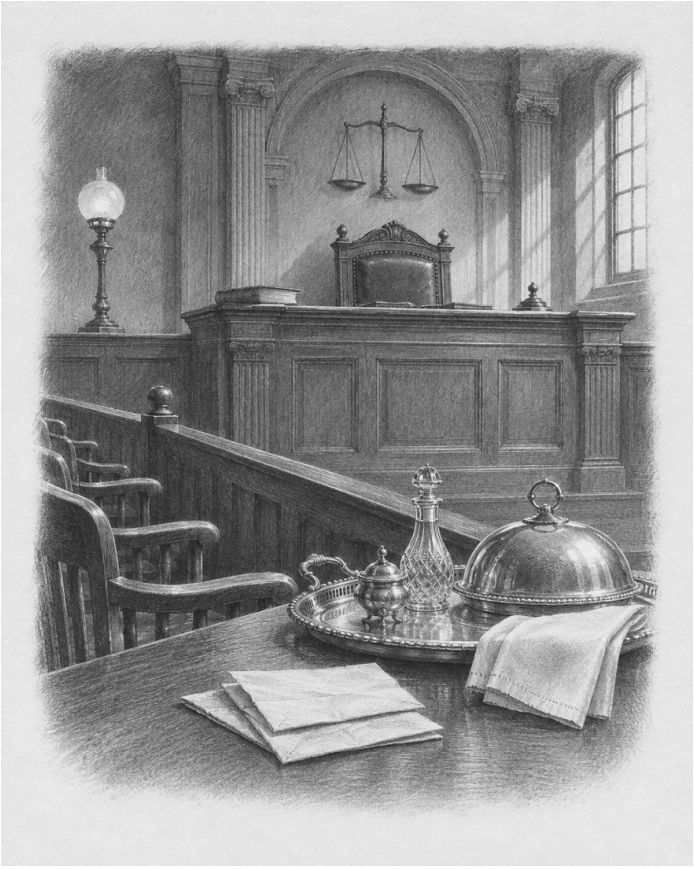
PIPCUB EDITIONS

Only Seven Were Hanged

Stuart Martin

THE AUTHOR



Stuart Martin

Author vignette inspired by the published work.

ABOUT THE AUTHOR

Stuart Martin

Stuart Martin wrote crime fiction for readers drawn to mystery, danger and the consequences of concealed actions. Only Seven Were Hanged is one of the books associated with his name.

In this kind of fiction, a witness's account becomes an event in its own right. Who speaks, who is believed and what a listener fails to notice can change the meaning of a crime long after it takes place.

Only Seven WERE HANGED

by

Stuart Martin

Author of
"The Fifteen Cells," etc.

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ONLY SEVEN WERE HANGED

CHAPTER I

The Clue Club Debates Murder

The chairman of the Clue Club called for silence.

The repeated tap of his wand of office on the polished table stilled the tongues of the members and caused every eye to be focused on the heavy figure who presided.

It was not a large club, barely twenty names being on the subscription list; but it was a very exclusive one. This, their monthly meeting, had fallen on Christmas Eve and the proceedings were entirely formal. The dinner had been consumed and the dishes cleared off; only a few details had to be carried through, and the remainder of the evening was to be spent in seasonable cheerfulness.

Snow was falling in a thin whiffling way on the streets outside. The ground was hard with frost.

All was cozy indoors. A big fire crackled in the grate. A shaded cluster of electric globes hanging from the center of the ceiling and suspended above the long table thrust a wide circle of brilliant light toward the floor. Beyond this radius the room was in pleasant twilight.

Apart from the members very few people were aware that such a club existed. It had been born of the subtle fascination crime has always had for human beings but has only recently been frankly admitted.

Wherever men live to govern, or be governed, they have formed clubs. But in a clubland that has become bewildering the Clue Club maintained an originality that was remarkable because of its simplicity. To become a member one had to affect an interest in crime and clues.

Such singleness of qualification and purpose was something of an ironical gesture toward the political clubs where politics were rarely mentioned, the professional clubs where there were no professions,

the social clubs where everyone was unsociable, the sectarian and non-sectarian clubs where sect treason and dogmatic cliques, respectively, reigned.

The members of the Clue Club were convinced that their directness of objective—for all original ideas are copied—was responsible for the Club of Honest Men in Chicago, the Truth-in-Advertising slogan, the British Premier's inspired belief—after he had read the speeches of his Cabinet members—in the many-sidedness of sincerity, the international plan to outlaw war, and the simplicity of Einstein's theory of relativity.

The members of the Clue Club were definitely interested in clues and crime. Their interest might be legal, pathological, sociological, professional, even casual, but it existed in every case. Yet, strangely enough, no official or other detective was a member. No murderer, no convict, ever told his experiences of prison or voiced his estimate of the law. The object of the club was simply to talk about crime—which, of course, involved talk about criminals—to analyze it, to classify its manifestations, to examine clues revealed by prosecutions, to suggest clues (within the privacy of the club premises) in cases where no clues existed, and to explain, if possible, the origin and phenomena of crime in the abstract and in the particular.

The members were chiefly professional men—that is, outside the criminal profession—from both sides of the Atlantic who could compare crime as America and England knew it. This comparison, let it be admitted, revealed a striking similarity in the objects of criminals; but it also revealed an adroitness and, in many cases, a resurprise, on the part of the American criminal which his English brother lacked. Yet this was proved, after analysis, to be no real cause for congratulation of one another by American evildoers, for the majority of their most brilliant criminals were British born, and Britain was willing to erase their names from her census, while Ellis Island had not woven a net fine enough to prevent their penetration into the United States. The members of the Clue Club, therefore, with sound common sense, came to the conclusion that crime was

international in its nature, though it might acquire characteristics from its environment. This conclusion was a sort of compromise that avoided rivalries for notoriety.

It has been said that the club membership was mainly composed of professional men. There were lawyers, actors, artists, doctors, surgeons, psychologists, politicians, novelists. There was one clergyman. Each looked at crime from his own viewpoint. They went to criminal trials of national and international interest; they haunted the courts during the hearing of murder cases. All were, humanly enough, profoundly stirred by, and more interested in, murder than any other form of crime. Then, while the cases were "on," and after they were finished and the verdicts announced, the members gathered at the club, where the lawyers discussed the opposing counsel's arguments, the actors considered the facial and bodily agonies of the accused that they might copy them on the stage, the artists showed sketches they had made (by stealth when permission was refused to sketch openly), the doctors and surgeons talked of medico-chirurgical aspects, the psychologists pretended to explain mental reactions, the politicians insisted on the government's duty to the public, the novelists sought for plots. The clergyman quoted Scripture.

Only two men in the club maintained attitudes of detachment from the general considerations and conclusions. These two were the chairman who presided at the gatherings and the waiter who filled the glasses of the members.

The chairman's reluctance to participate in the discussions was respected, being recognized as based on two good reasons. Firstly, he was a Criminal Court judge, one who wore the scarlet robe—emblem of blood!—and impartially sent men (and women, too) to the scaffold or to prison, according to the law and the findings of juries. Being a judge of eminence, it would have been too much to hope that he should descend to ordinary discussions around a table. Secondly, being an authority on law, he made an ideal president. His heavy, judicial manner was just what was expected of him. His massive face, much longer than it was broad, was made up of features that spoke the legal mind in every particular. From chin to brow there were furrows and lines caused by straining to catch

counsel's pleadings in his court; so that speakers never were sure whether he was smiling to them or at them, or whether he was encouraging them or luring them on in order, at a given moment, to crush them with a word. Prisoners had been misled, counsel had been snubbed, juries had been bewildered by misinterpreting this expression which was an excellent mask. The Clue Club regarded him as their greatest asset.

As for the waiter, no one expected him to be other than a waiter. But here there was a touch which no member could personally supply. The waiter had had a taste of prison. His presence was an ever-present reminder of the object of the organization.

On this evening, however, the ex-prisoner was not present. He had found himself suddenly indisposed and a substitute had come who appeared to be quite as able and as willing to carry out the duties of servant.

"Gentlemen," said the president, gravely, "it is time we opened the proceedings."

As he spoke he laid aside the curious, knobbed stick with which he had called for silence.

The new waiter moved silently out of the shadow behind the presidential chair and lifted the stick, bearing it to the sideboard at the head of the room, where he laid it down on two tiny trestles. This was part of the usual custom, a detail of the ceremony that took place at every meeting.

