.

Mr. Dollar reared his silver crest. No such announcement had ever been made in that court-room within his knowledge.

“What does the defendant say?” he asked.

“I do not want to be tried again.”

Mr. Dollar picked up his pen, then laid it down again. For once this Compendium of Procedure was at a loss. The reporters had abandoned any attempt to take note of this extraordinary procession of dénouements. It was too big a story. [317]

They would get it all from the stenographer afterward. Here was a woman defendant who wanted to be electrocuted! Mr. Dollar pulled himself together. He must not lose the prestige he had gained during the trial as the apotheosis of ringmasters by appearing uncertain in the present exigency! He, if no one else in that gaping crowd, must appear thoroughly at ease, with the whole thing at his finger-tips. He looked over his shoulder at Barker, but no help came to him from that quarter. The judge had not the slightest idea what one did when a prisoner insisted on being executed. There was a lack of sportsmanship about it that savored of indelicacy! Mr. Dollar lowered his pen.

“The defendant—withdraws—the motion—heretofore made—for a new trial—on the ground of newly discovered evidence,” he announced, slowly inscribing the words in his record book.

“We do not withdraw the motion,” retorted O’Hara. “If the defendant wishes to act as her own attorney we desire to be relieved from further responsibility in the case.”

“This is tantamount to a plea of guilty!” declared Redmond, hurrying back into the limelight.

“And a defendant cannot plead guilty to murder!” replied O’Hara.

“I do not want to go through all this again!” repeated Eileen. “I want the proceedings to end. I should like to be [318] sentenced. It seems strange—that, having convicted me, you will not—finish me—in the regular way.”

Farley had moved toward the dais, driven to a momentary armistice with his enemy through the common necessity of preserving an appearance of official omniscience. Mr. Dollar thrust his silver cockscomb over the horizon of the bench.

“An unusual situation, yorroneer. It has not arisen before in my experience. I suppose she has a right to act as her own attorney and withdraw her motion if she wants to, has she not?”

“It is her constitutional right,” interposed Farley. “This woman knows that whether she gets a new trial or not, the jig is up. I don’t blame her for wanting to have it over with.”

He leaned over the side of the bench and whispered in Barker’s ear.

“For God’s sake, Eddie, let’s get rid of this damned case. I let you have it against my better judgment at your personal request, and you are making monkeys of all of us.”

Hoyle beckoned to O’Hara.

“If the court please,” he said, “as it is apparent that the defendant will not follow our advice, we wish to withdraw from the case.”

Mr. Dollar handed an open copy of the New York Code of Criminal Procedure to Judge Barker.

“Sections Four sixty-three to Four sixty-five cover it,” he remarked.

Hoyle and O’Hara left the enclosure and seated themselves outside the rail. No one in the court-room knew just what was going on. Even the reporters were at sea.

Barker was vainly trying to size up the situation behind the pages of the Code. They were all in bad, that was [319] clear! It was a fierce mess anyway, and if he granted a new trial it would look as if he thought there had really been some funny business. The woman was guilty. He ought to stand by Farley. Hoyle and O’Hara were out of it. The defendant wanted to be sentenced. There could be no kick coming from anybody if he acceded to her request. He scanned the sections Dollar had indicated. With customary legal directness, Section 463 informed the reader that the court could grant a new trial *only* on the grounds provided in Section 465, which in turn began with the words “upon the defendant’s application.” H’m! So the court had no authority to grant a new trial unless the defendant herself wanted one! That simplified the matter. His eye ran on. Again it gleamed. Reaching for his ivory gavel he gave a gentle tap for order.

“See that everybody is seated, captain!”

Captain Lynch banged on the rail.

“Order! Be seated! Order!”

The reporters squeezed into the jury-box in a compact body. Those on the benches settled themselves expectantly. When at length there was silence the judge addressed himself to the woman who now sat alone at the prisoners’ table.

“Eileen Clayton, you have withdrawn your motion to set aside the verdict and for another trial on the ground of newly discovered evidence. In this you are entirely within your rights. The court has no power to grant a new trial except upon your application and, of course, if you can make such an application you may withdraw it. You have done so, and the verdict stands as rendered.

