

**ARTHUR  
CHENEY TRAIN**

BY ADVICE OF COUNSEL

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**Train A.**

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# Arthur Train

## By Advice of Counsel

### The Shyster

*Shyster, n. [Origin obscure.] One who does business trickily; a person without professional honor: used chiefly of lawyers; as, pettifoggers and shysters.*  
—CENTURY DICTIONARY.

When Terry McGurk hove the brick through the window of Froelich's butcher shop he did it casually, on general principles, and without any idea of starting anything. He had strolled unexpectedly round the corner from his dad's saloon, had seen the row going on between Froelich and the gang of boys that after school hours used the street in front of the shop as a ball ground, and had merely seized the opportunity to vindicate his reputation as a desperado and put one over on the Dutchman. The fact that he had on a red sweater was the barest coincidence. Having observed the brick to be accurately pursuing its proper trajectory he had ducked back round the corner again and continued upon his way rejoicing. He had not even noticed Tony Mathusek, who, having accidentally found himself in the midst of the mêlée, had started to beat a retreat the instant of the crash, and had run plump into the arms of Officer Delany of the Second. Unfortunately Tony too was wearing a red sweater.

"I've got you, you young devil!" exulted Delany. "Here's one of 'em, Froelich!"

"Dot's him! It was a feller mit a red sweater! Dot's the vun who done it!" shrieked the butcher. "I vill make a gombplaint against him!"

"Come along, you! Quit yer kickin'!" ordered the cop, twisting Tony's thin arm until he writhed. "You'll identify him, Froelich?"

"Sure! Didn't I see him mit my eyes? He's vun of dem rascals vot drives all mine gustomers away mit deir yelling and screaming. You fix it for me, Bill."

"That's all right," the officer assured him. "I'll fix him good, I will! It's the reformatory for him. Or, say, you can make a complaint for malicious mischief."

"Sure! Dot's it! Malicious mischief!" assented the not over-intelligent tradesman. "Ve'll get rid of him for good, eh?"

"Sure," assented Delany. "Come along, you!"

Tony Mathusek lifted a white face drawn with agony from his tortured arm.

"Say, mister, you got the wrong feller! I didn't break the window. I was just comin' from the house—"

"Aw, shut up!" sneered Delany. "Tell that to the judge!"

"Y' ain't goin' to take me to jail?" wailed Tony. "I wasn't with them boys. I don't belong to that gang."

"Oh, so you belong to a gang, do ye? Well, we don't want no gangsters round here!" cried the officer with adroit if unscrupulous sophistry. "Come along now, and keep quiet or it'll be the worse for ye."

"Can't I tell my mother? She'll be lookin' for me. She's an old lady."

"Tell nuthin'. You come along!"

Tony saw all hope fade. He hadn't a chance—even to go to a decent jail! He had heard all about the horrors of the reformatory. They wouldn't even let your people visit you on Sundays! And his mother would think he was run over or murdered. She would go crazy with worry. He didn't mind on his own account, but his mother— He loved the old widowed mother who worked her fingers off

to send him to school. And he was the only one left, now that Peter had been killed in the war. It was too much. With a sudden twist he tore out of his coat and dashed blindly down the street. As well might a rabbit hope to escape the claws of a wildcat. In three bounds Delany had him again, choking him until the world turned black.

But this is not a story about police brutality, for most cops are not brutal. Delany was an old-timer who believed in rough methods. He belonged, happily, to a fast-vanishing system more in harmony with the middle ages than with our present enlightened form of municipal government. He remained what he was for the reason that farther up in the official hierarchy there were others who looked to him, when it was desirable, to deliver the goods—not necessarily cash—but to stand with the bunch. These in turn were obligated on occasion, through self-interest or mistaken loyalty to friend or party, to overlook trifling irregularities, to use various sorts of pressure, or to forget what they were asked to forget. There was a far-reaching web of complicated relationships—official, political, matrimonial, commercial and otherwise—which had a very practical effect upon the performance of theoretical duty.

Delany was neither an idealist nor a philosopher. He was an empiricist, with a touch of pragmatism—though he did not know it. He was "a practical man." Even reform administrations have been known to advocate a liberal enforcement of the laws. Can you blame Delany for being practical when others so much greater than he have prided themselves upon the same attribute of practicality? There were of course a lot of things he simply had to do or get out of the force; at any rate, had he not done them his life would have been intolerable. These consisted in part of being deaf, dumb and blind when he was told to be so—a comparatively easy matter. But there were other things that he had to do, as a matter of fact, to show that he was all right, which were not only more difficult, but expensive, and at times dangerous.

He had never been called upon to swear away an innocent man's liberty, but more than once he had had to stand for a frame-up against a guilty one. According to his cop-psychology, if his side partner saw something it was practically the same as if he had seen it himself. That phantasmagorical scintilla of evidence needed to bolster up a weak or doubtful case could always be counted on if Delany was the officer who had made the arrest. None of his cases were ever thrown out of court for lack of evidence, but then, Delany never arrested anybody who wasn't guilty!

Of course he had to "give up" at intervals, depending on what administration was in power, who his immediate superior was, and what precinct he was attached to, but he was not a regular grafter by any means. He was an occasional one merely; when he had to be. He did not consider that he was being grafted on when expected to contribute to chowders, picnics, benevolent associations, defense funds or wedding presents for high police officials. Neither did he think that he was taking graft because he amicably permitted Froelich to leave a fourteen-pound rib roast every Saturday night at his brother-in-law's flat. In the same way he regarded the bills slipped him by Grabinsky, the bondsman, as well-earned commissions, and saw no reason why the civilian clothes he ordered at the store shouldn't be paid for by some mysterious friendly person—identity unknown—but shrewdly suspected to be Mr. Joseph Simpkins, Mr. Hogan's runner. Weren't there to be any cakes and ale in New York simply because a highbrow happened to be mayor? Were human kindness, good nature and generosity all dead? Would he have taken a ten-dollar bill—or even a hundred-dollar one—from Simpkins when he was going to be a witness in one of Hogan's cases? Not on your life! He wasn't no crook, he wasn't! He didn't have to be. He was just a cog in an immense wheel of crookedness. When the wheel came down on his cog he automatically did his part.

I perceive that the police are engaging too much of our attention. But it is necessary to explain why Delany was so ready to arrest Tony Mathusek, and why as he dragged him into the station house he beckoned to Mr. Joey Simpkins, who was loitering outside in front of the deputy sheriff's office, and whispered behind his hand, "All right. I've got one for you!"

Then the machine began to work as automatically as a cash register. Tony was arraigned at the bar, and, having given his age as sixteen years and five days, charged with the "malicious destruction of property, to wit, a plate-glass window of one Karl Froelich, of the value of one hundred and fifty dollars." Mr. Joey Simpkins had shouldered his way through the smelly push and taken his stand beside the bewildered and half-fainting boy.

"It's all right, kid. Leave it to me," he said, encircling him with a protecting arm. Then to the clerk: "Pleads not guilty."

The magistrate glanced over the complaint, in which Delany, to save Froelich trouble, had sworn that he had seen Tony throw the brick. Hadn't the butcher said he'd seen him? Besides, that let the Dutchman out of a possible suit for false arrest. Then the magistrate looked down at the cop himself.

"Do you know this boy?" he asked sharply.

"Sure, Yerroner. He's a gangster. Admitted it to me on the way over."

"Are you really over sixteen?" suddenly demanded the judge, who knew and distrusted Delany, having repeatedly stated in open court that he wouldn't hang a yellow dog on his testimony. The underfed, undersized boy did not look more than fourteen.

"Yes, sir," said Tony. "I was sixteen last week."

"Got anybody to defend you?"

Tony looked at Simpkins inquiringly. He seemed a very kind gentleman.

"Mr. Hogan's case, judge," answered Joey. "Please make the bail as low as you can."

Now this judge was a political accident, having been pitchforked into office by the providence that sometimes watches over sailors, drunks and third parties. Moreover, in spite of being a reformer he was nobody's fool, and when the other reformers who were fools got promptly fired out of office he had been reappointed by a supposedly crooked boss simply because, as the boss said, he had made a hell of a good judge and they needed somebody with brains here and there to throw a front. Incidentally, he had a swell cousin on Fifth Avenue who had invited the boss and his wife to dinner, by reason of which the soreheads who lost out went round asking what kind of a note it was when a silk-stocking crook could buy a nine-thousand-dollar job for a fifty-dollar dinner. Anyhow, he was clean and clean-looking, kindly, humorous and wise above his years—which were thirty-one. And Tony looked to him like a poor runt, Simpkins and Delany were both rascals, Froelich wasn't in court, and he sensed a nigger somewhere. He would have turned Tony out on the run had he had any excuse. He hadn't, but he tried.

"Would you like an immediate hearing?" he asked Tony in an encouraging tone.

"Mr. Hogan can't be here until to-morrow morning," interposed Simpkins. "Besides, we shall want to produce witnesses. Make it to-morrow afternoon, judge."

Judge Harrison leaned forward.

"Are you sure you wouldn't prefer to have the hearing now?" he inquired with a smile at the trembling boy.

"Well, I want to get Froelich here—if you're going to proceed now," spoke up Delany. "And I'd like to look up this defendant's record at headquarters."

Tony quailed. He feared and distrusted everybody, except the kind Mr. Simpkins. He suspected that smooth judge of trying to railroad him.

"No! No!" he whispered to the lawyer. "I want my mother should be here; and the janitor, he knows I was in my house. The rabbi, he will give me a good character."

The judge heard and shrugged his bombazine-covered shoulders. It was no use. The children of darkness were wiser in their generation than the children of light.

"Five hundred dollars bail," he remarked shortly. "Officer, have your witnesses ready to proceed to-morrow afternoon at two o'clock."

"Mr. Tutt," said Tutt with a depressed manner as he watched Willie remove the screen and drag out the old gate-leg table for the firm's daily five o'clock tea and conference in the senior partner's office, "if a man called you a shyster what would you do about it?"

The elder lawyer sucked meditatively on the fag end of his stogy before replying.

"Why not sue him?" Mr. Tutt inquired.

"But suppose he didn't have any money?" replied Tutt disgustedly.

"Then why not have him arrested?" continued Mr. Tutt. "It's libelous *per se* to call a lawyer a shyster."

"Even if he is one," supplemented Miss Minerva Wiggin ironically, as she removed her paper cuffs preparatory to lighting the alcohol lamp under the teakettle. "The greater the truth the greater the libel, you know!"