It was a strange stick, black with age and hard as iron. It was in reality a bludgeon, a murderous weapon in the hands of a man who could use it. But few cared to handle it, for it seemed to exude an atmosphere of crime. It had been dug up out of the mud of the Thames during excavations, a relic of a past race when men were fierce and savage. No modern man's hand could grip it as it had been gripped by its original owner, who had burned grooves into the handle for his fingers. Only a primitive hand was competent to wield that weapon, which doubtless had sent many to death. It was said by those who had taken the trouble to make research that it had belonged to Kartarus, the human wolf who came with the Frank and

Saxon barbarians on plundering expeditions to England in the distant past. His sign was on the gnarled, heavy head of the bludgeon.

The president of the Clue Club had bought it from a dealer in ancient things and had given it to the club as a contribution, an addition to the relics the organization already possessed. These relics were various and worthy of remark. On the walls of the room in which the members were seated were a few old swords, a pike, and a scythe, all of which had been used by the mob during the French Revolution. There was a coat belonging to the late Tsar of Russia, one of the coats he had worn before he was done to death with his family. There was a rosary believed to have belonged to Rasputin. A slugshot had been presented by a member who came from Chicago. On a stand on the mantelpiece was a small model of the electric chair used to terminate prisoners' lives in Sing Sing prison. It had come from a New York member. Beside it was a model of a scaffold in an English prison. It had been given by a man who had narrowly escaped hanging, owing to the cleverness of his counsel, a member of the club.

Having laid the black bludgeon of Kartarus on its small oak trestles, the waiter lifted a decanter and proceeded to fill up the glasses of the members, beginning, as was the rule, with those at the bottom of the table and ending with the glass of the president. Into each glass the waiter poured, with a steady hand, a thin, even stream of whiskey. He placed siphons here and there and put down glass jugs of water for those who preferred it that way. Then he stepped back into the shadow, having carried out the duties as if he had been the regular waiter and not a deputy.

For a moment there was not a sound in the apartment, but when the president raised his glass every member followed his example. The glasses were put down again, all of them now being half empty. The waiter glided down the table once more, recharging the glasses.

The secretary read the minutes of the previous meeting. These minutes contained a unanimous resolution declaring for the retention of the judgment of death in the legal code as a necessary

warning to evildoers and a fitting punishment for criminal killers. This was the Clue Club's reply to those who sought to abolish executions.

"It was decided," droned the secretary, still reading the minutes, "that a copy of the resolution be sent to the proper authorities to strengthen their hands."

The secretary sat down.

The chairman took a sip from his glass, an example that was followed by every member. The chairman spoke:

"Those in favor of the minutes as read say 'Aye'——"

"Pardon me!"

A new voice had struck into the gathering. Every member turned in the direction of the voice. It came from the new waiter, who was standing near the chairman.

"Before you pass these minutes and that resolution, gentlemen, I should like to be allowed to make a proposal."

The interruption of the club's proceedings was unprecedented, and for a moment several members wondered if the new waiter had taken leave of his senses. But the new waiter was quite calm and gave no indication of being otherwise than perfectly sane. One or two members smiled patronizingly and the chairman assumed his court attitude.

"What contribution could you make?" he asked, his massive face wrinkling up curiously.

"I have a proposal to suggest."

Again there was a short silence, during which the members stared. The judge's half-closed eyes were resting on the waiter. Every member expected the man to be annihilated by a phrase from the chairman.

"You have, of course, no *locus standi* so far as the discussions of this club are concerned," went on the judge, and his voice contained that purring sound that always heralded his most severe moments. "On the other hand, it cannot be said of the minutes that *literia scripta manet*. Do you wish to make a plea *in forma pauperis*?"

The waiter bowed.

"I wish to put forward a proposal as *nomo sui juris*. I plead no *lex scripta*. If you will hear my proposition, it may amuse you and the members of the club. Believe me, I have an authority I can quote in support of my seeming audacity."

The judge's features wrinkled more than ever. There was no doubt that he was smiling now. He recognized a legal mind when he saw one.

"Let us hear your proposition," he said, as the members somewhat reluctantly signified their agreement. "Proceed as if we had issued a *writ mandamus*, but blame yourself if you find the plea is *solvuntur risu tabulæ*."

A ripple of amusement ran round the table. It looked like a case of a mouse sparring with a lion. The waiter remained impassive until everybody had settled himself.

"My proposition," he began, "is quite a simple one. It is just this: you are all interested in crime and you have drafted a resolution declaring for the legal murder——"

"The legal punishment!" cried a lawyer, quickly.

"Put it that way if you like. You have declared for capital punishment being retained in the legal code. I have had unique opportunities of knowing the working of the law and the working of the minds of those you call criminals. Does it not seem to you that wherever a law imposes the extreme penalty it really condones murder? What is the first thing expected of a person accused of murder? Is it not that he or she should plead 'not guilty'? If he or she declined to plead 'not guilty' the machinery of the law would be nonplused until a plea was formulated—a plea that would be a ground for argument by lawyers. And what does this demand for a plea at all mean? It means nothing more or less than that the law believes in the right to kill, but wants to argue about it. The arena is one in which law and not justice is discussed, and the victory goes to the sharpest wits. Assuming, then, that I am right in saying that the law declares its right to kill—and all penal systems had their origin in the idea of vengeance—cannot it logically be claimed that a state claims this right because a state is stronger than any individual?

And if a state has the right to kill, why deny that right to an individual, who may be more concerned in the circumstances than the state?"

The president raised his head quickly.

"You go too fast," he said. "Society took upon itself the right to be judge and executioner in private cases because life would become impossible otherwise."

"Ah," said the waiter, equally quickly, "then you have admitted the instinct of retaliation to be just. But there have been cases where the state has held views that were wrong and unethical. In these cases opposition to these views is permissible and right. I can quote instances. Take the case of the Passive Resisters of Wales, led by their clergy. Was it not through the pig-headedness of England, and her unjust claims, that she lost the whole of the United States? Other instances abound. They prove that resistance to absurd laws is justified. I am going to propose something on these lines now."

He paused and gazed round at the members, some of whom were reclining listlessly in their chairs rather resenting the intrusion; others were sitting, elbows on the table, listening to every word.

"I am going to propose," said the waiter, "that you, my lord, having during your tenure on the bench sent not a few men to the scaffold, shall be tried for administering an unjust law——"

"I am but the mouthpiece of society. It is the jury that brings in the verdict!" cried the judge, sitting up quickly in his chair.

"But you have been capable of influencing a jury while you explained the law. It is in your power to direct a jury——"

"It is a monstrous idea!" cried a lawyer seated down the table. "You forget yourself, waiter!"

"I do not forget myself. I do not propose an absurdity. I wish to prove to you that capital punishment is a savage relic retained by legislatures that are either vicious or are selfishly indolent or worse ——"

"That is not true," interrupted one of the politicians. "The penal codes of England and America are the mildest on earth and have been formulated by sympathetic men——"

"It is curious," said the waiter, quietly, "that you should use the very words of Judge Fielding, who put up the same defense to the grand jury of Middlesex at a time when people were burned for coining and had their ears nailed to the pillory for minor offenses. I'll tell you why the judgment of death has never been abolished by governments. It is because there is no party capital in the question. The suggestion to wipe out judgment of death has been before the British legislature in the years 1868, 1872, 1877, 1881, and 1886, but each time it has been defeated. The argument has always been that to abolish it would mean that murders would increase. Yet it has been proved that death is no deterrent and the abolition of death no incentive. Let me give you a few facts on this score."

He pulled a slip of paper from his pocket.

"The death penalty has been abolished in Holland since 1870; in Switzerland since 1874; in Rumania since 1864. It has been either abolished or abrogated in Sweden, Norway, Denmark, Portugal, Austria, Belgium, and in Italy except for certain reservations. There are eight states in America where it is not admitted; in thirty-three states a life sentence in prison is the alternative. And in the remaining states where death is the penalty of murder there are more murders committed than in the others."

"Let us keep to England," said a lawyer. "We have only four crimes that are punishable with death."

"I am aware of that," replied the waiter. "The four are: first, murder; second, treason; third, setting fire to His Majesty's dockyards; and fourth, piracy with violence. In Scotland the throwing of vitriol can still be a capital crime. But it is not so long ago that there were over two hundred acts for which death was the penalty. Among these, barely a hundred years ago, was the uprooting of a shrub in a public park; being in the company of gypsies; impersonating a pensioner of Greenwich; being seen in a mask in a public highway; damaging a rabbit warren. It was the squirearchy that made these laws and inflicted the punishment. Are you aware that in 1810 the Chief Justice of England opposed the abolition of the death penalty for stealing a few shillings' worth of goods from a shop? Are you aware that the then Archbishop of Canterbury and half a dozen prelates sided with the Chief Justice?