“In addition, a perusal of Section Four sixty-five, defining what is newly discovered evidence, convinces me that the motion for a new trial made by your learned counsel, Messrs. Hoyle and O’Hara, must have been denied in any event. Such a motion may be granted only ‘when it is made to appear that upon another trial the defendant can produce evidence such as if before received would probably have changed the verdict, if such evidence has been discovered since the verdict, is not cumulative, and the failure to produce it on the trial was not owing to want of diligence.’ [320]

“Now the evidence of your guilt was so overwhelmingly established that the jury could not possibly have reached any other verdict. The fact that the witness Quirk testified falsely—if he did testify falsely—and I may say that of that I am by no means satisfied—would not have changed the verdict. You are evidently convinced of this yourself, since you say you do not want another trial. I could not grant you one save upon your motion, and under the code I should be obliged to deny it if made. I shall therefore proceed to have you arraigned for sentence.”

“I am ready,” said Eileen, looking at him calmly. “What shall I do?”

“This way, madam!” Mr. Dollar bent ceremoniously. “Kindly step outside the rail. Where’s Mr. Watson? If you please, sheriff!”

Eileen Clayton stood up alone. For an instant her eyes lifted to the Blind Goddess. Then she turned toward the gate of the enclosure. As she did so Hugh arose from the bench upon which he was sitting, and took his place at the bar beside her. Nobody seemed to think there was anything surprising about his doing so.

The equanimity of all the other participants had been miraculously restored. The Quirk affair had given them all a bad quarter of an hour. But the fact that the Clayton woman was going to be sentenced after all would straighten everything out. A woman was not sentenced to death unless she were guilty. The imposition of the death penalty was “news.” The press boys would smear over the Quirk episode in some way. Anyhow, with Clayton convicted and sentenced, who should worry? [321]

Hugh and Eileen stood in a great shaft of sunlight that leaned like a fallen pillar against the high window. It turned to fine gold the hair of the prisoner, intensifying the delicacy of her features, transmuting her transparent skin to alabaster so that to the spectators she seemed still beautiful.

Barker, although half-blinded by the light, was still able to read. With his prepared address before him he began:

“Eileen Clayton, you have asked that the court impose sentence upon you, and I shall do so. You have been convicted of the most heinous crime known to the law by a carefully selected jury of your peers—” He read it all, including the part relating to the impeccability of circumstantial evidence, meticulously, sonorously, impressively. He finished it, and, pausing, took another sip of water from the discolored goblet, and wiped his mouth with his handkerchief.

Captain Lynch gave a tap with his paper-weight. The judge signed the warrant and handed it to Mr. Dollar.

“Eileen Clayton,” said Barker solemnly, as if invoking Almighty God’s blessing upon what he was about to do, “the judgment of the Court is that you, Eileen Clayton, for the murder in the first degree of one, Richard Devens, whereof you are convicted, be, and you hereby are, sentenced to the punishment of death; and it is ordered that, within ten days after

this day's session of court, the sheriff of the county of New York deliver you, together with the warrant of this court, to the agent and warden of the State's Prison of the State of New York at Sing Sing, where you shall be kept in solitary confinement until the week beginning Monday, the eighth of June, and, upon some day within the week so appointed, the said agent and warden of the State's Prison of the State of New York at Sing Sing is commanded to do execution upon you, Eileen Clayton, in the mode and manner prescribed by the laws of the State of New York—and may God have mercy on your soul!" [322]

Eileen bent her head. She knew that God would have mercy. The Creator and Director of the destinies of mankind could achieve His mysterious purpose even through blind human agencies. From the distant corner where sat the Tilly gal came a hiccough. "Oh, Lawdy! Lawdy! Hab' mercy!"

Bang! went Barker's gavel.

"Order there! Stop that noise!"

"This way, madam." Mr. Watson stepped back to allow Eileen to pass in front of him. Farley and Redmond exchanged glances of relief. Thank God, it was all over!

Barker assembled his papers. There was nothing that could happen now. There would be no appeal. Some slight newspaper comment—then—*silence!*

"I should like to speak to the gentlemen of the press," said he. "If you will kindly step into my room for a moment——"

Bang! Bang!—"Sit down there!"

Captain Lynch had left his place by the rail and was sternly attempting to enforce his injunctions regarding perfect peace upon an old man—a very old man—who was dragging himself unsteadily toward the bar.