"And what do you mean by that?" sharply rejoined Tutt. "You don't—"

"No," replied the managing clerk of Tutt & Tutt. "I don't! Of course not! And frankly, I don't know what a shyster is."

"Neither do I," admitted Tutt. "But it sounds opprobrious. Still, that is a rather dangerous test. You remember that colored client of ours who wanted us to bring an action against somebody for calling him an Ethiopian!"

"There's nothing dishonorable in being an Ethiopian," asserted Miss Wiggin.

"A shyster," said Mr. Tutt, reading from the Century Dictionary, "is defined as 'one who does business trickily; a person without professional honor; used chiefly of lawyers.'"

"Well?" snapped Tutt.

"Well?" echoed Miss Wiggin.

"H'm! Well!" concluded Mr. Tutt.

"I nominate for the first pedestal in our Hall of Legal Ill Fame—Raphael B. Hogan," announced Tutt, complacently disregarding all innuendoes.

"But he's a very elegant and gentlemanly person," objected Miss Wiggin as she warmed the cups. "My idea of a shyster is a down-at-the-heels, unshaved and generally disreputable-looking police-court lawyer—preferably with a red nose—who murders the English language—and who makes his living by preying upon the ignorant and helpless."

"Like Finklestein?" suggested Tutt.

"Exactly!" agreed Miss Wiggin. "Like Finklestein."

"He's one of the most honorable men I know!" protested Mr. Tutt. "My dear Minerva, you are making the great mistake—common, I confess, to a large number of people—of associating dirt and crime. Now dirt may breed crime, but crime doesn't necessarily breed dirt."

"You don't have to be shabby to prey upon the ignorant and helpless," argued Tutt. "Some of our most prosperous brethren are the worst sharks out of Sing Sing."

"That is true!" she admitted, "but tell it not in Gath!"

"A shyster," began Mr. Tutt, unsuccessfully applying a forced draft to his stogy and then throwing it away, "bears about the same relation to an honest lawyer as a cad does to a gentleman. The fact that he's well dressed, belongs to a good club and has his name in the Social Register doesn't affect the situation. Clothes don't make men; they only make opportunities."

"But why is it," persisted Miss Wiggin, "that we invariably associate the idea of crime with that of 'poverty, hunger and dirt'?"

"That is easy to explain," asserted Mr. Tutt. "The criminal law originally dealt only with crimes of violence—such as murder, rape and assault. In the old days people didn't have any property in the modern sense—except their land, their cattle or their weapons. They had no bonds or stock or bank accounts. Now it is of course true that rough, ignorant people are much more prone to violence of speech and action than those of gentle breeding, and hence most of our crimes of violence are committed by those whose lives are those of squalor. But"—and here Mr. Tutt's voice rose indignantly

—"our greatest mistake is to assume that crimes of violence are the most dangerous to the state, for they are not. They cause greater disturbance and perhaps more momentary inconvenience, but they do not usually evince much moral turpitude. After all, it does no great harm if one man punches another in the head, or even in a fit of anger sticks a dagger in him. The police can easily handle all that. The real danger to the community lies in the crimes of duplicity—the cheats, frauds, false pretenses, tricks and devices, flimflams—practised most successfully by well-dressed gentlemanly crooks of polished manners."

By this time the kettle was boiling cheerfully, quite as if no such thing as criminal law existed at all, and Miss Wiggin began to make the tea.

"All the same," she ruminated, "people—particularly very poor people—are often driven to crime by necessity."

"It's Nature's first law," contributed Tutt brightly.

Mr. Tutt uttered a snort of disgust.

"It may be Nature's first law, but it's about the weakest defense a guilty man can offer. 'I couldn't help myself' has always been the excuse for helping oneself!"

"Rather good—that!" approved Miss Wiggin. "Can you do it again?"

"The victim of circumstances is inevitably one who has made a victim of someone else," blandly went on Mr. Tutt without hesitation.

"Ting-a-ling! Right on the bell!" she laughed.

"It's true!" he assured her seriously. "There are two defenses that are played out—necessity and instigation. They've never been any good since the Almighty overruled Adam's plea in confession and avoidance that a certain female co-defendant took advantage of his hungry innocence and put him up to it."

"No one could respect a man who tried to hide behind a woman's skirts!" commented Tutt.

"Are you referring to Adam?" inquired his partner. "Anyhow, come to think of it, the maxim is not that 'Necessity is the first law of Nature,' but that 'Necessity knows no law.'"

"I'll bet you—" began Tutt. Then he paused, recalling a certain celebrated wager which he had lost to Mr. Tutt upon the question of who cut Samson's hair. "I bet you don't know who said it!" he concluded lamely.

"If I recall correctly," ruminated Mr. Tutt, "Shakspeare says in 'Julius Caesar' that 'Nature must obey necessity'; while Rabelais says 'Necessity has no law'; but the quotation we familiarly use is 'Necessity knows no law except to conquer,' which is from Publilius Syrus."

"From who?" cried Tutt in ungrammatical surprise.

"Never mind!" soothed Miss Wiggin. "Anyway, it wasn't Raphael B. Hogan."

"Who certainly completely satisfies your definition so far as preying upon the ignorant and helpless is concerned," said Mr. Tutt. "That man is a human hyena—worse than a highwayman."

"Yet he's a swell dresser," interjected Tutt. "Owns his house and lives in amity with his wife."

"Doubtless he's a loyal husband and a devoted father," agreed Mr. Tutt. "But so, very likely, is the hyena. Certainly Hogan hasn't got the excuse of necessity for doing what he does."

"Don't you suppose he has to give up good and plenty to somebody?" demanded Tutt. "Cops and prison keepers and bondsmen and under sheriffs, and all kinds of crooked petty officials. I should worry!"

"Great fleas have little fleas upon their backs to bite 'em,  
And little fleas have lesser fleas, and so ad infinitum,"

quoted Miss Wiggin reminiscently.

"A flea has to be a flea," continued Tutt. "He, or it, can't be anything else, but Hogan doesn't have to be a lawyer. He could be an honest man if he chose."

"He? Not on your life! He couldn't be honest if he tried!" roared Mr. Tutt. "He's just a carnivorous animal! A man eater! They talk about scratching a Russian and finding a Tartar; I'd hate to scratch some of our legal brethren."

"So would I!" assented Tutt. "I guess you're right, Mr. Tutt. Christianity and the Golden Rule are all right in the upper social circles, but off Fifth Avenue there's the same sort of struggle for existence that goes on in the animal world. A man may be all sweetness and light to his wife and children and go to church on Sundays; he may even play pretty fair with his own gang; but outside of his home and social circle he's a ravening wolf; at least Raphael B. Hogan is!"

The subject of the foregoing entirely accidental conversation was at that moment standing contemplatively in his office window smoking an excellent cigar preparatory to returning to the bosom of his family. Raphael B. Hogan believed in taking life easily. He was accustomed to say that outside office hours his time belonged to his wife and children; and several times a week he made it his habit on the way home to supper to stop at the florist's or the toy shop and bear away with him inexpensive tokens of his love and affection. On the desk behind him, over which in the course of each month passed a lot of very tainted money, stood a large photograph of Mrs. Hogan, and another of the three little Hogans in ornamented silver frames, and his face would soften tenderly at the sight of their self-conscious faces, even at a moment when he might be relieving a widowed seamstress of her entire savings-bank account. After five o'clock this hyena purred at his wife and licked his cubs; the rest of the time he knew no mercy.

But he concealed his cruelty and his avarice under a mask of benignity. He was fat, jolly and sympathetic, and his smile was the smile of a warm-hearted humanitarian. The milk of human kindness oozed from his every pore. In fact, he was always grumbling about the amount of work he had to do for nothing. He was a genial, generous host; unostentatiously conspicuous in the local religious life of his denomination; in court a model of obsequious urbanity, deferential to the judges before whom he appeared and courteous to all with whom he was thrown in contact. A good-natured, easy-going, simple-minded fat man; deliberate, slow of speech, well-meaning, with honesty sticking out all over him, you would have said; one in whom the widow and the orphan would have found a staunch protector and an unselfish friend. And now, having thus subtly connoted the character of our villain, let us proceed with our narrative.

The telephone buzzed on the wall set beside him.

"That you, chief?" came the voice of Simpkins.

"Yep."

"Got one off Delany."

"What is it?"

"Kid smashed a window—malicious mischief. Held for examination to-morrow at two. Five hundred bail."

"Any sugar?"

"Don't know. Says his father's dead and mother earns seventeen a week in a sweatshop and sends him to school. Got some insurance. I'm going right round there now."

"Well," replied Hogan, "don't scare her by taking too much off her at first. I suppose there's evidence to hold him?"

"Sure. Delany says he saw it."

"All right. But go easy! Good night."

"Leave that to me, chief!" assured Simpkins. "See you to-morrow."

It will be observed that in this professional interchange nothing at all was said regarding the possibility of establishing Tony's innocence, but that on the contrary Mr. Simpkins' mind was concentrated upon his mother's ability to pay. This was the only really important consideration to either of them. But Hogan did not worry, because he knew that Simpkins would skilfully entangle

Mrs. Mathusek in such a web of apprehension that rather than face her fears she would if necessary go out and steal the money. So Mr. Raphael B. Hogan hung up the receiver and with his heart full of gentle sympathy for all mankind walked slowly home, pausing to get some roses for Mrs. Hogan and to buy a box for Daddy Long Legs at the Strand, for whenever he got a new case he always made it the occasion for a family party, and he wanted the children to benefit by passing an evening under the sweet influence of Miss Pickford.

Now just at the moment that his employer was buying the roses Mr. Simpkins entered the apartment of Mrs. Mathusek and informed her of Tony's arrest and incarceration. He was very sympathetic about it, very gentle, this dapper little man with the pale gray eyes and inquisitive, tapirlike nose; and after the first moment of shock Mrs. Mathusek took courage and begged the gentleman to sit down. There are always two vultures hanging over the poor—death and the law; but of the two the law is the lesser evil. The former is a calamity; the latter is a misfortune. The one is final, hopeless, irretrievable; from the other there may perhaps be an escape. She knew Tony was a good boy; was sure his arrest was a mistake, and that when the judge heard the evidence he would let Tony go. Life had dealt hardly with her and made her an old woman at thirty-four, really old, not only in body but in spirit, just as in the middle ages the rigor of existence made even kings old at thirty-five. What do the rich know of age? The women of the poor have a day of spring, a year or two of summer, and a lifetime of autumn and winter.