In May, 1833, a boy of nine years of age was sentenced to death by Justice Bosanquet and was hanged for breaking into a house and stealing twopenny worth of goods. In the year 1840 a boy who, either in a fit of insanity or in a passion for notoriety, fired a tiny pistol in the direction of Queen Victoria was sentenced to be hanged, drawn, and quartered.

"You ask me to keep to England. Listen while I keep to it. Have you ever heard of the judgment of *peine forte et dure*? Prisoners were taken to a dungeon, laid on their backs, stripped save for a loin cloth, and set upon their bodies was a weight of iron just greater than they could bear. They were given three morsels of coarse bread on the first day, three draughts of stagnant water from the pool nearest the prison door on the second day, and so on alternately from day to day until they died. The sentence of traitors was that they should be disemboweled. The bishops were witch-burners, the common clergy took bribes to get prisoners free. It was Bonner, Bishop of London, Chaplain to the King, who pressed a charge of heresy against a boy of fifteen years and had him burned at Smithfield. During the reign of one king—Henry Eighth—no fewer than seventy thousand men, women, and children went to the scaffold. In every village there were whipping-posts and stocks. In 1801 a boy of twelve was hanged for the theft of a spoon."

The waiter stopped talking for a moment, for the judge's hand was raised as if the latter desired to speak. But his lordship did not open his lips, though his gaze was fastened on the waiter's features in a strained way.

"It was not until the year 1837 that a prisoner could have a lawyer to speak for him. It was not until 1870 that the atrocity of being hanged, drawn, and quartered was withdrawn in the case of a convicted traitor. It was not until 1898 that any accused person was permitted to give evidence on his or her own behalf——"

"If you intend to charge us with all the faults and disorders of previous administrations," sneered the judge, "we can plead the statute of limitations with equanimity."

"You have enough to answer for, believe me, without my charging you with all I have mentioned. I have but adopted an old legal method of outlining the case by presenting the growth from which

the charge emerges. What was the reason for all those outrages by the state? It was the assumption, still held, that the state had the sole right of punishment. Did the rack or the boot have the effect of making men penitent? Did drowning stop belief in spirits and ghosts? Did the Spanish Inquisition make men righteous? If execution is a deterrent, why does not murder cease? If the penal code is a reformative agency, why are not all prisoners reformed?"

The judge shrugged his shoulders and cast a glance round the table. To his astonishment he saw that most of the club members were no longer taking any interest in the argument. Could they be falling asleep? Heads had fallen aslant shoulders, a few hands were propped under cheeks for support. A feeling of uneasiness swept over him. He was used to receiving the utmost respect. In his own court he would have dealt severely with such contempt.

The secretary, his bundle of papers and minute-book before him, was still awake, but even he was showing signs of weariness and lassitude.

The judge turned to the waiter anxiously.

"Shall not we postpone this matter——?"

"With due respect, I think not."

"But my ruling is that it is absurd and *ultra vires*——"

"On the contrary, it is quite in order."

The judge was now becoming thoroughly alarmed. There was something unnatural in the positions that the men about him were taking. There could be no jury if the members were asleep. He looked again at the waiter.

"The thought of a mock trial is preposterous and much that you have said is *ex post facto* and inadmissible."

"I assure you, this is not a mock trial."

The words, as well as the tone in which they were uttered, caused the judge to stiffen.

"Explain yourself," he exclaimed with dignity.

"It will not take me long to do so. Practically all your club members are now unconcerned with our talk. In a few moments only you and I will be left for the discussion. Look, your secretary is

about to make his exit like the others."

It was true. The secretary was just then in the act of laying his head on the table, as if overcome with slumber.

"What is the meaning of this?" demanded the judge sternly, rising quickly to his feet. "Let me look at you!" he cried. "Have I seen you previously?"

"You have."

"Where?"

"Sit down! Sit down! I shall tell you before we part. In the meantime let me say that it was I who put something in the glasses of these members so that they would not disturb us——"

"You have poisoned them!" cried the judge, aghast, as he subsided in his chair; and in his excitement he began to call some of the members by name.

There was no response to his shouting. All that was heard was their heavy breathing; some, indeed, had ceased, apparently, to breathe at all. They lay limp and lifeless in their chairs, or sprawled on the table beside the glasses.

"You have poisoned them!" cried the judge for the second time.

The waiter shrugged his shoulders and took a flask from his pocket and laid it on the table.

"In this flask," he said, calmly, "is an antidote to what I have given your members in their whiskey. I came here this evening for the purpose. I persuaded your waiter to let me have his post for one evening so that I could carry out my intention——"

"You wretch! Was our waiter an accessory before the fact?"

"Never mind your waiter. I am here——"

"He compounded a felony!"

"Ah, always legal! We will discuss the meaning of the term felony later on if you care——"

"Who are you?" cried the judge, rising again from his chair in agitation.

"Sit down!"

It was more than an order. It was a threat. The judge obeyed.

"Do not fear that I have poisoned your drink," went on the waiter in a kinder strain. "I am anxious that you shall have a fair trial."

"Trial!"

"Your club members are not dead."

"Not dead?"

"You shall have a chance to restore them to life."

The president of the Clue Club, who had almost given himself up for lost and was about to throw himself on the waiter, breathed heavily.

"Before you involve yourself deeper," he said with an effort to recover his dignity, "I wish to warn you that your actions——"

"Oh, I know what you are going to say. You are thinking of the first of six divisions into which your Home Office has classified crime—offenses against the person. Let it be. It reminds me of the confusion in which this department is stumbling on the very matter that brought me here."

"There will be no confusion in its estimate of your conduct," flashed the judge, grimly. He was now beginning to see that he was in no immediate danger and his judicial mentality was climbing back to its balance.

The waiter stepped toward the mantelpiece, from which he took two large candles set in old-fashioned holders. These he placed on the table while the judge watched him with a puzzled, but rather anxious, air. It seemed as if the president of the Clue Club was trying to recall some incident, some memory, that refused to stir from the depths of his profound legal mind. His concentration on this was such as to drive all thought of resistance from him. He stroked his cheek meditatively. He was no longer alarmed, merely uneasy. But when the waiter snapped out the electric lights he gave vent to an exclamation.

"What is the meaning of all this?"

"I will explain," replied the waiter, and his voice was now as sharp as a whip. "I have lit these candles, both of which will burn for twelve hours, because I do not wish outsiders, especially patrolling police, to think that the Clue Club is having an all-night sitting. The curtains will not show the light of the candles on the outside. It is

Christmas Eve. Can you tell me of a better way of spending the occasion than by trying to prove to me the justice of judgment of death? Christmas Eve! The Mass of Christ!"

The judge leaped to his feet, and this time he would have made an attempt to overpower the waiter; but one thing prevented him. The waiter had taken from the sideboard the bludgeon of Kartarus and was holding it in readiness. The judge was thoroughly alarmed; but he was not frightened. Again he obeyed the order to be seated.

"A mad waiter!" he thought. Aloud, in an endeavor to humor the man, he said, "Lay down that weapon and let us argue about this."

"With all my heart; but I will retain the bludgeon. See, I will lay it here."

As he placed the black bludgeon on the table the judge could not but notice that it was within the waiter's reach and just beyond his own. The waiter sat down facing the judge. The latter summoned his most persuasive accents to his aid.

"But how can a trial take place when there are no counsel?"

"You yourself have a reputation for successful pleading. Are you not recognized as an authority? And prisoners have been known to plead on their own behalf."

"Of course, that is true. You are not unacquainted with procedure. Am I to be a prisoner, then?"

"It would seem so."

"What is the charge?"

"The charge is that you, being a human being and an administrator of the law, believe in and practice the sentence of judgment of death on your fellows."

The judge stroked his chin as he considered.

"What is the penalty incurred in such a belief and practice?"

"Can you logically be blind to that?" asked the waiter, coldly and in a penetrating voice.

"Oh! You would kill me!"

"Why not?"

A shiver, in spite of his self-command, passed through the judge. All his doubts as to the earnestness of the man, or the seriousness of the situation, vanished. He bent a keen, anxious look on the waiter. If the latter was mad he did not show it outwardly. Yet the position was outrageous; but it was inescapable.

"Supposing," said the judge, adroitly, but in a voice he hardly knew as his own, "I asked you what logical right you have to assume the authority of inflicting any penalty for a belief that is sanctioned by law, what would you say?"

"I would say that I am surprised you do not observe the situation in its true aspect. In this room the law you mention no longer has the supreme word. *Pro tempore* you must consider the position reversed."