"Eileen! Wait a moment, please!" besought Uncle Dan. "Judge! Just a minute." [323]

Mr. Watson laid a restraining hand on Eileen's arm. She turned. What was Uncle Dan doing there? Had God sent him in answer to her prayer?

"Judge! Yorronner! Excuse me! I—I—" He swayed, and Hugh seized him by the arm.

"Well, Mr. Shay!" said Barker wearily. "What is it?" He was getting callous to these interruptions, even when each one seemed to change the entire complexion of the legal universe. Uncle Dan sawed the air with his arm like a leader without an orchestra.

"I"—he whispered—"I—" the words were unintelligible. Hugh bent to him fiercely.

"What does he say?" enquired Mr. Dollar. "Let him come inside the rail."

Hugh straightened up, looking first at Eileen and then at the judge.

"Mr. Shay says that a mistake has been made; that he"—his voice broke for the fraction of an instant—"and not the defendant—was responsible for the death of Richard Devens."

For an eternity the only sound to be heard was the queer half-sobbing of Uncle Dan's breath. The same thought entered the minds of both Farley and Barker simultaneously. As Charlie White had said, the case was "loaded." Was it going to explode?

"But the—jury have—settled that!" said Barker, fatuously trying to smile. "We know who killed Richard Devens. That is *res adjudicata.*"

It was only a song to keep his courage up, and he knew it! A swan song! Uncle Dan was jabbering hysterically, wringing his hands, wiping his rheumy old eyes.

“I ask that Mr. Shay be sworn!” demanded Hugh.

[324]

“I object!” cried Redmond. “We have had enough sensationalism. If this witness has anything to add to his testimony, let it be put in affidavit form and made part of a motion in the regular way.”

“I ask—that—this—witness—be sworn!” repeated Hugh imperiously.

Barker reached hastily for his goblet of water, spilling some of it on his gown.

“What shall I do, Mr. Dollar?” he asked shamelessly, in a tone audible to all inside the rail.

“It seems to me I would clean the whole thing up at once,” advised Mr. Dollar. “The sooner it’s over the better.”

“More melodrama?” sneered Redmond.

Barker would have liked to wring his neck. After all, Redmond and Farley were responsible! Why had they ever brought the fool case to him in the first place? Why didn’t they exhaust their witnesses before putting them on the stand? Again the judicial weather-cock shifted. Mustering all his histrionic ability, Barker shot a withering glance at the elderly prosecutor.

“I have been thinking that there was something rather remarkable about this case,” he announced. “The time has come to get to the bottom of it. If Mr. Shay can shed any light on this mystery, I, for one, shall be glad to have him do so. Mr. Dillon, will you look out for Mr. Shay’s interests?”

“What is all this, anyway?” enquired Redmond of Farley. “Do you suppose Dillon has put something over on us?”

The prosecutor’s neck was swollen with anger.

“You’re a hell of a one to talk!” he growled. “Look at the position you have put me in! You examined Shay for two whole days—and you didn’t find out that he knew a thing! My God, it’s incredible!” [325]

“It’s all bunk! He’s just going to try to lie her out of it!” expostulated the dethroned favorite. “He had no more to do with the murder than I did!”

“Well, how do I know you *didn’t*!” roared Farley. “For God’s sake keep your mouth shut. I’ll handle my own cases after this!”

Uncle Dan was already in the witness-chair. Walking around the court-room had restored his confidence. Mr. Dollar started to administer the oath. He stopped in the middle of it.

“What is the nature of the proceeding?” he enquired of Hugh.

“This will be a motion to set aside the verdict and for a new trial on the ground of newly discovered evidence,” Hugh replied. “With the court’s consent I am about to take the witness’s deposition. Mr. Shay, tell us what you know about the way in which Mr. Devens came to his death.”

Uncle Dan clasped his hands and raised them toward Eileen.

“Forgive me, acushla!” he whispered. “Never had I a thought it would come to this! But now I will tell the truth, and the whole truth, so help me Christ and the Virgin!”

Haltingly the old man told the story of the death of Richard Devens. When he had finished his statement Hugh asked him why he had not come forward in the first place.