Mrs. Mathusek distrusted the law and lawyers in the abstract, but Mr. Simpkins' appearance was so reassuring that he almost counteracted in her mind the distress of Tony's misfortune. He was clearly a gentleman, and she had a reverential regard for the gentry. What gentlefolk said was to be accepted as true. In addition this particular gentleman was learned in the law and skilled in getting unfortunate people out of trouble. Now, though Mr. Simpkins possessed undoubtedly this latter qualification, it was also true that he was equally skilled in getting people into it. If he ultimately doubled their joys and halved their sorrows he inevitably first doubled their sorrows and halved their savings. Like the witch in Macbeth: "Double, double toil and trouble." His aims were childishly simple: First, to find out how much money his victim had, and then to get it.

His methods were no more complicated than his aims and had weathered the test of generations of experience. So:

"Of course Tony must be bailed out," he said gently. "You don't want him to spend the night in jail."

"Jail! Oh, no! How much is the bail?" cried Tony's mother.

"Only five hundred dollars." His pale gray eyes were watching her for the slightest sign of suspicion.

"Five hundred dollars! Eoi! Eoi! It is a fortune! Where can I get five hundred dollars?" She burst into tears. "I have saved only one hundred and sixty!"

Mr. Simpkins pursed his lips. Then there was nothing for it! He reached for his hat. Mrs. Mathusek wrung her hands. Couldn't the gentleman go bail for Tony? He was such a dear, kind, good gentleman! She searched his face hungrily. Mr. Simpkins falteringly admitted that he did not possess five hundred dollars.

"But—" he hesitated.

"Yes!"

"But—" she echoed, seizing his sleeve and dragging him back.

Mr. Simpkins thought that they could hire somebody to go bail; no, in that case there would be no money to pay the great lawyer whom they must at once engage to defend her son—Mr. Hogan, one who had the pull and called all the judges by their first names. He would not usually go into court for less than five hundred dollars, but Mr. Simpkins said he would explain the circumstances to him and could almost promise Mrs. Mathusek that he would persuade him to do it this once for one hundred and fifty. So well did he act his part that Tony's mother had to force him to take the money, which

she unsewed from inside the ticking of her mattress. Then he conducted her to the station house to show her how comfortable Tony really was and how much better it was to let him stay in jail one night and make sure of his being turned out the next afternoon by giving the money to Mr. Hogan, than to use it for getting bail for him and leave him lawyerless and at the mercy of his accusers. When Mrs. Mathusek saw the cell Tony was in she became even more frightened than she had been at first. But by that time she had already given the money to Simpkins.

Second thoughts are oftentimes best. Most crooks are eventually caught through their having, from long immunity, grown careless and yielded to impulse. Once he had signed the complaint in which he swore that he had seen Tony throw the brick, Delany had undergone a change of heart. Being an experienced policeman he was sensitive to official atmosphere, and he had developed a hunch that Judge Harrison was leery of the case. The more he thought of it the less he liked the way the son-of-a-gun had acted, the way he'd tried to get Mathusek to ask for an immediate hearing. Why had he ever been such a fool as to sign the complaint himself? It had been ridiculous—just because he was mad at the boy for trying to get away and wanted to make things easy for Froelich. If he went on the stand the next afternoon he'd have to make up all sorts of fancy details, and Hogan would have his skin neatly tacked to the barn doors for keeps. Thereafter, no matter what happened, he'd never be able to change his testimony. After all, it would be easy enough to abandon the charge at the present point. It was a genuine case of cold feet. He scented trouble. He wanted to renig while the renigging was good. What in hell had Froelich ever done for him, anyhow? A few measly pieces of roast!

When Hogan returned home that evening with the little Hogans from the movies he found the cop waiting for him outside his door.

"Look here," Delany whispered, "I'm going to can this here Mathusek window case. I'm going to fall down flat on my identification and give you a walkout. So go easy on me—and sort of help me along, see?"

"The hell you are!" retorted Hogan indignantly. "Then where do I come in, eh? Why don't you come through?"

"But I've got him wrong!" pleaded Delany. "You don't want me to put my neck in a sling, do you, so as you can make a few dollars? Look at all the money I've sent your way. Have a heart, Rafe!"

"Bull!" sneered the Honorable Rafe. "A man's gotta live! You saw him do it! You've sworn to it, haven't you?"

"I made a mistake."

"How'll that sound to the commissioner? An' to Judge Harrison? No, no! Nothin' doin'! If you start anything like that I'll roast the life out of you!"

Delany spat as near Hogan's foot as he elegantly could.

"You're a hell of a feller, you are!" he growled, and turned his back on him as upon Satan.

The brick that Terry McGurk hurled as a matter of principle through Froelich's window produced almost as momentous consequences as the want of the horseshoe nail did in Franklin's famous maxim. It is the unknown element in every transaction that makes for danger.

The morning after the catastrophe Mr. Froelich promptly made application to the casualty company with which he had insured his window for reimbursement for his damage. Just as promptly the company's lawyer appeared at the butcher shop and ascertained that the miscreant who had done the foul deed had been arrested and was to be brought into court that afternoon. This lawyer, whose salary depended indirectly upon the success which attended his efforts to secure the conviction and punishment of those who had cost his company money, immediately camped upon the trails of both Froelich and Delany. It was up to them, he said, to have the doer of wanton mischief sent away. If they didn't cooperate he would most certainly ascertain why. Now insurance companies are powerful corporations. They can do favors, and contrariwise they can make trouble, and Lawyer Asche was

hot under the collar about that window. Had he ever heard of the place he would have likened it to the destruction of Coucy-le-Château by the Huns.

This, for Delany, put an entirely new aspect upon the affair. It was one thing to ditch a case and another to run up against Nathan Asche. He had sworn to the complaint and if he didn't make good on the witness stand Asche would get his hide. Then he bethought him that if only Froelich was sufficiently emphatic in his testimony a little uncertainty on his own part might be excused.

In the meantime, however, two things had happened to curdle Froelich's enthusiasm. First, his claim against the Tornado Casualty Company had been approved, and second, he had been informed on credible authority that they had got the wrong boy. Now he had sincerely thought that he had seen Tony throw the brick—he had certainly seen a boy in a red sweater do something—but he realized also that he had been excited and more or less bewildered at the time; and his informant—Mrs. Sussman, the wife of the cigar dealer—alleged positively that it had been thrown by a strange kid who appeared suddenly from round the corner and as suddenly ran away in the direction whence he had come.

Froelich perceived that he had probably been mistaken, and being relatively honest—and being also about to get his money—and not wishing to bear false witness, particularly if he might later be sued for false imprisonment, he decided to duck and pass the buck to Delany, who was definitely committed. He was shrewd enough, however, not to give his real reason to the policeman, but put it on the ground of being so confused that he couldn't remember. This left Delany responsible for everything.

"But you said that that was the feller!" argued the cop, who had gone to urge Froelich to assume the onus of the charge. "And now you want to leave me holdin' the bag!"

"Vell, you said yourself you seen him, didn't you?" replied the German. "An' you svore to it. I didn't sveal to noddings."

"Aw, you!" roared the enraged cop, and hastened to interview Mr. Asche.

Aping a broad humanitarianism he suggested to Asche that if Mrs. Mathusek would pay for the window they could afford to let up on the boy. He did it so ingeniously that he got Asche to go round there, only to find that she had no money, all given to Simpkins. Gee, what a mix-up!

It is quite possible that even under these circumstances Delany might still have availed himself of what in law is called a *locus poenitentiae* had it not been that the mix-up was rendered still more mixed by the surreptitious appearance in the case of Mr. Michael McGurk, the father of the actual brick artist, who had learned that the cop was getting wabby and was entertaining the preposterous possibility of withdrawing the charge against the innocent Mathusek, to the imminent danger of his own offspring. In no uncertain terms the saloon keeper intimated to the now embarrassed guardian of the public peace that if he pulled anything like that he would have him thrown off the force, to say nothing of other and darker possibilities connected with the morgue. All of which gave Delany decided pause.

Hogan, for his own reasons, had meanwhile reached an independent conclusion as to how he could circumvent Delany's contemplated treachery. If, he decided, the cop should go back on his identification of the criminal he foresaw Tony's discharge in the magistrate's court, and no more money. The only sure way, therefore, to prevent Tony's escape would be by not giving Delany the chance to change his testimony; and by waiving examination before the magistrate and consenting voluntarily to having his client held for the action of the grand jury, in which event Tony would be sent to the Tombs and there would be plenty of time for Simpkins to get an assignment of Mrs. Mathusek's insurance money before the grand jury kicked out the case. This also had the additional advantage of preventing any funny business on the part of Judge Harrison.

Delany was still undecided what he was going to do when the case was called at two o'clock. It is conceivable that he might still have tried to rectify his error by telling something near the truth, in spite of Hogan, Asche and McGurk, but the opportunity was denied him.

At two o'clock Tony, a mere chip tossed aimlessly hither and yon by eddies and cross currents, the only person in this melodrama of motive whose interests were not being considered by anybody, was arraigned at the bar and, without being consulted in the matter, heard Mr. Hogan, the fat, kindly lawyer whom his mother had retained to defend him, tell the judge that they were going to waive examination and consent to be held for the action of the grand jury.

"You see how it is, judge," Hogan simpered. "You'd have no choice but to hold my client on the officer's testimony. The easiest way is to waive examination and let the grand jury throw the case out of the window!"

Delany heard this announcement with intense relief, for it let him out. It would relieve him from the dangerous necessity of testifying before Judge Harrison and he could later spill the case before the grand jury when called before that august body. Moreover, he could tip off the district attorney in charge of the indictment bureau that the case was a lemon, and the latter would probably throw it out on his own motion. The D.A.'s office didn't want any more rotten cases to prosecute than it could help. It seemed his one best bet, the only way to get his feet out of the flypaper. What a mess for a few pieces of rotten beef!

"You understand what is being done, do you?" inquired the keen-faced judge sharply. "You understand this means that unless you give bail you will have to stay in jail until the grand jury dismisses the case or finds an indictment against you?"

Underneath the cornice of the judge's dais Hogan patted his arm, and Tony, glancing for encouragement at the big friendly face above him, whispered "Yes."

So Tony went to the Tombs and was lodged in a cell next door to Soko the Monk, who had nearly beaten a Chinaman to death with a pair of brass knuckles, from whom he learned much that was exciting if not edifying.