"But surely it is illogical for you, who oppose the judgment of death, to enunciate the very same penalty for believing in it?"

"Ah, you think you have made a point! Are you afraid of meeting the fate you have assigned to others? Is it not quite logical that similar retribution should fall on those who have upheld judgment of death? It is such a belief that is on trial, not the opposite one. Besides, while an established law is being overthrown there is justice in hoisting guilty parties with their own petard, so to speak. History is the best proof of this. But it has just occurred to me—were you about to plead that you bow to my theory because of a desire to save your life?"

"Well, if I did?"

"It would involve a solemn declaration that you would no longer uphold the law. That would have certain consequences. You would, of course, never go back on your word. It would mean considerable loss financially and otherwise—and I would see that your word was kept."

Again the tone warned the judge that this man was not to be trifled with.

"I see," said the judge.

"But do not think me unreasonable," went on the waiter. "The situation, as I apprehend it, is this: you uphold the theory of judgment of death. I oppose it. You are being tried for it. You have

not yet been found guilty. It lies with you whether you will be. You complained just now of the absence of a jury. I shall give you the opportunity of having a jury."

"Go on," said the judge, stirring himself and brightening considerably.

"I have placed here a flask in which there is an antidote to the lethargy now overcoming your fellow members. For every case out of your own experience where you can prove the death penalty deserved you shall have the right to recall one member of this club back from unconsciousness. Is not that fair?"

"Ah," cried the judge, readily, "that is a reasonable factor." Then, his hopes rising rapidly, he continued: "I do not wish to retreat from my point of view. I have held office and have also my opinion as a private individual. Perhaps I may convert you. It will not be impossible to prove from the cases which have come before me—cases in which I have donned the emblem of death, the black cap—that the sentences were deserved. We may take these cases as typical."

"Very well. And for every case I show you that the sentence was unjust I shall claim a member. That is, a member shall remain unconscious."

The judge hesitated, and the waiter saw the reluctance to agree to the condition.

"Are you afraid of failure?" he demanded.

"Not at all, but——"

"Then accept my challenge!"

The judge's face wrinkled, as observers had so often seen it wrinkle in his court. The challenge was to his self-esteem as well as to his forensic ability, both of which were of a high order. He gazed at the unconscious members, then at the waiter. If only he had the aid of one of his friends he could bring this unheard-of situation to a satisfactory end. Had he been younger he would have tackled the man single-handed. If only one of the members was in full possession of his faculties!

"If I accept your challenge," he said at last and with a show of condescension, "I shall argue the issue as I apprehend it. We lawyers, you know, as the oath has it, do not admit any influence in our minds, under any conditions, of any emotional character—no passion, no affection——"

"What!" thundered the other. "Do you, then, eliminate emotion from the fatherhood of your children?"

Astounded at the vehemence of the shout, the judge shrank. His face blanched and it was some moments before the blood flowed back to his features.

"You misunderstand," he said. "I am a bachelor."

"In that case," retorted the waiter, but in a calmer tone, "you have a certain advantage over your learned brethren on the bench."

The judge was angry and ruffled at his own show of alarm. He was indignant, too.

"I accept your challenge," he announced, sharply. "There is no need, either, for me to rely entirely on my memory for the cases I shall quote. They are mentioned in the minute-book of this club.... A last point, however, arises. It is usual"—and his tone was gently sarcastic—"in all cases about to be tried. Under what statute do you make your charge?"

The reply came swiftly enough:

"Under the same authority as that on which you yourself rely—the *lex talionis* injunction of Mosaic law which is laid down in the Book of Exodus, chapter twenty-one."

The judge stretched out his hand and opened the minute-book.

CHAPTER II

The Judge States His First Case

May it please your authority [began the judge in his best legal manner as he turned over the pages of the minute-book and placed his finger on a page] the case I am about to put before you is one of quite recent occurrence. It deals with one of the most brutal, one of the most indefensible, murders that have ever come under my observation.

Furthermore, it was characterized by an entire absence on the part of the public at large of that misguided, but often quite honest, sympathy for murderers which leads people to sign futile petitions for a reprieve or a stay of execution. Of the petitions on behalf of convicted murderers in America I cannot speak, nor can I say how many persons are sentenced to death in the United States on an average during a year; but an official return lately furnished by the Home Office of the British Government states that the average annual number of persons sentenced to death in England and Wales is about twenty-five. Of that number about fourteen are actually hanged.

The reasons for reprieving the others are various. It may be that the petitions so diligently, but so thoughtlessly, issued for public signature have some slight influence. It may be that the generosity of the Home Secretary, or the pusillanimity of some other official, is at work in favor of those who escape the scaffold. It is not my prerogative in the present circumstances to inquire into, or to explain, this. I merely mention these figures in order to emphasize that not a single petition was issued, not a solitary protest was made, not a word was uttered, so far as I am aware, to stay the hand of the law's sentence on Ammar Baddan.

There was no question about his guilt. It is true his counsel formally entered a plea of "not guilty," but from the very beginning of the case to the very end that plea never had a leg to stand on. It was, indeed, negatived by the prisoner himself, and his words when he was asked (as is always done) if he had anything to say before

sentence was passed on him, indicated the casual attitude he adopted to the end. These are his words, written in this minute-book:

"I do not care for your sentence. I do not care for your law. It was my wife who got the lawyer. I despise him and his tricks. It is true I killed John Hamlin. Why do I say this? You are fools who do not understand. But I know what the Book of Wisdom says and by that Book I have ruled my life. I say I killed Hamlin. By saying so I am doing what I was taught, and that is to always tell the truth, even to you people when we witness before God, although it be against ourselves or our parents or our relatives, whether the party be rich or poor; for God is more worthy than both."

The jury listened to this statement. In two minutes they brought in a verdict of guilty and I pronounced sentence. I called his crime, and still call it,

THE UNREASONABLE MURDER

Ammar Baddan was a Tamil, a native of southern India, one of the Dravidian races who are admitted to possess many good qualities such as frugality, patience, endurance, politeness. They have astounding memories. They are pronouncedly commercial. All these facts came out at the trial of Ammar Baddan.

But Ammar Baddan had left London one evening by train, had journeyed down to a Surrey country town, and had deliberately cut the throat of John Hamlin, the proprietor of an inn. And the most amazing element of that brutal murder was that Ammar Baddan had never in all his life seen Hamlin before that evening, had never had any dealings with him, and until a few days previously was not aware of his existence.

On the other hand, it was proved that John Hamlin, the innocent victim of this savage attack, knew nothing of Ammar Baddan. It was a case of the unexplained frenzy of an Eastern nature—the sudden madness for killing, the lust for blood, that stirs up in some natures

without reason and without provocation. It was the savagery of the tiger that must be suppressed wherever it is observed and dealt with wherever it comes to the surface.

The unfortunate victim of this outrage had done Ammar Baddan no harm whatever. Can society continue if it allows people of the jungle to perpetrate a crime of inexcusable violence for which there is no reason and which is callously admitted? We would be lacking in our duty to our fellows were we not to administer the final judgment in cases where the whole fabric of the social order is menaced.

The counsel for the prosecution of Ammar Baddan confessed that he had some difficulty in finding a motive for the crime. Let us take his statement first. Baddan was a native of India. He was born in the south of that vast country, but his father, who was a humble merchant, traveled up to Calcutta and there established a business that grew with the years. He prospered so well that he was known as one of the greatest buyers of antiques and bric-à-brac in that part of India. His son, at the age of sixteen, as is the custom of the race, took upon himself the status of a man and became his father's partner. The father died only a few months before his son was arrested for the appalling crime of murder.

Perhaps it would be as well to state here what the prosecuting counsel thought fit to mention, namely, that while the Tamils as a race are the possessors of the good qualities that have been indicated, they are also, it seems, as a race, handicapped by the drawbacks of lying and lasciviousness. One merely repeats what counsel stated.

As a youth Ammar Baddan had an excellent training. He knew the *Kural* by heart and was known to propound its teaching on the subjects of virtue, wealth and enjoyment. By religion he was a Brahman and knew the whole of the text-books called Brahmanas. Shortly after he was sixteen years of age he was conducted to a spiritual teacher and received the sacred cord which is worn over the left shoulder and under the right arm, one of the signs of initiation into the study of the Vedas, the management of the sacred fire, and the knowledge of the rites of purification. By caste he was a *Kshatriya*.

As a young man he knew Calcutta well and traveled considerably. He learned the English tongue and spoke as well as an Englishman. Thus, it will be seen that he was not ignorant of what is right and what is wrong. His grounding in moral training was as comprehensive as it was severe. Did not this make his crime all the more heinous?