“Because I was afraid of being accused of Richard’s murder,” answered Uncle Dan. “I meant to tell it when I went before the Grand Jury, but I didn’t get a chance. Then I thought I might as well wait and see whether Eileen wouldn’t be acquitted. And even after the conviction I still hoped something would happen to make it [326]

unnecessary. When Mr. Quirk testified this morning I began to think things would turn out all right. But of course I never could stand for lettin' Eileen go away for Dick's murder. I've merely been bidin' my time. I'm ready to pay the penalty. You can send me to jail right now. I might as well go for one thing as another."

"How do you say the pistol happened to go off, Mr. Shay?" enquired Barker.

"It was this way, judge," explained Uncle Dan. "I had been subpoenaed before the Grand Jury, and I didn't want to go. Dick and I were sitting talking things over, and I happened to say something which led him to believe, I suppose, that I might try to do away with myself. This pistol of Eileen's was lying on the desk, and when I reached to look at it Dick reached for it too. It was more of a gesture on my part than anything else. Neither of us was trying to get it away from the other, but somehow it went off—the kind of thing you read about! And my best friend was killed."

He reached in his pocket and blotted his eyes with a large red silk handkerchief.

"A man who was lying would never come into court with a handkerchief like that, judge," commented Mr. Dollar, who was standing in a protective attitude by the bench. And for some reason this appeared logically conclusive to Barker.

"Do you want to cross-examine this witness?" he enquired of Farley.

The district attorney brushed Redmond aside. He had had enough.

"If Your Honor please," he said, "I no longer feel any confidence in the evidence in this case. It is clear that the original examination of this witness, which occurred in my absence from the city, was badly bungled. I do not question the truth of Mr. Shay's story, and I can understand his reasons for remaining silent, even if I do not approve of them. I shall not oppose the motion to set aside the verdict. In fact, as I said before, I should have been glad to consent to it on the basis of the testimony of the witness Quirk." [327]

Barker listened perfunctorily. He had no intention of letting Farley take any of the wind of publicity out of his political sails.

"Mrs. Clayton," he said, addressing himself with solicitude if not tenderness to the defendant, "I assume that in view of Mr. Shay's disclosures Mr. Dillon's motion is made with your approval. I shall accordingly vacate the sentence of death just imposed, and set aside the verdict."

He was the personification of benignity, his fat face wreathed in a saccharine smile, conscious that the gesture he was about to make would place him among the immortals. The silence was profound, yet he could not refrain from a slight preliminary tap with his gavel. Then he adjusted his gown, cleared his throat, and, in a burst of histrionic inspiration, stood up. What he was about to do would put him permanently upon the judicial map. He would have had the good luck to figure both as a convicting and a merciful judge in the same case! There were only two details that he regretted, one that he did not wear a red gown, and the other that the shaft of sunlight from the window did not descend upon him instead of upon the defendant and her counsel.

"Eileen Clayton," he began in sympathetic and caressing tones, "you have passed through a harrowing ordeal— yes, Mr. Stenographer, if you wish you may take down my remarks!—I shall not dwell upon the extraordinary nature of the circumstances leading up to your conviction of a murder you did not commit—and which, as we now know, was not committed by anybody. You were unjustly accused and have been unjustly confined in prison—please note that I am not for a moment criticising any of the officials connected with your arrest and prosecution. You have been housed with thieves and murderers, and the law provides no method whereby I could render you financial compensation, much as I should be pleased to do so. I cannot even allow you five dollars a day for the period of your incarceration, as I did the jurors who found you guilty. I can only voice what I know will be the universal public feeling and say that we all regret the inconvenience and misery you have suffered." [328]

He paused and plumed himself.

"I shall not add one moment longer to your sufferings. Exercising the discretion vested in me by the law, I shall, and I hereby do, discharge you on your own recognizance. If after proper investigation the district attorney sees fit to move for

the dismissal of the indictment against you, I shall act affirmatively upon his application.”

“Well, you needn’t wait. I make the motion right now,” drawled Farley from his chair.

Barker eyed him furiously:

“The district attorney,” he continued after a moment, “announces that he is prepared to consent to the dismissal of the indictment at the present time. He knows his own business better than I do. At any rate I am thus relieved from all responsibility in the matter. The indictment against you is dismissed. You are free.”