Now, as Delany was wont to say for years thereafter, that damn Mathusek case just went bad on him. He had believed that in the comparative secrecy of the inquisitorial chamber he could easily pretend that he had originally made an honest mistake and was no longer positive of the defendant's identity, in which case when the grand jury threw out the case nobody would ever know the reason and no chickens would come home to roost on him.

But when the cop visited the office of Deputy Assistant District Attorney Caput Magnus the next morning, to inform him that this here window-breaking case was a Messina, he found Mr. Nathan Ashe already solidly there present, engaged in advising Mr. Magnus most emphatically to the exact contrary. Indeed the attorney was rhetorical in his insistence that this destruction of the property of law-abiding taxpayers must stop.

Mr. Ashe was not a party to be trifled with. He was a rectangular person whom nothing could budge, and his very rectangularity bespoke his stubborn rectitude. His shoulders were massive and square, his chin and mouth were square, his burnsidies were square cut, and he had a square head and wore a square-topped derby. He looked like the family portrait of Uncle Amos Hardscrabble. When he sat down he remained until he had said his say. It was a misfortunate meeting for Delany, for Ashe nailed him upon the spot and made him repeat to Caput Magnus the story of how he had seen Tony throw the brick and then, for some fool reason, not being satisfied to let it go at that, he insisted on calling in a stenographer and having Delany swear to the yarn in affidavit form! This entirely spoiled any chance the policeman might otherwise have had of changing his testimony. He now had no choice but to go on and swear the case through before the grand jury—which he did.

Even so, that distinguished body of twenty-three representative citizens was not disposed to take the matter very seriously. Having heard what Delany had to say—and he made it good and strong under the circumstances—several of them remarked disgustedly that they did not understand why the district attorney saw fit to waste their valuable time with trivial cases of that sort. Boys would play ball and boys would throw balls round; if not balls, then stones. They were about to dismiss by an almost unanimous vote, when the case went bad again. The foreman, a distinguished person in

braided broadcloth, rose and announced that he was very much interested to learn their views upon this subject as he was the president of a casualty company, and he wished them to understand that thousands—if not hundreds of thousands—of dollars' worth of plate-glass windows were wantonly broken by young toughs, every year, for which his and other insurance companies had to recoup the owners. In fact, he alleged heatedly, window breaking was a sign of peculiar viciousness. Incipient criminals usually started their infamous careers that way; you could read that in any book on penology. An example ought to be made. He'd bet this feller who threw the brick was a gangster.

So his twenty-two fellow grand jurymen politely permitted him to recall Officer Delany and ask him: "Say, officer, isn't it a fact—just tell us frankly now—if this feller Mathusek isn't a gangster?"

"Sure, he's a gangster. He was blowin' about it to me after I arrested him," swore Delany without hesitation.

The foreman swept the circle with a triumphant eye.

"What'd I tell you?" he demanded. "All in favor of indicting said Tony Mathusek for malicious destruction of property signify in the usual manner. Cont'r-minded? It's a vote. Ring the bell, Simmons, and bring on the next case."

So Tony was indicted by the People of the State of New York for a felony, and a learned judge of the General Sessions set his bail at fifteen hundred dollars; and Hogan had his victim where he wanted him and where he could keep him until he had bled his mother white of all she had or might ever hope to have in this world.

Everybody was satisfied—Hogan, Simpkins, Asche, McGurk, even Delany, because the fleas upon his back were satisfied and he was planning ultimately to get rid of the whole damn tangle by having the indictment quietly dismissed when nobody was looking, by his friend O'Brien, to whom the case had been sent for trial. And everything being as it should be, and Tony being locked safely up in a cell, Mr. Joey Simpkins set himself to the task of extorting three hundred and fifty dollars more from Mrs. Mathusek upon the plea that the great Mr. Hogan could not possibly conduct the case before a jury for less.

Now the relations of Mr. Assistant District Attorney O'Brien and the Hon. Raphael B. Hogan were distinctly friendly. At any rate, whenever Mr. Hogan asked for an adjournment in Mr. O'Brien's court he usually got it without conspicuous difficulty, and that is what occurred on the five several occasions that the case of *The People versus Antonio Mathusek* came up on the trial calendar during the month following Tony's incarceration, on each of which Mr. Hogan with unctuous suavety rose and humbly requested that the case be put over at his client's earnest request in order that counsel might have adequate time in which to subpoena witnesses and prepare for a defense.

And each day Simpkins, who now assumed a threatening and fearsome demeanor toward Mrs. Mathusek, visited the heartsick woman in her flat and told her that Tony could and would rot in the Tombs until such time as she procured three hundred and fifty dollars. The first week she assigned her life-insurance money; the second she pawned the furniture; until at last she owed Hogan only sixty-five dollars. At intervals Hogan told Tony that he was trying to force the district attorney to try the case, but that the latter was insisting on delay.

In point of fact, O'Brien had never looked at the papers, much less made any effort to prepare the case; if he had he would have found that there was no case at all. And Delany's mind became at peace because he perceived that at the proper psychological moment he could go to O'Brien and whisper: "Say, Mr. O'Brien, that Mathusek case. It's a turn-out! Better recommend it for dismissal," and O'Brien would do so for the simple reason that he never did any more work than he was actually compelled to do.

But as chance would have it, three times out of the five, Mr. Ephraim Tutt happened to be in court when Mr. Hogan rose and made his request for an adjournment; and he remembered it because the offense charged was such an odd one—breaking a window.

Delany's simple plan was again defeated by Nemesis, who pursued him in the shape of the rectangular Mr. Asche, and who shouldered himself into O'Brien's office during the fifth week of Tony's imprisonment and wanted to know why in hell he didn't try that Mathusek case and get rid of it. The assistant district attorney had just been called down by his official boss and being still sore was glad of a chance to take it out on someone else.

"D'you think I've nothin' better to do than try your damned old window-busting cases?" he sneered. "Who ever had the idea of indicting a boy for that sort of thing, anyhow?"

"That is no way to talk," answered Mr. Asche with firmness. "You're paid to prosecute whatever cases are sent to you. This is one of 'em. There's been too much delay. Our president will be annoyed."

"Oh, he will, will he?" retorted O'Brien, nevertheless, coming to the instant decision that he had best find some other excuse than mere disinclination. "If he gets too shirty I'll tell him the case came in here without any preparation and being in the nature of a private prosecution we've been waiting for you to earn your fee. How'll you like that, eh?"

Mr. Asche became discolored.

"H'm!" he replied softly. "So that is it, is it? You won't have that excuse very long, even if you could get away with it now. I'll have a trial brief and affidavits from all the witnesses ready for you in forty-eight hours."

"All right, old top!" nodded O'Brien carelessly. "We always strive to please!"

So Mr. Asche got busy, while the very same day Mr. Hogan asked for and obtained another adjournment.

Some people resemble animals; others have a geometrical aspect. In each class the similarity tends to indicate character. The fox-faced man is apt to be sly, the triangular man is likely to be a lump. So Mr. Asche, being rectilinear, was on the square; just as Mr. Hogan, being soft and round, was slippery and hard to hold. Three days passed, during which Mrs. Mathusek grew haggard and desperate. She was saving at the rate of two dollars a day, and at that rate she would be able to buy Tony a trial in five weeks more. She had exhausted her possibilities as a borrower. The indictment slept in O'Brien's tin file. Nobody but Tony, his mother and Hogan remembered that there was any such case, except Mr. Asche, who one afternoon appeared unexpectedly in the offices of Tutt & Tutt, the senior partner of which celebrated law firm happened to be advisory counsel to the Tornado Casualty Company.

"I just want you to look at these papers, Mr. Tutt," Mr. Asche said, and his jaw looked squarer than ever.

Mr. Tutt was reclining as usual in his swivel chair, his feet crossed upon the top of his ancient mahogany desk.

"Take a stog!" he remarked without getting up, and indicating with the toe of one Congress-booted foot the box which lay open adjacent to the Code of Criminal Procedure. "What's your misery?"

"Hell's at work!" returned Mr. Asche, solemnly handing over a sheaf of affidavits. "I never smoke."

Mr. Tutt somewhat reluctantly altered his position from the horizontal to the vertical and reached for a fresh stogy. Then his eye caught the name of Raphael B. Hogan.

"What the devil is this?" he cried.

"It's the devil himself!" answered Mr. Asche with sudden vehemence.

"Tutt, Tutt! Come in here!" shouted the head of the firm. "Mine enemy hath been delivered into mine hands!"

"Hey? What?" inquired Tutt, popping across the threshold. "Who—I mean—"

"Raphael B. Hogan!"

"The devil!" ejaculated Tutt.

"You've said it!" declared Mr. Asche devoutly.

That evening under cover of darkness Mr. Ephraim Tutt descended from a dilapidated taxi at the corner adjacent to Froelich's butcher shop, and several hours later was whisked uptown again to the brownstone dwelling occupied by the Hon. Simeon Watkins, the venerable white-haired judge then presiding in Part I of the General Sessions, where he remained until what may be described either as a very late or a very early hour, and where during the final period of his intercourse he and that distinguished member of the judiciary emptied an ancient bottle containing a sparkling rose-colored liquid of great artistic beauty.

Then Mr. Tutt returned to his own library at the house on Twenty-third Street and paced up and down before the antiquated open grate, inhaling quantities of what Mr. Bonnie Doon irreverently called "hay smoke," and pondering deeply upon the evils that men do to one another, until the dawn peered through the windows and he bethought him of the all-night lunch stand round the corner on Tenth Avenue, and there sought refreshment.

"Salvatore," he remarked to the smiling son of the olive groves who tended that bar of innocence, "the worst crook in the world is the man who does evil for mere money."

"*Si, Signor Tutti,*" answered Salvatore with Latin perspicacity. "You gotta one, eh? You giva him hell?"

"*Si! Si!*" replied Mr. Tutt cheerily. "Even so! And of a truth, moreover! Give me another hot dog and a cup of bilge water!"

"People versus Mathusek?" inquired Judge Watkins some hours later on the call of the calendar, looking quite vaguely as if he had never heard of the case before, round Part I, which was as usual crowded, hot, stuffy and smelling of unwashed linen and prisoners' lunch. "People versus Mathusek? What do you want done with this case, Mr. O'Brien?"

"Ready!" chanted the red-headed O'Brien, and, just as he had expected, the Hon. Raphael Hogan limbered up in his slow, genial way and said: "If Your Honor please, the defendant would like a few days longer to get his witnesses. Will Your Honor kindly adjourn the case for one week?"

He did not notice that the stenographer was taking down everything that he said.