It is well known that the Tamils are the most enterprising of all the peoples of south India. They are born merchants. Wherever there is an opportunity for commerce they are to be found. As Ammar Baddan grew older he was respected and his commercial ability was even greater than that of his father. The prayers which had been said before and at his birth were being answered. He was a force in the city of Bengal.

His education and politeness brought him many friends, among them many white men who were in business in Calcutta. One man especially was his friend, an Englishman named Taylor. Business had brought them together and, as is often the case, it was often the cause of social meetings. On one occasion they both attended a party which some Englishmen were giving to a theatrical company that had arrived in Calcutta and it was at that party that Ammar Baddan met the girl who soon afterward became his wife.

He had seen this girl in the chorus of the show at the theater and had been attracted by her, and when his friend Taylor, who was friendly with the company, gave him the opportunity of meeting them off the stage, Ammar Baddan's delight was boundless. His ardent nature had already focused on this girl.

The supper party took place in a hotel after the theater performance was over. Doubtless most people are aware that there are men who make a point of inviting actresses—and especially chorus girls—to supper parties because of the lack of restraint that is, rightly or wrongly, said to be connected with the theatrical temperament. It was Taylor who introduced the girl to Ammar Baddan. She was very pretty, with golden hair and all the attractions of a blonde. One can imagine that the wine flowed freely. There was an incident during the evening when one of the white men made some sort of proposal that every man should kiss every girl present. To Ammar Baddan's great relief the blonde girl refused to comply

with the vulgar and insulting proposal. This incident confirmed his estimate of the girl and made him all the more determined to pursue his attentions to her, for she had demonstrated that she was above the rather low level on which his white friends had, by insinuation, placed their guests.

From that moment Ammar Baddan saw as much of the ladies of the theatrical company as possible. He had a shop in the Chowringhee, the most important thoroughfare of the city, and he invited them to look on his treasures and presented them all with mementoes of their visit. He visited the race course with them, always being near the blonde girl, showed to her and explained the monuments on the Maidan, and took her and some of her friends, with Taylor and a few men, on several trips up the Hugli. He made himself extremely agreeable, once taking the ladies to the Zoölogical Gardens, and on every occasion his friend Taylor accompanied the party.

His politeness never forsook him, and a short time before the company left Calcutta for Madras he came to Taylor and asked him if he would advise making a declaration of his love for the girl with the golden hair. Taylor asked for some time to consider the matter, and finally told him that there was no reason why he should not at least tell her. One supposes that the question of caste and the problem of marriage between two people of different races had to be considered. In the end Ammar Baddan boldly made the opportunity and asked the girl to marry him. She consented, and Ammar Baddan went in transports of happiness to his friend Taylor and thanked him for bringing this joy into his life. They were married shortly afterward.

Such, then, was Ammar Baddan's life up to the time he remained in India. All these particulars were known during his trial, though they did not all come out; but they are stated in some detail to show how fair our law is, and how thorough, before it takes upon itself the grave responsibility of passing sentence.

Ammar Baddan had been married for less than a year when he came to England, bringing his wife with him. His reason for coming may be stated briefly.

His father had, in the course of his business, secured a very rare and valuable carpet. It was, apparently, more a praying rug than a carpet, and it had a duplicate that Ammar Baddan and his father also wished to possess. Remember that, as has been stated, the Tamils are wonderfully keen business men. Having secured the one carpet, Ammar Baddan and his father set out to trace its duplicate. They searched India; their agents went as far as Persia and Egypt. How these things are known is part of the secrets of the trade, but Ammar's father came to him one day with the information that the duplicate of the carpet which they wanted had been in a bazaar in Madras and had been sold to an Englishman.

Ammar's wife was in the apartment when this news was given to her husband, and after her father-in-law had gone his wife added to the information. She told him that she believed that the duplicate of his carpet was in the possession of the Englishman, Taylor. She had seen it in his flat, but had not understood that it was so valuable as Ammar estimated; and had, indeed, not known that the search was being made until that moment.

Ammar was overjoyed at the news. He loved his wife very much and promised her that for the information he would give her any present she asked for. But first he made a journey over to Howrah, on the opposite side of the Hugli, where Taylor lived, to make inquiries. On his return he told his wife, with mortification, that Taylor had left India and had gone to England, having made his fortune and having no reason for remaining in a country that was trying to the health of even the strongest white man.

He questioned his wife thoroughly about the carpet she had seen in Taylor's house, in order to make sure that she was not mistaken. But his wife held to her statement, and, with the carpet already in their possession on the floor for comparison she proved that Taylor had the duplicate. It had been on the wall of Taylor's bedroom and she had seen it in detail. In haste Ammar went off to his father. The result was that as soon as they could make the necessary arrangements Ammar and his wife came to England.

They took a flat in the West End of London and Ammar's wife spent most of her time enjoying the life of the metropolis and renewing old acquaintances. She was gay, beautiful, happy. She had

plenty of money and went about without a care, while Ammar visited some of his Indian friends who had business quarters in the city and were likely to help him in his quest.

It was not very difficult to trace Taylor. The latter had taken a house in the country, but still within touch of London, had married, and was taking life leisurely. But when Ammar Baddan made the short journey to meet Taylor he experienced a sense of disappointment. He had expected that Taylor, having been his friend in India and having introduced him to his wife when she was a chorus girl, would preserve the friendship and welcome them to his house. He found that Taylor did nothing of the kind. One can understand this attitude on the part of Taylor. In India social customs are on a somewhat different footing from the social customs here. It may have been that Taylor's attitude was influenced by his wife, who did not care to meet a white woman who had married a Tamil. At any rate, the old barriers seemed to arise and Ammar Baddan saw the change.

With his Tamil politeness he accepted the situation and proceeded to work round to the object of his visit, which, after all, was the buying of the carpet. He managed this so adeptly that Taylor had already admitted that he did possess such a carpet and also that he held it in small financial esteem. The Tamil asked all sorts of questions about it—how Taylor had come to possess it, who saw him buy it, who carried it to his flat in Howrah, who hung it on the wall of his bedroom. Taylor answered that nobody but himself and his manservant had handled it from the time it was bought in the Indian bazaar to the time it was in his flat. And then Ammar Baddan asked to see the carpet and was shown it. He offered a price that Taylor thought was good and the bargain was made.

As they concluded the business matter and after Ammar Baddan had paid the check over he thanked Taylor once more for proving his friend. "Twice," he said, "you have given me my desires. First, it was because of you that I have my beautiful wife. Second, it is through you that I have the beautiful carpet. A Tamil does not forget."

That visit was the first and the last that Ammar Baddan made to the house of Taylor. In spite of the polite, if not very friendly, way he had been met, Ammar Baddan, having the outlook of a Tamil, almost succeeded in making Taylor a little uncomfortable in front of his wife. They began to talk of Calcutta and the old days. Ammar Baddan wanted to know everything. He was so anxious for the safety of the carpet he had bought that he wished Taylor's manservant to carry it to the station for him so that no new hands would touch it. To this Taylor replied that he no longer employed the servant, who had started life anew in England as the proprietor of a small inn in Surrey. Ammar Baddan asked how a manservant could have obtained the money to buy an inn, and Taylor laughingly answered that he supposed John Hamlin—the name of his manservant—had fleeced him of enough money in India to make this possible. At any rate, Hamlin seemed to be making a good living in the town of Whitchurch. And then, with Tamil simplicity, Ammar Baddan asked Taylor if he too had obtained his wife from a theatrical company, and if the theatrical company they had known in Calcutta had supplied her. This was asked in front of Mrs. Taylor, who happened to be a lady of strict views, and one can imagine that Taylor had to use considerable diplomacy in his answers.

He managed to hint, indeed, before Ammar left and when they were alone, that it was not always discreet to refer to matters of that kind in front of wives; and then they parted. Only after he had made inquiries a day or two later did Taylor realize that Ammar Baddan had obtained his carpet at a mere fraction of its actual value.

All these incidents show the tortuous workings of the mind of a man whose instincts and racial traditions differ so greatly from our own. Taylor never saw Ammar Baddan again and was probably glad to get rid of him. He related the facts of Baddan's visit to him when the police called in order to gather evidence of motive. But it was from one of the servants of the flat where Ammar Baddan and his wife lived in the West End of London that some peculiar information was obtained.