Those in the court-room were too astounded to make any demonstration. Could they have heard aright? Was it possible that this woman, who had just been sentenced to death, could in the next breath have been declared innocent by the same judge? At this rate anything might happen! Who could tell? Perhaps if they waited Justice would detach herself from her companions upon the wall, and, bearing her scales and crystal ball, float gently out of the window. [329]

Eileen did not move. She had heard nothing of what the judge had said. Mr. Rawson, the little sheriff, was the first to recover himself. He detested executions—particularly those of women. Greatly relieved, he extended his hand to his erstwhile prisoner.

“Well!” he ejaculated. “I certainly congratulate you! It saves me quite a——!”

The judge’s anger dissolved into complacency. He had scored off all of them.

“You are quite free, madam!” he repeated. “Mr. Dollar, would it not be well to give the defendant an opportunity to leave the court-room without interference?”

The clerk, who was scratching away in his big book trying to keep up with events, signalled to Captain Lynch with his left hand.

“Let all remain seated while the defendant passes out!” he ordered.

Captain Lynch unlatched the gate.

Hugh raised his eyes to the panel above the dais. When last he had looked at it from the same place—the night the jury had found Eileen guilty—he could see nothing there. Now, with the sunlight pouring through the high windows the figure of the Goddess, although dim, was clearly visible, and it seemed to Hugh as if for the first time she was gazing down at them, and that there was a smile on her face. Beautiful Blind Goddess! Idealistic creation of man’s imagination and helpless without his aid. Of what use the scales so long as human prejudice or venality placed false weights upon them? Of what value the crystal ball if clouded by jealousy or ambition? To what end her beauty when she was the slave of ugliness, her free spirit shackled to sordid human nature! With all the artist’s imagination she remained but a figurehead upon the prow of the ship of state, riding proudly above the waves, but steered by human hands and dominated by human motives. Better blind, perhaps, and hence ignorant of her destination! [330]

But was human nature, after all, so sordid and so ugly? Was there not something worth-while even in such men as Barker and Farley and Redmond? They all had their good points. It was only that they too were blind, and so could not serve the Goddess as she should be served. The blind leading the blind! Avarice and selfishness had led her wrong; yet love and loyalty had brought her back again. Justice had triumphed in the end, owing to the innate fineness of human nature. Here was poor old Uncle Dan ready to go to prison; and even Jeffrey Quirk, criminal and drug-fiend, could not remain obdurate to the appeal of his better self. These two had risked all for justice; while the protagonists of the drama, the dead man and the woman at the bar, had for twenty years sacrificed themselves to their child. Each had surrendered the dearest thing in life out of loyalty to her. How ironic that what they had sought to protect her from had been the consequence of their own sin! Ironic, yet inspiring as well. While they had sinned they had nevertheless remained loyal to a higher ideal than that which they had violated.

So Hugh bent to the Blind Goddess—and Judge Barker, taking the obeisance unto himself, gave him a smile from [331]

the altar of justice that savored of a judicial blessing.

“Shall we go?” whispered Hugh, and Eileen, still without any clear realization of what had happened, allowed him to lead her from the court-room. Outside the judge’s chambers they met Doctor Norris, who offered them his car, and together they rode to an uptown hotel. The examiner was emphatic that Eileen must not be permitted to go back to her old life. She must make a complete break with her old associations. Cures were unusual, but not unknown, he said, and he had a friend, a specialist in drug cases, who sometimes worked wonders. If Eileen would place herself unreservedly in the latter’s hands, the miracle might be wrought. Eileen promised to do so. She had intended to go away, anyhow, and start somewhere else. Where she did not know. One place was about as good as another “unless I am cured!” she said. “In that event—but only in that event—I shall come back.”

There was a determination in her voice that made Hugh feel that, no matter how bad her case, there was still hope for her. With God all things were possible.

“I have more at stake even than most women,” she said. “Unless I conquer the habit I shall never return to New York, and I shall never see my child again. You have already promised not to tell Moira who I am. I know you will keep that promise, just as you kept the first one you made me. At any rate,” she smiled, “you won’t have to go to jail in order to keep it. If the time ever comes when I am fit to associate with her, I may tell her myself. But no one else must do so. Now, go to her, Hugh! I know she must be longing to see you!”