"I observe," remarked Judge Watkins with apparent amiability, "that you have had five adjournments already. If The People's witnesses are here I am inclined to direct you to proceed. The defendant has been under indictment for six weeks. That ought to be long enough to prepare your defense."

"But, Your Honor," returned Hogan with pathos, "the witnesses are very hard to find. They are working people. I have spent whole evenings chasing after them. Moreover, the defendant is perfectly satisfied to have the case go over. He is anxious for an adjournment!"

"When did you last see him?"

"Yesterday afternoon."

The judge unfolded the papers and appeared to be reading them for the first time. He wasn't such a bad old actor himself, for he had already learned from Mr. Tutt that Hogan had not been near Tony for three weeks.

"Um—um! Did you represent the defendant in the police court?"

"Yes, Your Honor."

"Why did you waive examination?"

Hogan suddenly felt a lump swelling in his pharynx. What in hell was it all about?

"I—er—there was no use in fighting the case there. I hoped the grand jury would throw it out," he stammered.

"Did anybody ask you to waive examination?"

The swelling in Hogan's fat neck grew larger. Suppose McGurk or Delany were trying to put something over on him!

"No! Certainly not!" he replied unconvincingly. He didn't want to make the wrong answer if he could help it.

"You have an—associate, have you not? A Mr. Simpkins?"

"Yes, Your Honor." Hogan was pale now and little beads were gathering over his eyebrows.

"Where is he?"

"Downstairs in the magistrate's court."

"Officer," ordered the judge, "send for Mr. Simpkins. We will suspend until he can get here."

Then His Honor occupied himself with some papers, leaving Hogan standing alone at the bar trying to work out what it all meant. He began to wish he had never touched the damn case. Everybody in the courtroom seemed to be looking at him and whispering. He was most uncomfortable. Suppose that crooked cop had welshed on him! At the same instant in the back of the room a similar thought flashed through the mind of Delany. Suppose Hogan should welsh on him! Coincidentally both scoundrels turned sick at heart. Then came to each the simultaneous realization that neither could gain anything by giving the other away, and that the only thing possible for either was to stand pat. No, they must hang together or assuredly hang separately. Then the door opened and a tall officer entered, followed by a very nervous Mr. Joey Simpkins.

"Come up here!" directed the judge. "You are Mr. Hogan's assistant, are you not?"

"Yes, sir!" quavered the anxious Simpkins.

"How much money have you taken from Mrs. Mathusek?"

"Four hundred and thirty-five dollars."

"For what?" sharply.

"For protecting her son."

"Where? How?"

"Why—from his arrest to the present time—and for his defense here in General Sessions."

"Have either you or Mr. Hogan done anything as yet—except to waive examination in the police court?"

Mr. Simpkins turned hastily to Mr. Hogan, who realized that things were going badly.

"Your Honor," he interposed thickly, "this money was an agreed fee for my services as counsel. This examination seems to me somewhat uncalled for and unfair."

"Call Tony Mathusek to the bar!" suddenly ordered the judge.

It was a dangerous play, but Hogan decided to bluff it through.

"In view of the fact that I have not received my fee I shall refuse to appear for the defendant!" he announced brazenly.

"Indeed!" retorted the judge with sarcasm. "Then I will assign Mr. Ephraim Tutt to the defense. You two gentlemen will please sit down—but not leave the courtroom. We may need you."

At that moment, just as the defendant was led to the bar, Mr. Tutt emerged from behind the jury box and took his stand at Tony's side. Nothing much to look at before, the boy was less so now, with the prison pallor on his sunken little face. There was something about the thin neck, the half-open mouth and the gaunt, blinking, hollow eyes that suggested those of a helpless fledgling.

"Impanel a jury!" continued the judge, and Mr. Tutt conducted Tony inside the rail and sat down beside him at the table reserved for the defendant.

"It's all right, Tony!" he whispered. "The frame-up isn't on you this time, my lad."

Cowering in the back of the room Delany tried to hide himself among the spectators. Some devilish thing had gone wrong. He hadn't heard all that had passed between the judge and Hogan, but he had caught enough to perceive that the whole case had gone blooey.

Judge Watkins was wise! He was going after Hogan just as old Tutt would go after him, Delany. There was a singing in his head and the blood smarted in his eyes. He'd better beat it! Half bent over he started sneaking for the door.

"Who is that man trying to go out?" shouted the judge in terrifying tones that shook Delany to the ankles. Hastily he tried to sit down.

"Bring that man to the bar!"

Half blind with fear Delany attempted to make a show of bravado and swagger to the rail.

"What is your name?"

"Delany. Officer attached to the Second Precinct."

"What were you leaving the room for?"

Delany could not answer. His wits were befogged, his throat numb. He simply stared vacuously at Judge Watkins, his lips vibrating with fear.

"Sit down. No; take the stand!" cried Judge Watkins. "I'll try this case myself."

As if his foot were already attached to a ball and chain Delany dragged himself up—up—hundreds of feet up, it seemed—to the witness chair. As if from a mountain side he saw dim forms moving into the jury box, heard the judge and Mr. Tutt exchanging meaningless remarks. The faces before him grinned and gibbered at him like a horde of monkeys. They had got him at last—all for a few pieces of rotten beef! That lean, hungry wolfhound would tear his tongue out by the roots if he even opened his mouth; claw wide open his vitals. And old Tutt was fixing him with the eye of a basilisk and slowly turning him to stone. Somebody sure had welshed! He had once been in a side show at Coney Island where the room simulated the motion of an ocean steamer. The courtroom began to do the same—slanting this way and that and spinning obliquely round and round. Through the swirl of its gyrations he could see old Tutt's vulture eyes, growing bigger, fiercer, more sinister every instant. It was all up with him! It was an execution, and the crowd down below were thirsting for his blood, waiting to tear him to bits!

"You saw this boy throw a brick through Mr. Froelich's window, didn't you?" coaxed Judge Watkins insinuatingly. Delany sensed that the old white fox was trying to trick him—get him for perjury. No! He wouldn't perjure himself again! No! But what could he do? His head swung stupidly, swaying like a dazed bull's. The sweat poured from every pore in his vast bulk. A hoarse noise—like a death rattle—came from his throat. The room dissolved in waves of white and black. Then in a vertigo he toppled forward and pitched headlong to the floor.

Deacon Terry, star reporter for the *Tribune*, who happened to be there, told his city editor at noon that he had never passed such a pleasant morning. What he saw and heard really constituted, he alleged, a great big full front-page story "in a box"—though it got only four sticks on the eleventh page—being crowded out by the armistice. Why, he said, it was the damndest thing ever! There had been no evidence against the defendant at all! And after the cop had collapsed Judge Watkins had refused to dismiss the case and directed Mr. Tutt to go on in his own way.

The proceeding had resolved itself into a criminal trial of Hogan and Simpkins. Tony's good character had been established in three minutes, and then half a dozen reputable witnesses had testified that the brick had been thrown by an entirely different boy. Finally, Sussman and his assistant both swore positively that Delany had been in the back of the tobacco shop with his back to the door, holding them up for cigars, when the crash came.

Terry wanted two columns; he almost cried when they cut his great big full-page story to:

#### SHYSTERS ACCUSED OF EXTORTION

A dramatic scene was enacted at the conclusion of a minor case in Part I of the General Sessions yesterday, when upon the motion of Ephraim Tutt, of the firm of Tutt & Tutt, Judge Simeon Watkins, sitting as a committing magistrate, held for the action of the grand jury Raphael B. Hogan and Joseph P. Simpkins, his assistant, for the crime of extortion, and directed that their case be referred to the Grievance Committee of the County Lawyers' Association for the necessary action for their disbarment.

Earlier in the trial a police officer named Delany, the supposed chief witness for the prosecution, fainted and fell from the witness chair. Upon his recovery he was then and there committed for perjury, in default of ten thousand dollars bail. It is understood that he has signified his willingness to turn state's evidence, but that his offer has not been accepted. So far as can be ascertained this is the first time either Hogan or Simpkins has been accused of a criminal offense. District Attorney Peckham stated that in addition to separate indictments for extortion and perjury he would ask for another, charging all three defendants with the crime of conspiracy to obstruct the due administration of the law.

At the conclusion of the proceedings Judge Watkins permitted a voluntary collection to be taken up by Mr. Tutt on behalf of the accused among the jury, the court attendants and the spectators, which amounted to eleven hundred and eighty-nine dollars. In this connection the judge expressed the opinion that it was unfortunate that persons falsely accused of crime and unjustly imprisoned should have no financial redress other than by a special act of the legislature. The defendant in the case at bar had been locked up for six weeks. Among the contributions was found a new one-thousand-dollar bill.

"Talk about crime!" quoth the Deacon savagely to Charlie Still, of the *Sun*. "That feckless fool at the city desk committed assault, mayhem and murder on that story of mine!" Then he added pensively: "If I thought old man Tutt would slip me a thousand to soothe my injured feelings I'd go down and retain his firm myself!"

## The Kid and the Camel

*Breathes there the man with soul so dead  
Who never to himself hath said,  
This is my own, my native land!*

—LAY OF THE LAST MINSTREL.

The shortest street in the world, Edgar Street, connects New York's financial center with the Levant. It is less than fifty feet through this tiny thoroughfare from the back doors of the great Broadway office buildings to Greenwich Street, where the letters on the window signs resemble contorted angleworms and where one is as likely to stumble into a man from Bagdad as from Boston. One can stand in the middle of it and with his westerly ear catch the argot of Gotham and with his easterly all the dialects of Damascus. And if through some unexpected convulsion of Nature 51 Broadway should topple over, Mr. Zimmerman, the stockbroker, whose office is on the sixth story, might easily fall clear of the Greek restaurant in the corner of Greenwich Street, roll twenty-five yards more down Morris Street, and find himself on Washington Street reading a copy of *Al-Hoda* and making his luncheon off *baha gannouge*, *majaddarah* and *milookeiah*, which, after all, are only eggplant salad, lentils and rice, and the popular favorite known as Egyptian Combination.

To most New Yorkers this is a section of the city totally unknown and unsuspected, yet existing as in a fourth dimension within a stone's throw—and nearer—of our busiest metropolitan artery—and there within one hundred yards of the aforesaid Mr. Zimmerman's office above the electric cars of Broadway, and within earshot of the hoots of many a multimillionaire's motor, on a certain evening something of an Oriental character was doing in the hallway of a house on Washington Street that subsequently played a part in the professional lives of Tutt & Tutt.