Baddan was a fanatical Brahman. We need not trouble to inquire whether his wife had adopted his faith. A wife may not give evidence against her husband in any case according to our wise law. But in

the sitting-room of the flat Baddan had placed one of the Brahman gods, a small figure of Kala Bhairava as he is known in Hindu religion, Bhairon as he is known among the Dravidian peoples.

This god—it was brought into court but was not exhibited—represents a man standing with one hand holding a trident and in the other a drum shaped like an hour-glass. Encircling him is a serpent to show his chthonic origin. In the chest of this figure are two small holes, and into these holes Ammar Baddan would put two betel nuts, then begin the long religious exercises of his caste. The servants heard him every night at these devotions. Sometimes he spoke in an Indian dialect, sometimes in English; but his object seemed to be the same on every occasion. So far as the servant could make out, if the nut on the right dropped out of the hole first, Ammar Baddan would exclaim that his undertaking would prosper. If the nut on the left dropped first, he would declare to the god that he would abandon his project for the time being. Just before he set out to commit the heinous crime of murdering John Hamlin he was heard at his devotions. He had bought a hunting-knife a few days previously and this weapon was seen in his possession by a servant.

But if the nut in the right cavity in the figure of the god Bhairon indicated to Ammar Baddan that his crime would be hidden, the god played him false.

The crime itself was as swift as it was staggering. Ammar Baddan arrived that evening in the quiet Surrey town just after the inns closed. He walked up the main street, looking at the names of the inns.

Less than an hour later John Hamlin was found lying in his parlor with his throat slit from ear to ear. By the time the police were on the spot Ammar Baddan was seated in a first-class compartment of a train bearing him back to London.

To the village police it looked at first to be a case of suicide. Hamlin's business was not going too well. He had debts. He had been heard to complain about malaria, of which he was a victim. And to make it more like suicide there was held in his stiffening fingers, as he lay beside his chair, a murderous hunting-knife.

But when inquiries were started a barmaid stated that just before she retired she heard the front-door bell ring. She heard Hamlin go to the door. It seemed to her that he brought some one into the inn. She did not hear any struggle, but she heard Hamlin call out the words, "Hindu swine!"

It was the local policeman who found Hamlin dead. He had flashed his lamp on the door of the inn and had observed that it was not closed. He knocked and received no reply. He stepped inside and saw a trickle of blood coming from the parlor threshold.

A few days later, when the police had made their inquiries, an officer called on Ammar Baddan when he was preparing, with his wife, to return to India. When Ammar Baddan saw that he was to be arrested he evinced no surprise and did not deny his crime. But he was interested to know how the police had tracked him.

"The local constable," he was told, frankly, "happened to see you walking up the street that night, looking at the inn signs. He noted that you were a colored man. We found out the firm that made the hunting-knife, and from them we traced it to you. But we knew it could not have been suicide after we considered the nature of the wound. John Hamlin's throat was slit from left to right. But John Hamlin was left-handed."

What, then, was the motive of the brutal murder? The prosecuting counsel suggested one. It was that Ammar Baddan had gone to see John Hamlin, not perhaps with the intention of murdering him, but possibly with the object of getting some information about the buying of the carpet, for in the purchase of these rare articles every detail is recorded. Hamlin was known to have a contempt for all Indians. He may have said a word—"Hindu swine," as the barmaid heard—and in a moment the blaze of the Eastern hot blood flew to Ammar Baddan's head. This was the theory of the prosecution.

But when the defense was called the counsel who had entered a plea of "not guilty" found himself in an unheard-of position. He placed Ammar Baddan in the box.

"Did you," he asked, "go down to see John Hamlin with the intention of killing him?"

"I did," replied Baddan, firmly.

Fearing lest the question had been misunderstood, it was repeated. Again the reply was the same.

The defending counsel saw his case dwindling before his eyes. He seemed to appeal to the bench, and I took upon myself the task of asking Ammar Baddan a few questions.

The replies I received were deliberate, calm, without fear, without repentance. He had decided to kill John Hamlin. He had schemed to do so. He had taken counsel with his god and had been led to think that all would be well.

I asked him what was his motive. His reply left much to be desired. These were his words:

"No Brahman may recite a Vedic text where a man of a servile caste may overhear him, nor must he teach him the laws of expiation for sin."

I asked him if John Hamlin had committed any sin against Brahmanism or against him. He replied, "No."

It was impossible to get more out of him. His defending counsel threw in his brief in despair. And to make matters worse, when I asked Ammar Baddan if he understood the crime he had committed, he answered angrily that he would repeat it, were it possible. He admitted that he had received no words from Hamlin that had been the cause of the murder. But he was glad he had murdered.

In face of this there was but one thing to do. I donned the black cap.

He died, I understand, on the scaffold, fiercely cursing the white law that put him to death, but entirely without penitence.

My own theory is that somewhere in his mentality, somewhere deep down in his nature, there was a blood-lust, a streak of barbarity, a whiff of the jungle, that he never tried to control. How else is it possible for a human being to take satisfaction in murder? Is not society to be protected from such natures? Are innocent people to be butchered by such savages? By taking the life of Ammar

Baddan the penal code was acting with entire justice for the sake of everybody concerned. One cannot argue with a mad dog. One just destroys it. Criminal characteristics must be extirpated.

The judge sat back in his chair and looked at the waiter, who had not moved during the recital.

"I think," said the judge, "that there can be no two opinions in regard to that murder. You must allow me credit for having presented a case that demands the retention of the judgment of death, if unbridled barbarism is to be held in check at all. I claim the return to consciousness of the secretary."

The waiter stirred himself and looked up.

"Your claim is premature," he said, quietly. "Ammar Baddan was justified in killing John Hamlin."

The judge could hardly believe his ears.

"I am speaking according to the code of honor that ruled Ammar Baddan," went on the waiter. "Let me place that code before you and also give you the real reason that the murder took place. It is perhaps more than was to be expected that Ammar Baddan would give that reason. It would have meant his own humiliation."

"Humiliation cannot be compared to murder," cried the judge. "We all bear humiliation, but we do not murder the people who humiliate us!"

"That is true," smiled the waiter, "else you would be making an attempt to kill me this very moment. But I speak of two different codes of honor. Has it struck you that the Tamil god you have mentioned has functions other than telling his followers when to undertake a venture? Among his attributes—according to his believers—are those of being able to destroy the foes of his worshipers, through the worshipers themselves. They strike and the god protects their souls, if not their bodies. One of the highest aims of any good Brahman is to raise himself in the universal gradation, and to do this he must subject the senses and life itself if necessary. Ammar Baddan was but following out the sacrificial system in the *kalpa-sutras*."

"I do not follow you," said the judge, huskily.

"I will explain more fully, and shortly. The Tamil Book of Wisdom is called the *Naladiyar*. It enjoins rigid adherence to its teaching. There are four hundred quatrains in it. The rules of life are as severe as the Christian teaching—but I beg your pardon, white civilization does not know much about Christianity. Among the injunctions given the high-caste Indians are those to see that no gossip, no humiliation, besmirches the honor of their fathers' names. Poor Ammar Baddan was betwixt two terrible alternatives. If he allowed his father's, and his own, name to be sullied, he might escape a penalty here, but he would endure countless years of retarded development in the hereafter. Which was he to choose?"

"He must not murder!"

"But one of his codes distinctly told him that it was better to sacrifice than to endure humiliation from his deities! Would the gods not make up to him any pain he endured here, even if he died?"

"But what was his humiliation?"

"Answer me first this: are not most religious systems based on the theory that it is better to suffer here in order to obtain advancement in the next world?"

"Yes, I agree to that."

"Supposing such a choice were given you, which would you take?"

"I would keep the laws of my land."

"But supposing you were in a land where the laws were opposed to all you had been taught as sacred and right? Would you keep the laws of that land?"

"It is a hypothetical question. I do not see what point you are making."

"No, you say so, but you do. And you do not care to make a brave answer. But Ammar Baddan was a brave man. He saw according to his light, and he chose. It is the eternal clash between one's ideas of justice and the thing we call life. Listen to me. I shall tell you why Ammar Baddan killed John Hamlin, and despised your law though that law slew him."

"I have been waiting to hear."

"Hear, then. There is a code in Ammar Baddan's ethics that says that if a wife proves unfaithful it is better that the mouths of gossipers be stopped than that her husband's name be dragged in the mire, and his father's name, too. Ammar Baddan visited the merchant Taylor for two purposes. One was to get the carpet. But it was not the main one. It was to see if Taylor was likely to do any gossiping. He saw, according to your own words, that Taylor, being married, would be glad to see no more of Ammar Baddan and Ammar Baddan's wife. That is to say, Taylor, for his own sake, would not gossip. The secret that was eating at Ammar Baddan's heart was safe so far as Taylor was concerned."