He did not tell her that Moira had turned her back upon him, and that he had no reason to suppose she would be [332] willing ever to see him again. As he entered the subway to go downtown he realized that he had no where to go. While the trial was still on, his place, of course, had been in the court-room, but now that it was over and he was no longer a member of the district attorney’s professional staff, he was as much at sea as when he had first come to the city. And he had very little money! His three months’ salary had not amounted to much. Another week or so and he would be scratching gravel. Would he ever be able to earn his living again at the law after losing first one position and then another—after being in jail? He might have to look for a job on the police force after all!

The front page of his newspaper, as usual, was entirely given over to the Clayton case. He wondered what progress Redmond was making with Moira? The conviction, of course, had put him in a most advantageous position. Uncle Dan’s bombshell would not affect it one way or the other. After all, it had been a unique case. What would it do to Farley? And Barker? That long harangue of his about circumstantial evidence immediately followed by the demonstration that circumstantial evidence was worthless! As a judge no one would ever take him seriously again!

He read the report of the proceedings of the morning with growing surprise. He had expected to see the iniquities of Farley and of Hoyle blazoned there in huge letters, the prosecutor accusing the attorney of inciting Quirk to steal the revolver, Hoyle countering on Farley by charging him with deliberately attempting to convict the defendant of murder by perjured testimony, not to mention Quirk’s other disclosures regarding both of them. But to his amazement there [333] was nothing in the newspaper accounts of the trial to reflect upon the conduct of either. The “story” was focussed entirely upon the sentence and the unexpected début of Uncle Dan at the last moment, in time to save Eileen Clayton from the electric-chair. The Quirk incident was hardly touched upon.

“Prior to the imposition of the death sentence,” ran the account, “something of a sensation was caused by the recanting of a portion of his former testimony by the witness Jeffrey Quirk, who took the stand and admitted that he had perjured himself in accusing the defendant of having persuaded him to attempt to steal the revolver. Judge Barker overruled a motion to set aside the verdict, and for a new trial, on the ground that the change in the witness’s testimony, even if true, would not have altered the verdict of the jury, the evidence being more than sufficient, without it, to warrant a conviction.”

Judge Barker came off with colors flying and his picture front centre. The fact that he had dismissed the indictment against the defendant, and ordered her immediate release on the strength of the confession of Daniel Shay was made the “news” feature of the day, and his courage and independence in reversing himself were so extolled as to make him the hero of the hour. Here was a judge so honest that he did not hesitate to stultify himself in the cause of Justice! Nobody was omniscient!

“When asked whether the later developments of the trial had altered his opinion as to the value of circumstantial evidence, Judge Barker merely smiled.” So did Hugh. On which side of His Honor’s mouth was that smile? [334]

As for Hugh himself, there was no reference to him at all. But why should there be? The episode of his committal for contempt had been the merest legal trifle, and already completely forgotten. Nobody cared now what Eileen Clayton might have told him, not even enough to realize that the supposition that she had confessed her guilt must be all a mistake. Another week and it would all be ancient history.

Everybody had to keep moving. He would have to open a law office again. Had his old rooms over the Elm Castle been rented, he wondered. From force of habit he got out at Worth Street, and turning south toward the Criminal Court Building encountered Charlie White.

“Hello, Dillon!” he called out. “I’m glad to see there’s still an honest man in these parts. Yes, I’ll have a cigarette. You’re the only one in the bunch who came out of that mix-up with clean hands—and you had to go to jail to keep ’em so!”

Hugh took the arm of *The Sun*’s star reporter and strolled with him along Lafayette Street in front of the Tombs.

“Tell me something, Charlie,” he said. “How do fellows like Farley and Barker and Hoyle get away with it? Why didn’t the papers give more space to Quirk’s story and show ’em up?”

White grinned sardonically.

“There’s no news in a politician being a crook, is there?” he asked, without removing his cigarette. “And then, nobody really gives a damn what they do as long as they don’t steal the city hall.”

“Don’t the taxpayers want honest public officials?”

“Yes!” agreed White. “So long as they’re not too honest.” [335]

“But take Farley’s tipping off Quirk to swear falsely, and then concealing the fact that he had done so—isn’t there anything in that from a newspaper point of view?” demanded Hugh.

White exhaled a cloud of smoke.