Out of the literally Egyptian darkness of the tenement owned by Abadallah Shanin Khaldi issued curious smothered sounds, together with an unmistakable, pungent, circuslike odor.

"Whack!"

There came an indignant grunt, followed by a flabby groan and a straining and squeaking of the jerry-built staircase as Kasheed Hassoun vigorously applied a lath to the horny backsides of Eset el Gazzar.

"Ascend, dog of a dog!" panted Kasheed. "Move thy accursed feet, O wizened hump! Daughter of Satan, give me room! Thou art squeezing out my life! Only go on, child of my heart! It is but a step upward, O Queen of the Nile. Hold the rope tight, Kalil!"

The camel obediently surged forward, breaking off a section of banister. Through the racket from the hallway above faintly came the voice of Kalil Majdalain.

"Her head is free of the ceiling. Quick, Kasheed! Turn her, thou, upon the landing!"

"Whack!" responded the lath in the hand of Kasheed Hassoun.

Step by step the gentle shaggy brute felt her way with feet, knees and nozzle up the narrow staircase. What was this but another of those bizarre experiences which any camel-of-the-world must expect in a land where the water wells squirted through a tube and men rode in chariots driven by fire?

"Whack!"

"Go on, darling of my soul!" whispered Kasheed. "Curses upon thy father and upon the mother that bore thee! Wilt thou not move?"

"Whack!"

"Ouch! She devil! Thou hast trod upon my foot!"

Outside, that the Western world might not suspect what was going on, Shaheen Mahfous and Shanin Saba unloaded with as much noise as possible a dray of paper for Meraat-ul-Gharb, the Daily Mirror. By and by a window on the fourth floor opened and the head of Kalil Majdalain appeared.

"*Mahabitcum!*" he grinned; which, being interpreted, means "Good fellowship to all!"

Then presently he and Kasheed joined the others upon the sidewalk, and, the rolls of paper having been delivered inside the pressroom, the four Syrians climbed upon the truck and drove to the restaurant of Ghabryel & Assad two blocks farther north, where they had a bit of *awamat*, coffee and cigarettes, and then played a game of cards, while in the attic of the tenement house Eset el Gazzar munched a mouthful of hay and tapped her interior reservoir for a drink of clear water, as she sighed through her valvelike nostrils and pouted with her cushioned lips, pondering upon the vagaries of quadrupedal existence.

Willie Toothaker, the office boy of Tutt & Tutt, had perfected a catapult along the lines of those used in the Siege of Carthage—form derived from the appendix of Allen and Greenough's Latin Grammar—which boded ill for the truck drivers of lower Gotham.

Since his translation from Pottsville Center, Willie's inventive genius had worked something of a transformation in the Tutt & Tutt offices, for he had devised several labor-saving expedients, such as a complicated series of pulleys for opening windows and automatically closing doors without getting up; which, since they actually worked, Mr. Tutt, being a pragmatist, silently, patiently and good-naturedly endured. To-day both partners were away in court and Willie had the office to himself with the exception of old Scraggs.

"Bet it'll shoot a block!" asserted Willie, replacing his gum, which he had removed temporarily to avert the danger of swallowing it in his excitement. "Caesar used one just like this—only bigger, of course. See that scuttle over on Washington Street? Bet I can hit it!"

"Bet you can't come within two hundred feet of it!" retorted the watery-eyed scrivener. "It's a lot further'n you think."

"'Tain't neither!" declared Willie. "I know how far it is! What can we shoot?"

Scraggs' eye wandered aimlessly round the room.

"Oh, I don't know."

"Got to be something with heft to it," said Willie. "'S got to overcome the resistance of the atmosphere."

"How about that paperweight?"

"'S too heavy."

"Well—"

"I know!" exclaimed William suddenly. "Gimme that little bottle of red ink. 'S just about right. And when it strikes it'll make a mark so's we can tell where we hit—like a regular target."

Scraggs hesitated.

"Ink costs money," he protested.

"But it's just the thing!" insisted Willie. "Besides, you can charge me for it in the cash account. Give it here!"

Conscience being thus satisfied the two eagerly placed the ink bottle in the proper receptacle, which Willie had fashioned out of a stogy box, twisted back the bow and aimed the apparatus at the slanting scuttle, which projected from a sort of penthouse upon the roof of the tenement house across the street.

"Now!" he exclaimed ecstatically. "Stand from under, Scraggs!"

He pressed a lever. There was a whang, a whistle—and the ink bottle hurtled in a beautiful parabola over Greenwich Street.

"Gee! look at her go!" cried Willie in triumph. "Straight's a string."

At exactly that instant—and just as the bottle was about to descend upon the penthouse—the scuttle opened and there was thrust forth a huge yellow face with enormous sooty lips wreathed in an

unmistakable smile. On the long undulating neck the head resembled one of the grotesque manikins carried in circus parades. Eset el Gazzar in a search for air had discovered that the attic scuttle was slightly ajar.

"Gosh! A camel!" gasped Willie.

"Lord of love!" ejaculated Scraggs. "It sure is a camel!"

There was a faint crash and a tinkle of glass as the bottle of red ink struck the penthouse roof just over the beast's head and deluged it with its vermilion contents. Eset reared, shook her neck, gave a defiant grunt and swiftly withdrew her head into the attic.

Sophie Hassoun, the wife of Kasheed, seeing the violent change in Eset's complexion, wrung her hands.

"What hast thou done, O daughter of devils? Thou art bleeding! Thou hast cut thyself! Alack, mayhap thou wilt die, and then we shall be ruined! Improvident! Careless one! Cursed be thy folly! Hast thou no regard? And I dare not send for Doctor Koury, the veterinary, for then thy presence would be discovered and the gendarmes would come and take thee away. Would that we had left thee at Coney Island! O, great-granddaughter of Al Adha—sacred camel of the Prophet—why hast thou done this? Why hast thou brought misery upon us? *Awar! Awar!*"

She cast herself upon the improvised divan in the corner, while Eset, blinking, licked her big yellow hind hump, and tumbled forward upon her knees preparatory to sitting down herself.

"A camel!" repeated Willie, round-eyed. He counted the roofs dividing the penthouse from where Morris Street bisected the block. "Whoop!" he cried and dashed out of the office.

In less than four minutes Patrolman Dennis Patrick Murphy, who was standing on post on Washington Street in front of Nasheen Zereik's Embroidery Bazaar talking to Sardi Babu, saw a red-headed, pug-nosed urchin come flying round the corner.

"One—two—three—four—five. That's the house!" cried Willie Toothaker. "That's it!"

"What yer talkin' 'bout?" drawled Murphy.

"There's a camel in there!" shouted Willie, dancing up and down.

"Camel—yer aunt!" sneered the cop. "They couldn't get no camel in there!"

"There is! I seen it stick its head out of the roof!"

Sardi Babu, the oily-faced little dealer in pillow shams, smiled slyly. He had thick black ringlets, parted exactly down the middle of his scalp, hanging to his shoulders, and a luxuriant black curly beard reaching to his middle; in addition to which he wore a blue blouse and carpet slippers. He was a Maronite from Lebanon, and he and his had a feud with Hassoun, Majdalain, and all others who belonged to the sect headed by the Patriarch of Antioch.

"*Belki!*" he remarked significantly. "Perhaps his words are true! I have heard it whispered already by Lillie Nadowar, now the wife of Butros the confectioner. Moreover, I myself have seen hay on the stairs."

"Huh?" exclaimed Murphy. "We'll soon find out. Come along you, Babu! Show me where you was seein' the hay."

By this time those who had been lounging upon the adjacent doorstep had come running to see what was the matter, and a crowd had gathered.

"It is false—what he says!" declared Gadas Maloof the shoemaker. "I have sat opposite the house day and night for ten—fifteen years—and no camel has gone in. Camel! How could a camel be got up such narrow stairs?"

"But thou art a friend of Hassoun's!" retorted Fajala Mocarzel the grocer. "And," he added in a lower tone, "of Sophie Tadros, his wife."

There was a subdued snicker from the crowd, and Murphy inferred that they were laughing at him.

"But this man," he shouted wrathfully, pointing at Sardi Babu, "says you all know there's a camel up there. An' this kid's seen it! Come along now, both of you!"

There was an angry murmur from the crowd. Sardi Babu turned white.

"I said nothing!" he declared, trembling. "I made no complaint. The gendarme will corroborate me. What care I where Kasheed Hassoun stables his camel?"

Maloof shouldered his way up to him, and grasping the Maronite by the beard muttered in Arabic: "Thou dog! Go confess thy sins! For by the Holy Cross thou assuredly hast not long to live!"

Murphy seized Babu by the arm.

"Come on!" he ordered threateningly. "Make good now!" And he led him up the steps, the throng pressing close upon his heels.

"What's all this?" inquired Magistrate Burke bewilderedly an hour later as Officer Murphy entered the police court leading a tall Syrian in a heavy overcoat and green Fedora hat, and followed by several hundred black-haired, olive-skinned Levantines. "Don't let all those Dagos in here! Keep 'em out! This ain't a moving-picture palace!"

"Them ain't Dagos, judge," whispered Rooney the clerk. "Them's Turks."

"They ain't neither Turks!" contradicted the stenographer, whose grammar was almost sublimated by comparison with Rooney's. "They're Armenians—you can tell by their complexions."

"Well, I won't have 'em in here, whatever they are!" announced Burke. "I don't like 'em. What have you got, Murphy?"

"Shoo! Get out of here!" ordered the officer on duty.

The crowd, however, not understanding, only grinned.

"*Avanti! Alley! Mouch!* Beat it!" continued the officer, waving his arms and hustling those nearest toward the door.

The throng obediently fell back. They were a gentle, simple-minded lot, used in the old country to oppression, blackmail and tyranny, and burning with a religious fervor unknown to the pale heterodoxy of the Occident.

"This here," began Murphy, "is a complaint by Sardi Babu"—he swung the cowering little man with a twist before the bench—"against one Kasheed Hassoun for violating the health ordinances."

"No, no! I do not complain! I am not one who complains. It is nothing whatever to me if Kasheed Hassoun keeps a camel! I care not," cried Babu in Arabic.

"What's he talkin' about?" interrupted Burke. "I don't understand that sort of gibberish."

"He makes the complaint that this here Hassoun"—he indicated the tall man in the overcoat—"is violating Section 1093d of the regulations by keeping a camel in his attic."

"Camel!" ejaculated the magistrate. "In his attic!"