"You mean to say——"

"That from the moment Ammar Baddan heard from his wife that the carpet had hung in Taylor's bedroom there arose in Ammar Baddan's mind a terrible fear and agony. I do not know whether Taylor was guilty of what Ammar Baddan suspected. It may have been that Ammar Baddan received a confession from his wife. Who shall ever know? And yet, I do not think so, or she would have told the defending counsel. A Tamil does not expect such a confession. He would never ask for one. But his mind brooded on the fact that she knew the carpet hung in Taylor's bedroom. How could she know that? Ammar Baddan's Tamil mind formed its own conclusion.

"There were only four people who could know the dreadful truth. Thus Ammar Baddan would argue. Taylor had shown that the past was better unspoken. Therefore Taylor would never voice it. Of these four people only one might gossip. Are not servants given to gossip? Ammar Baddan probably asked John Hamlin a question and, on the answer, killed him for his father's good name, for his own good name, and for his wife's future. Thus there would be no gossip in the market place and the house of Baddan would be unsullied. Quaint, perhaps. All things in this world are quaint when looked at from unusual angles.

"Has the judgment-of-death code a right to supersede a religious code? Who are you to say that your law is more just in the ultimate end than an accepted sacred law? How do you know that Ammar Baddan is not now far advanced in the scheme of things in the other world? You made a felon of a religious enthusiast."

The waiter lifted the glass that was near the elbow of the unconscious secretary and placed it near the bludgeon on the table.

"One point to me," he said in a tone of grim finality.

CHAPTER III

The Waiter States His First Case

"I see," said the waiter as he glanced at the clouded features of the judge, "that you grudge me the first point. If you have any objection to my claim, please state it at once, for it is now my turn to present a case."

"I cannot admit that murder, even for a religious object, ought to go unpunished," replied the judge.

"Who said murder ought to go unscathed? We were not discussing that at all. We were discussing the right of your penal code to take life. If you still cling to Biblical authority for taking life, why do you not believe in the blood atonement for sins and all the rites of altar sacrifice? You have the precedent of Isaac and his son."

"That is carrying things to the extreme," cried the judge, irritably. "The teachings of the New Testament are what guide us——"

"Why are you so illogical as to confound the two parts of the Bible? You will find no authority in the New Testament for taking life. The reverse is the case. I could quote many texts in this connection, but I will not weary you. I have already said that Western civilization does not understand Christianity. If it does, then it is guilty of the most colossal hypocrisy man can imagine. But we stray from the issue. Have you any other objection to make?"

The judge wrinkled his face and pondered for a short time, his eyes roving thoughtfully over the still forms of his fellow members.

"Supposing I concede you Ammar Baddan," he said, "what is your next case? I shall be glad to hear it. For I am sure that Baddan's case is exceptional in its elements and the same conditions cannot apply to any other in my recollection. I hope you will not inflict on me another ethical or religious problem."

"I can assure you on that at once," smiled the waiter. "As a matter of fact, I intend to quote all my cases from the minute-book now before you."

"Really! That gives me confidence. I flatter myself that I know them and in no other does the law, as I interpret it, err and inflict what the majority of people would, by any stretch of imagination, call an injustice."

"You certainly flatter yourself," retorted the waiter, "as I shall now do my best to prove."

The waiter toyed for a moment with the glass from which the secretary had drunk and a queer smile played round his mouth. The judge, watching him narrowly, and with a slightly nervous feeling, observed that the man's fingers were of an extraordinary length, the whole hand, indeed, though fine, suggested tremendous strength. Quite unconsciously the judge's eyes dropped to his own hand. He too had long, carefully manicured fingers, but while they narrowed toward the tips, just like those of the waiter, they did not give the same expression of power. Raising his eyes to the face of the waiter, the judge was aware that the latter was gazing fixedly at him. The judge coughed, slipped a lozenge into his mouth, and gave one of his usual, hardly perceptible nods, signifying that he was ready to listen.

"My lord," immediately began the waiter, "there are one or two observations I desire to make which, though they may appear irrelevant, have nevertheless a bearing on the case which I intend to present before you. In this instance I must accept a rather peculiar standpoint, which, when I have finished, you will no doubt appreciate.

"May I deal with your statement that in no other case in your knowledge does the law inflict an injustice? Does it not seem terrible to think that in the case of capital punishment there can never be any recompense by the law or the state? If a miscarriage takes place there can be no apology, no admission of error, no restitution. Your law, which hangs a man by the neck until he is dead, has the impudence and the horribly blasphemous offensiveness to provide him with a parson whose spirit—if he is a decent man—revolts at the thought of trying to smuggle a criminal out of the hands of the devil and up the back stairs to heaven at express speed; and, while it feigns, with its tongue in its cheek, an anxiety for his soul, yet regards his body as so polluted that it buries him in a limed coffin that he may rot rapidly.

"Fresh evidence may come before the authorities who, even if they have secret regrets, can recall nothing of the judgment that is irrevocable. The stain of the scaffold is on his name and on his friends' names forever."

"The law takes every possible care to collect its evidence and you are making reckless statements," interrupted the judge; but the waiter raised his hand impressively.

"All these plausible anodynes to soothe any opposition," continued the waiter, "have been heard previously. They are platitudes. Let us come to facts. There is the frightful injustice of the sentence of Oscar Slater for the murder of an old woman in Glasgow. He was found guilty, sentenced to be hanged, then reprieved and spent more than eighteen years in prison at Peterhead before his innocence was established. His case would never have received a second consideration had it not been for the unfaltering pressure brought to bear on the authorities by Sir A. Conan Doyle and others.

"There was the classic case of the two men in the Midlands who went through a similar ghastly trial for alleged murder and were sentenced similarly, were reprieved similarly, and then were set free because they were innocent.

"Allow me to put a point that has never been perceived by those who agree with the judgment of death. Does not this final sentence, which can never be remitted, give an opportunity to a clever criminal to use it to his own ends?"

The question was put so direct that the judge saw he was expected to reply.

"I cannot conceive," he remarked, sarcastically, "any circumstances where a criminal could benefit as you hint. Criminals do not administer the law."

The waiter pondered this for a moment. At last he drew the minute-book toward him and turned over the pages until he came to one that interested him. He began to relate his first case in support of his position:

THE WORST THE LAW CAN DO

I think [he said] that it was George Bernard Shaw who made the wise observation that the criminal feels a right to do his worst to society to prevent society from doing its worst to him. Every criminal, certainly, tries to make his crimes perfect and detection-proof. This was the objective of John Davis when he set out to kill Lorry Black. You may remember the trial and sentence of death that you passed on John Davis? He was charged with murdering Lorry Black in a rowboat off Hastings and with throwing his body into the sea.

Now a considerable time after the police started investigating the crime the body of Black was washed up by the ocean, and then it was in an advanced state of decomposition. A ring on a finger, a piece of clothing, and one or two minor possessions identified the body.

The police were commended at the trial for the pains they had taken, during the time that Davis was held in prison, to complete their evidence. Their methods were a triumph for the prosecution and a warning to all who might have thoughts of crime.

John Davis, it was shown by the prosecuting counsel, had hoped to work out his murder so that he would have a perfect alibi. He had been on the trail of Lorry Black for some weeks, waiting, watching, patient, but relentless. Both he and Black had been in prison previously. They knew each other and hated each other genuinely.

Davis had spent practically all his money in trailing Black, but he was aware that Black had money enough to recompense him if he could lay his hands on it. But even if he never touched a penny of that money, he had determined to get Black. That was the driving force that dominated Davis—to get Black. He had come down from London to get him.

He saw Black leave the hotel on the front and go down to the slip near the pier, hire a boat, and row out beyond the pier. It was evening. The lights were beginning to twinkle on the promenade. The pier concert hall was being lit up. In another half-hour the beach would be dark.

Davis strolled down toward the slip, whistling as he went. The boatman inquired if he wanted a boat. Yes, Davis wanted a boat, but he knew better than hire one from that particular slipway. He walked on slowly, his gaze on the boat which Black was rowing far out beyond the lighted pier. Black had gone fishing. Davis laughed to himself. His alibi was perfect. Black had given him the chance that would never come again.

Half a mile farther along the beach there was another slipway. Here Davis hired a boat, asking for a fishing-line also. He was given two lines and was assured that the fish were biting well. As he rowed off the boatman expressed the hope that he would have a good catch. A good catch! That was just what Davis was going to have. Black was the catch.