“No,” he said. “The public isn’t interested in morals or ethics. And besides, it is too complicated for the average reader to understand. It would take too much space to explain the point—more than it was worth. I’m not so sure I understand it myself. Besides, you have to be fair. Farley’s more of a fool than a crook, although he’s a bit of both. How do we know he really meant Quirk to lie, and how can we be sure he knew Quirk was lying? We can’t. And there’s such a thing as libel, you know. The mere fact that a man is on the witness-stand doesn’t give him a right to smear everybody in sight. It has to be done with an ‘honest motive and for justifiable ends.’ Then again, Farley is an important and powerful public officer. There’s no use antagonizing him. We might need him in our business. Also—there’s politics!”

“So I suspect!” They had reached the door of the Elm Castle. “What is going to happen to Shay and Quirk?”

“Nothing—if I know Farley. The way he has handled the case has been scandalous, and he knows it. ‘Least said, soonest mended.’ Nobody wants to send an old man to prison for perjury. Especially when it has been the means of furnishing the public with such a three-ringed circus as we’ve been having in the Clayton case. And I doubt if any jury would convict him. After all, justice has been done—to everybody but yourself!”

“But how about Quirk?” asked Hugh. “I can’t help being fond of him, but can Farley avoid indicting him for perjury—to say nothing of burglary and assault?” [336]

“He may indict him,” answered White, “although I doubt if he even does that. But he’ll never try him, you can bet your life on that, when Quirk’s defense would be ‘you told me to do it.’ Farley’s in a damn ticklish position. Between you and me he’s sweating blood for fear some highbrow reformer will ship the record of the case up to Albany and ask for his

removal. The president of the Citizens' Union, for instance. I'm not sure the governor wouldn't find plenty of excuse for throwing him out. Still, a man hates to do that sort of thing!"

"I wonder who he'd appoint in Farley's place if he removed him?"

"Give it up. I know who I'd appoint!"

"Who?" inquired Hugh.

"A young fellow named Dillon. He's a crazy coot, but he's got the right idea."

"Glad you think so! Have another cigarette? What job do you want when I've succeeded Farley?"

Hugh delivered a feint kick at his friend's under-pinning.

"Are you serious?" inquired White.

"As a judge!"

"Good! I'll hold you to that! You can make me your press-agent—I mean, your 'private secretary'—at about seventy-five hundred a year."

"Done!"

They shook hands on it.

"Only don't spend any of that salary in advance," Hugh warned him. "I may want to borrow a quarter from you in the next few days."

Hugh found, upon enquiry, that his old rooms over the Elm Castle were still untenanted. The proprietor had also preserved, and forthwith produced, the sign: [337]

HUGH DILLON
ATTORNEY-AT-LAW

"Thought you'd turn up again," he explained. "I kind of felt you wouldn't like sending the boys to jail."

"I didn't," answered Hugh. "You can hang up the sign, Mike!"

So here he was back in the same old place! Was it possible that he had ever been a member of the district attorney's staff—with an office over there in that dirty old building—up among the pigeons? It seemed quite incredible. Was Richard Devens really dead? Had he actually fought for life with Jeffrey Quirk in the stifling darkness of the property-room? Had he really spent a night in that grim prison fortress across the way? Had he found Moira only to lose her?

Was life as impermanent as that? Was there nothing that did not change? Nothing to cling to? In this dim world "where the lights are dim and the very stars wander," could human beings ever be sure of what was right?

Far up in the blue above the Tombs his eye caught again the white glint of a kite. It held there steadily, ducking occasionally and then climbing upward again. Was it the same kite he had noticed before, with possibly the same child at the other end of the string? Was not the desire to rise above earthly things the only thing that did not change? Somewhere amid the squalor of the tenements a boy was gazing up at that white speck, his imagination lost in the blue empyrean, his soul set free: and, because of his kite up there, hundreds of other children, of whose existence he was not even aware, were looking up with delight, their eyes fixed upon infinity, their spirits soaring in exultant accord in [338]

common aspiration with its white sail.

A motor was pulling up to the curb. Surely it was Moira's little Renault! Had she read the papers? Could she have come there to see him—already? That was exactly what she would do—if she still loved him. He ran down and met her at the foot of the stairs.

“Oh, Hugh!” she cried. “How could I have ever doubted you! It was beastly of me!”

He put his arms around her.

“These stairs were the first place you ever kissed me!” he reminded her.

“No, dearest—the second!” she answered.

[The end of *The Blind Goddess* by Arthur Train]