Murphy nodded.

"It's there all right, judge!" he remarked. "I've seen it."

"Is that straight?" demanded His Honor. "How'd he get it up there? I didn't suppose—"

Suddenly Sardi Babu threw himself fawning upon Hassoun.

"Oh, Kasheed Hassoun, I swear to thee that I made no complaint. It is a falsification of the gendarme! And there was a boy—a red and yellow boy—who said he had seen thy camel's head above the roofs! I am thy friend!"

He twisted his writhing snakelike fingers together. Hassoun regarded him coldly.

"Thou knowest the fate of informers and provocateurs—of spies—thou infamous Turk!" he answered through his teeth.

"A Turk! A Turk!" shrieked Sardi Babu frantically, beating the breast of his blue blouse. "Thou callest me a Turk! Me, the godson of Sarkis Babu and of Elias Stephan—whose fathers and grandfathers were Christians when thy family were worshipers of Mohammed. Blasphemy! Me, the godson of a bishop!"

"I also am godson of a bishop!" sneered Kasheed. "A properly anointed bishop! Without Tartar blood."

Sardi Babu grew purple.

"Ptha! I would spit upon the beard of such a bishop!" he shrieked, beside himself.

Hassoun slightly raised his eyebrows.

"Spit, then, infamous one—while thou art able!"

"Here, here!" growled Burke in disgust. "Keep 'em still, can't you? Now, what's all this about a camel?"

"That's the very scuttle, sir," asseverated Scraggs to the firm, as Tutt & Tutt, including Miss Wiggin, gazed down curiously out of their office windows at the penthouse upon the Washington Street roof which had been Willie's target of the day before. "I don't say," he continued by way of explanation, "that the camel stuck his head out because Willie hit the roof with the bottle—it was probably just a circumstance—but it looked that way. 'Bing!' went the ink bottle on the scuttle; and then—pop!—out came the camel like a jack-in-the-box."

"What became of the camel?" inquired Miss Wiggin, cherishing a faint hope that—pop!—it might suddenly appear again in the same way.

"The police took it away last night—lowered it out of the window with a block and tackle," answered the scrivener. "A sort of breeches buoy."

"I've heard of camel's-hair shawls but not of camel's-hair breeches!" murmured Tutt. "I suppose if a camel wore pants—well, my imagination refuses to contemplate the spectacle! Where's Willie?"

"He hasn't been in at all this morning!" said Miss Wiggin. "I'll warrant—"

"What?" demanded Mr. Tutt suspiciously.

"—he's somewhere with that camel," she concluded.

Now, Miss Minerva, as her name connoted, was a wise woman; and she had reached an unerring conclusion by two different and devious routes, to wit, intuition and logic, the same being the high road and low road of reason—high or low in either case as you may prefer. Thus logic: Camel—small boy. Intuition: Small boy—camel. But there was here an additional element—a direct personal relationship between this particular small boy and this particular camel, rising out of the incident of the ink bottle. She realized that that camel must have acquired for William a peculiar quality—almost that of a possession—in view of the fact that he had put his mark upon it. She knew that Willie could no more stay away from the environs of that camel than said camel could remain in that attic. Indeed we might go on at some length expounding further this profound law of human nature that where there are camels there will be small boys; that, as it were, under such circumstances Nature abhors an infantile vacuum.

"If I know him, he is!" agreed Mr. Tutt, referring to William's probable proximity to Eset el Gazzar.

"Speaking of camels," said Tutt as he lit a cigarette, "makes me think of brass beds."

"Yes," nodded his partner. "Of course it would, naturally. What on earth do you mean?"

"I mean this," began Tutt, clearing his throat as if he were addressing twelve good and true men—"a camel is obviously an unusual—not to say peculiar—animal to be roosting over there in that attic. It is an exotic—if I may use that term. It is as exotic as a brass bed from Connecticut would be, or is, in Damascus or Lebanon. Now, therefore, a camel will as assuredly give cause for trouble in New York as a brass bed in Bagdad!"

"The right thing often makes trouble if put in the wrong place," pondered Mr. Tutt.

"Or the wrong thing in the right place!" assented Tutt. "Now all these unassimilated foreigners —"

"What have they got to do with brass beds in Lebanon?" challenged Miss Wiggin.

"Why," continued Tutt, "I am credibly informed that the American brass bed—particularly the double bed—owing to its importation into Asia Minor was the direct cause of the Armenian massacres."

"Tosh!" said Miss Wiggin.

"For a fact!" asserted Tutt. "It's this way—an ambassador told me so himself—the Turks, you know, are nuts on beds—and they think a great big brass family bed such as—you know—they're in all the department-store windows. Well, every Turk in every village throughout Asia Minor saves up his money to buy a brass bed—like a nigger buys a cathedral clock. Sign of superiority. You get me? And it becomes his most cherished household possession. If he meets a friend on the street he says to him naturally and easily, without too much conscious egotism, just as an American might say, 'By the way, have you seen my new limousine?'—he says to the other Turk, 'Oh, I say, old chap, do you happen to have noticed my new brass bed from Connecticut? They just put it off the steamer last week at Aleppo. Fatima's taking a nap in it now, but when she wakes up—'"

"What nonsense!" sniffed Miss Wiggin.

"It's not nonsense!" protested the junior partner. "Now listen to what happens. Some Armenian—the Armenians are the pawnbrokers of Asia Minor—moves into that village and in three months he has a mortgage on everything in it, including that brass bed. Then the Turkish Government, which regards him as an undesirable citizen, tells him to move along; and Mister Armenian piles all the stuff the inhabitants have mortgaged to him into an oxcart and starts on his way, escorted by the Sultan's troops. On top of the load is Yusuf Bulbul Ameer's brass bed. Yusuf looks out of his doorway and sees the bed moving off and rushes after it to protect his property.

"Look here!" he shouts. 'Where are you going with my brass bed?'

"It isn't yours!" retorts Mister Pawnbroker. 'It's mine. I loaned you eighty-seven piasters on it!'

"But I've got an equity in it! You can't take it away!"

"Of course I can!" replies the Armenian. 'Where I goeth it will go. The Turkish Government is responsible.'

"Not much," says Yusuf, grabbing hold of it, trying to pull it off the cart.

"Hands off there!" yells the Armenian.

"Then there is a mix-up and everybody piles in—and there is a massacre!"

"That's a grand yarn!" remarked Mr. Tutt. "Still, it may be—"

"Bunk!" declared Miss Wiggin. "And what has that got to do with camels?"

"My point is," affirmed Tutt, waving his index finger—"my point is that just as a Yankee brass bed in Turkey will make certain trouble, so a Turkish camel in New York is bound to do the same thing."

A door slammed behind them and Willie's voice interrupted the conversation.

"Mr. Tutt! Mr. Tutt!" he cried hysterically. "There's been a murder down there—and we—I'm—partly responsible. I spent the night with the camel and he's—she's—all right—in Regan's Boarding Stable. But Kasheed is in the Tombs, and I told them you'd defend him. You will, won't you?"

Mr. Tutt looked at the excited boy.

"Who killed whom?" he asked correctly. "And where does the camel come in?"

"Somebody killed Sardi Babu," explained Willie. "I don't know exactly who did it—but they've arrested Kasheed Hassoun, the owner of Eset el Gazzar."

"Who?" roared Tutt.

"The camel. You see, nobody knew she was in the attic until I saw her stick her head out of the hole in the roof. Then I told Murphy and he went up and found her there. But Kasheed thought Sardi had told on him, you see, and nobody would believe him when he said he hadn't. The judge fined Kasheed twenty-five dollars, and he—Kasheed—accused Sardi of being a Turk and they had a big row right there in court. Nothing happened until the cops had got Eset out of the window and she was over at Regan's. I stayed there. Her head is bright red from the ink, you know. Then somebody

went over to the restaurant where Sardi was and killed him. So you see, in a way, I'm to blame, and I didn't think you'd mind defending Kasheed, because he's a corker and if they electrocute him Eset will starve to death."

"I see," said Mr. Tutt thoughtfully. "You think that by rights if anybody was going to get killed it ought to have been you?"

Willie nodded.

"Yes, sir," he assented.

And that is how a camel was the moving cause of the celebrated firm of Tutt & Tutt appearing as counsel in the case of The People against Kasheed Hassoun, charged with the crime of murder in the first degree for having taken the life of Sardi Babu with deliberation and premeditation and malice aforethought and against the peace of the People of the State of New York.

"And then there's this here Syrian murder case," groaned the chief clerk of the district attorney's office plaintively to his chief. "I don't know what to do with it. The defendant's been six months in the Tombs, with all the Syrian newspapers hollering like mad for a trial. He killed him all right, but you know what these foreign-language murder cases are, boss! They're lemons, every one of 'em!"

"What's the matter with it?" inquired the D.A. "It's a regular knock-down-and-drag-out case, isn't it? Killed him right in a restaurant, didn't he?"

"Sure! That part of it's all right," assented the chief clerk. "He killed him—yes! But how are you going to get an American jury to choose between witnesses who are quite capable of swearing that the corpse killed the defendant. How in hell can you tell what they're talking about, anyway?"

"You can't!" said the D.A. "Send the papers in to Pepperill and tell him on the side it'll make him famous. He'll believe you."

"But it'll take ten weeks to try it!" wailed the chief clerk.

"Well, send it down to old Wetherell, in Part Thirteen. He's got the sleeping sickness and it will be sort of soothing for him to listen to."

"Might wake him up?" suggested the other.

"You couldn't!" retorted the D.A. "What's the case about, anyhow?"

"It's about a camel," explained the subordinate hesitatingly.

The D.A. grinned. Said he: "It is easier for a camel to go through the eye of a needle than for a just prosecutor to convict a Syrian of murder. Well, old top, send for a couple of dozen Korans and hire rooms for the jury over Kaydoub, Salone & Dabut's and turn 'em loose on *kibbah arnabeiah*, *kashtah* and *halawee*."

Mr. William Montague Pepperill was a very intense young person, twenty-six years old, out of Boston by Harvard College. He had been born beneath the golden dome of the State House on Beacon Street, and from the windows of the Pepperill mansion his infant eyes had gazed smugly down upon the Mall and Frog Pond of the historic Common. There had been an aloof serenity about his life within the bulging front of the paternal residence with its ancient glass window panes—faintly tinged with blue, just as the blood in the Pepperill veins was also faintly tinged with the same color—his unimpeachable social position at Hoppy's and later on at Harvard—which he pronounced Haavaad—and the profound respect in which he was held at the law school in Cambridge, that gave Mr. W. Montague Pepperill a certain confidence in the impeccability of himself, his family, his relatives, his friends, his college, his habiliments and haberdashery, his deportment, and his opinions, political, religious and otherwise.

For W.M.P. the only real Americans lived on Beacon Hill, though a few perhaps might be found accidentally across Charles Street upon the made land of the Back Bay. A real American must necessarily also be a graduate of Harvard, a Unitarian, an allopath, belong to the Somerset Club and date back ancestrally at least to King Philip's War. W. Montague had, however, decided early in life that Boston was too small for him and that he owed a duty to the rest of the country.

So he had condescended to New York, where through his real American connections in law, finance and business he had landed a job in a political office where the aristocrats were all either Irish, Jews or Italians, who regarded him as an outlandish animal. It had been a strange experience for him. So had the discovery that graft, blackmail, corruption, vice and crime were not mere literary conventions, existing only for the theoretical purposes of novelists and playwrights, but were actualities frequently dealt with in metropolitan society. He had secured his appointment from a reform administration and he had been retained as a holdover by Peckham, the new district attorney, by reason of the fact that his uncle by marriage was a Wall Street banker who contributed liberally without prejudice to both political parties. This, however, W.M.P. did not know, and assumed that he was allowed to keep his four-thousand-dollar salary because the county could not get on without him. He was slender, wore a mouse-colored waistcoat, fawn tie and spats, and plastered his hair neatly down on each side of a glossy cranium that was an almost perfect sphere.

"Ah! Mr. William Montague Pepperill, I believe?" inquired Mr. Tutt with profound politeness from the doorway of W.M.P.'s cubicle, which looked into the gloomy light shaft of the Criminal Courts Building.

Mr. Pepperill finished what he was writing and then looked up.

"Yes," he replied. "What can I do for you?"

He did not ask Mr. Tutt his name or invite him to sit down.

The old lawyer smiled. He liked young men, even conceited young men; they were so enthusiastic, so confident, so uncompromising. Besides, W.M.P. was at heart, as Mr. Tutt perceived, a high-class sort of chap. So he smiled.

"My name is Tutt," said he. "I am counsel for a man named Hassoun, whom you are going to try for murder. You are, of course, perfectly familiar with the facts."

He fumbled in his waistcoat, produced two withered stogies and cast his eye along the wall.

"Would you—mind—if I sat down? And could I offer you a stogy?"

"Sit down—by all means," answered W.M.P. "No, thanks!"—to the stogy.

Mr. Tutt sat down, carefully placed his old chimney pot upside down on the window ledge, and stacked in it the bundle of papers he was carrying.

"I thought you might forgive me if I came to talk over the case a little with you. You see, there are so many things that a prosecutor has to consider—and which it is right that he should consider." He paused to light a match. "Now in this case, though in all probability my client is guilty there is practically no possibility of his being convicted of anything higher than manslaughter in the first degree. The defense will produce many witnesses—probably as many as the prosecution. Both sides will tell their stories in a language unintelligible to the jury, who must try to ascertain the true inwardness of the situation through an interpreter. They will realize that they are not getting the real truth—I mean the Syrian truth. As decent-minded men they won't dare to send a fellow to the chair whose defense they cannot hear and whose motives they do not either know or understand. They will feel, as I do and perhaps you do, that the only persons to do justice among Syrians are Syrians."

"Well," replied Mr. Pepperill politely, "what have you to propose?"

"That you recommend the acceptance of a plea of manslaughter in the second degree."

Deputy Assistant District Attorney William Montague Pepperill drew himself up haughtily. He regarded all criminal practitioners as semicrooks, ignorant, illiterate, rather dirty men—not in the real American class.

"I can do nothing of the kind," he answered sternly and very distinctly. "If these men seek the hospitality of our shores they must be prepared to be judged by our laws and by our standards of morality. I do not agree with you that our juridical processes are not adequate to that purpose. Moreover, I regard it as unethical—un-eth-i-cal—to accept a plea for a lesser degree of crime than that which the defendant has presumptively committed."

Mr. Tutt regarded him with undisguised admiration.

"Your sentiments do you honor, Mr. Pepperill!" he returned. "You are sure you do not mind my smoke? But of course my client is presumed innocent. I am very hopeful—almost confident—of getting him off entirely. But rather than take the very slight chance of a conviction for murder I am letting discretion take the place of valor and offer to have him admit his guilt of manslaughter."

"I guess," answered Pepperill laconically, indulging in his only frequent solecism, "that you wouldn't offer to plead to manslaughter unless you felt pretty sure your client was going to the chair! Now—"

Mr. Tutt suddenly rose.

"My young friend," he interrupted, "when Ephraim Tutt says a thing man to man—as I have been speaking to you—he means what he says. I have told you that I expected to acquit my client. My only reason for offering a plea is the very slight—and it is a very slight—chance that an Arabian quarrel can be made the basis of a conviction for murder. When you know me better you will not feel so free to impugn my sincerity. Are you prepared to entertain my suggestion or not?"

"Most certainly not!" retorted W.M.P. with the shadow of a sneer.

"Then I will bid you good-day," said Mr. Tutt, taking his hat from the window ledge and turning to the door. "And—you young whippersnapper," he added when once it had closed behind him and he had turned to shake his lean old fist at the place where W.M.P. presumably was still sitting, "I'll show you how to treat a reputable member of the bar old enough to be your grandfather! I'll take the starch out of your darned Puritan collar! I'll harry you and fluster you and heckle you and make a fool of you, and I'll roll you up in a ball and blow you out the window, and turn old Hassoun loose for an Egyptian holiday that will make old Rome look like thirty piasters! You pinheaded, pretentious, pompous, egotistical, niminy-piminy—"

"Well, well, Mr. Tutt, what's the matter?" inquired Peckham, laying his hand on the old lawyer's shoulder. "What's Peppy been doing to you?"

"It isn't what he's been doing to me; it's what I'm going to do to him!" returned Mr. Tutt grimly. "Just wait and see!"

"Go to it!" laughed the D.A. "Eat him alive! We're throwing him to the lions!"

"No decent lion would want him!" retorted Mr. Tutt. "He might maul him a little, but I won't. I'm just going to give him a full opportunity to test his little proposition that the institutions of these jolly old United States are perfectly adapted to settle quarrels among all the polyglot prevaricators of the world and administer justice among people who are still in a barbarous or at least in a patriarchal state. He's young, and he don't understand that a New York merchant is entirely too conscientious to find a man guilty on testimony that he would discount heavily in his own business."

"Go as far as you like," laughed Peckham.

"Oh, I'm only going as far as Bagdad," answered Mr. Tutt.

Deputy Assistant District Attorney Pepperill complacently set about the preparation of his case, utterly unconscious of the dangers with which his legal path was beset. As he sat at his shiny oaken desk and pressed the button that summoned the stenographer it seemed to him the simplest thing in the world to satisfy any jury of what had taken place and the summit of impudent audacity on the part of Mr. Tutt to have suggested that Hassoun should be dealt with otherwise than a first-degree murderer. And it should be added parenthetically that W.M.P., in spite of his New England temperament, had a burning ambition to send somebody to the electric chair.

In truth, on its face the story as related by Fajala Mokarzel and the other friends of Sardi Babu the deceased pillow-sham vender was simplicity itself. Besides Sardi Babu and Mokarzel there had been Nicola Abbu, the confectioner; Menheem Shikrie, the ice-cream vendor; Habu Kahoots, the showman; and David Elias, a pedler. All six of them, as they claimed, had been sitting peacefully in Ghabryel & Assad's restaurant, eating *kibbah arnabeiah* and *mamoul*. Sardi had ordered *sheesh kabab*. It was about nine o'clock in the evening, and they were talking politics and drinking coffee and smoking cigarettes.

Suddenly Kasheed Hassoun, accompanied by a smaller and much darker man, had entered and striding up to the table exclaimed in a threatening manner: "Where is he who did say that he would spit upon the beard of my bishop?"

Thereupon Sardi Babu had risen and answered: "Behold, I am he."

Immediately Kasheed Hassoun, and while his accomplice held them at bay with a revolver, had leaned across the table and grabbing Sardi by the throat had broken his neck. Then the smaller man had fired off his pistol and both of them had run away. The simplest story ever told. There was everything the law required to send any murderer to the chair, and little Mr. Pepperill had a diagram made of the inside of the restaurant and a photograph of the outside of it, and stamped the indictment in purple ink: Ready for Trial.

Contemporaneously Mr. Tutt was giving his final instructions to Mr. Bonnie Doon, his stage manager, director of rehearsals and general superintendent of arrangements in all cases requiring an extra-artistic touch.

"It's too bad we can't cart a few hundred cubic feet of the Sahara into the court room and divert the Nile down Center Street, but I guess you can produce sufficient atmosphere," he said.

"I could all right—if I had a camel," remarked Bonnie.

"Atmosphere is necessary," continued Mr. Tutt. "Real atmosphere! Have 'em in native costume—beads, red slippers, hookahs, hoochi-koochis."

"I get you," replied Mr. Doon. "You want a regular Turkish village. Well, we'll have it all right. I'll engage the entire Streets of Cairo production from Coney and have Franklin Street crowded with goats, asses and dromedaries. I might even have a caravan pitch its tents alongside the Tombs."

"You can't lay it on too strong," declared Mr. Tutt. "But you don't need to go off Washington Street. And, Bonnie, remember—I want every blessed Turk, Greek, Armenian, Jew, Arab, Egyptian and Syrian that saw Sardi Babu kill Kasheed Hassoun."

"You mean who saw Kasheed Hassoun kill Sardi Babu," corrected Bonnie.

"Well—whichever way it was," agreed Mr. Tutt.

When at length the great day of the trial arrived Judge Wetherell, ascending the bench in Part Thirteen, was immediately conscious of a subtle Oriental smell that emanated from no one could say where, but which none the less permeated the entire court room. It seemed to be a curious compound of incense, cabbage, garlic and eau de cologne, with a suggestion of camel. The room was entirely filled with Syrians. One row of benches was occupied by a solemn group of white-bearded patriarchs who looked as if they had momentarily paused on a pilgrimage to Mecca. All over the room rose the murmur of purring Arabic. The stenographer was examining a copy of Meraat-ul-Gharb, the clerk a copy of El Zeman, and in front of the judge's chair had been laid a copy of Al-Hoda.

## **Конец ознакомительного фрагмента.**

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