Davis rowed out to sea with even strokes. He was not in any hurry to let Black see him. It would be delicious, he thought, to observe Black's face when he came up to him in the darkness.

It was a peaceful evening, the water was fairly calm. A steady current was swinging up the coast. In the middle of the Channel a liner was moving up to London, inward bound from a foreign land. Davis reflected that he might be aboard her when she sailed down again. He saw Black's boat dimly, moving out beyond the few fishers who kept near the pier.

The twilight faded, the liner was lost in the gathering night. Davis bent to his oars. Now was the time to act.

Black's boat was moored to a buoy, and he was getting his line ready for casting when Davis pulled alongside in the darkness. Black turned round at the sound of the oars. When he saw Davis he jerked out a cry of alarm.

"You see I've come, Lorry," said Davis with a laugh. "Keep quiet and put your hands on your knees so I can see 'em. I have a gun."

Black obeyed. He seemed to slump on the seat, all his life gone out of him.

"I saw you passing the hotel today," he gasped. "Is it money you want?"

"I came last evening," replied Davis. "They told me at your rooms in London what hotel you were staying at. I coaxed it out of them. I would have found out in any case, somehow. Have I come for money? I have come for more than money. I have come for you."

"For me?"

"Yes, for you, you rat! You know I have been on your trail ever since we came out of prison."

"I have been aware——"

"Of course you have been aware. You have tried to dodge me at every turn. When I came to see you, you always pretended you were out. But I kept after you. And you have given me a perfect alibi for what I'm going to do."

"A perfect alibi? I don't understand."

"You will very soon. I made my plans in prison. I was thinking about you when I was making the mail-bags during the daytime, and I was thinking about you when I lay on my plank at nighttime. And now I've got you. You came out to fish tonight. So did I. Good fishing, Lorry!"

Black edged backward as Davis climbed into his boat; but Davis thrust his revolver out until it almost touched Black.

"If you yell," he said, "I'll shoot."

It was a weird situation. The lights on the promenade were twinkling. The hotels were brilliantly lit. From the pier came the harmony of the band playing one of the latest dances. A dying fish flapped feebly on the floor boards of the boat.

"John," said Black, suddenly, "it won't do you any good to hurt me. I warn you."

Davis grinned.

"On the contrary," he said, "it will do me a lot of good. You haven't had time to squeal to the cops, and it wouldn't have mattered if you had. I don't mind the cops. I can put dust in their eyes."

"If it is money you want," said Black, "I can give you some. In my pocketbook you will find twenty ten-pound notes."

He handed it over and Davis took it, crackling the fringes of the notes with his thumb before he put it into his own pocket.

"Have you any more at your hotel?" he asked.

"No," answered Davis. "I drew these from the bank near the hotel."

"You won't draw any more," said Davis. "Never."

"Why?"

"Because I'm going to kill you."

The decision was followed by a terrible silence. Black did not cry out, he did not exclaim, he did not plead for mercy. Davis went on.

"You know why I am going to do it. You turned the cops on to me after you were pinched for our last robbery——"

"You're wrong," said Black, steadily. "I did not turn the cops on to you. They told you that so you would give yourself away, and you gave yourself away. It was your own admission that brought you into the dock beside me——"

But Davis would not listen. He believed that Black was trying to get out of the corner. And yet it was true what Black had said. The two of them had been burglars in company. They had done jobs together. Black usually took most of the risk. He was strong, agile, with a pair of hands that could pick up trinkets as swiftly and cleanly as he could wield a heavy hammer. Davis was a different sort. He was possessed of a fierce temper. He had no imagination. In this case he had given himself away in face of a police trick. He had been sent to prison with Black, and he had sworn to kill Black.

This enmity existed in prison. Twice Davis had been disciplined for attacking Black during exercise. The result was that he received a longer sentence. And now that he was out of jail he was carrying out his plan to revenge himself on his one-time companion.

It was useless for Black to argue. He was quite aware of the temper that flared behind the face of Davis—an ungovernable temper that refused to listen to reason and declined to accept the truth. But Black did not shrink as Davis expected he would. He merely laid his hand on the gunwale of the boat, and the act made Davis strike.

He had intended to shoot Black, but the movement of the latter made him strike instead. He struck with the butt of the gun, and the blow fell slantingly on the head of Black. He crumpled up and slid over the side of the boat, which tilted dangerously. Davis seized the form of Black and pushed it completely over.

He saw Black's form slide into the depths. He heard no cry. There was no struggle at all. Black went down like a stone. Davis sat down in the boat, watching. But Black did not cry out, if he ever came to the surface. The sea rippled and lapped against the boat. All was still.

It was a little while before Davis undid the mooring rope and completed the scheme he had planned. He deliberately capsized Black's boat and let the oars drift away, after throwing the single fish into his own craft. Then he rowed ashore.

He congratulated himself on getting rid of Black so easily. After all, a blow was safer than a shot, which might be heard. And he had the money. That came handy to him.

The band was still playing on the pier when he began to row ashore. He hummed the tune to himself, keeping time to the music, and watched the dancers as they swung around, dark silhouettes against the glass-sided pavilion.

Just before he reached the slipway he threw over most of the bait with which he had been supplied, and dipped the line into the sea. Thus the boatman would know that he had been fishing. He paid for the boat, gave the single fish to the boatman as a present, and went up to the promenade.

He went to the boarding-house where he was lodging. It was then a quarter to ten o'clock.

But he did not enter by the front door. He went round to the back of the tall house, turned down a side lane, scrambled over the wall, and ran along the garden until he reached an outhouse. Above the outhouse was a lighted window, the blind of which was down. He hauled himself to the roof of the outhouse and crawled up the tiles. The window of the lighted room was open at the bottom. He pulled

back the blind and slipped inside. Across the floor he walked quickly. The key was in the door lock. He unlocked the door, then returned and threw himself into a big armchair.

He unlaced his boots and pulled on a pair of slippers and lay back in the chair, pretending that he was asleep. He was snoring when a knock came to the door. He did not answer. The door opened, and then he appeared to awake.

"Aren't you coming down for supper, sir?" asked the maid who had put her head round the door. "The gong went some time ago."

Davis jumped to his feet, yawned, and stretched his arms.

"Supper, hey? I've been asleep all evening. Have you been up before?"

"No, sir."

"Anybody called for me?"

"No, sir, nobody called."

"Good. Thanks for calling me."

He went down to the shabby dining-room, stifling yawns and blinking ostentatiously. During the meal he told his neighbors that he had been sleeping in his room. They explained it by saying that everybody slept for the first few days. It was the strong air that did it.

That night Davis told the boarding-house keeper that he was leaving next day. He handed the proprietor one of the ten-pound notes he had taken from Black and said he would get his change in the morning, as the proprietor had not the change on hand.

Davis slept very well that night. He went down to breakfast and then packed his bag. He was busy at this when the door opened. A man stepped inside.

"You Mr. John Davis?" he asked.

"I am."

"The ex-convict?"

"Aw, you're a cop, I suppose. Well, you needn't try to pin anything on me. I'm going back to London now——"

"I'm a detective," said the man, holding out a piece of paper toward Davis. "How did you come into possession of this ten-pound note?"

Davis stared at the note. Before he knew what was happening a pair of handcuffs were on his wrists.

"What's this for?" he demanded, angrily.

"It's this way, Davis," said the detective. "We had a letter from Lorry Black a few days ago. He wrote that he expected you would be after him and that you would probably demand money from him. If you tendered any ten-pound notes anywhere, or if they were found in your possession, we had evidence enough to arrest you. These notes were supplied to Black by Scotland Yard with instructions to carry them in his pocketbook. They are faked notes and the banks knew about them and had their numbers. This note was handed over a bank counter half an hour ago by the proprietor of this house. So I'm taking you on that charge in the meantime until we have traced Lorry Black."

Of course, they did not trace Lorry Black so easily, for he had been sent overboard in deep water; but some weeks afterward, when Davis was still being held on suspicion, a body was washed up some distance down the coast and there was little difficulty, as has been mentioned, in identifying it as being all that remained of Black.

The rest was swift work on the part of the police. Davis was charged with murder, his movements that evening were all tabulated and checked up, and the prosecuting counsel told in detail all that I have related. Thus John Davis went to the scaffold and was hanged....

At this point the waiter stopped and stroked his chin, while the judge bent forward.

"I congratulate you on the way you have marshalled your facts," he said, smilingly. "But what do you seek to prove by telling me all I already know? It was I who passed the death sentence on John Davis, and since he murdered his confederate, Lorry Black——"

"That is just the point. He did not murder Lorry Black."

"Indeed!" The word was spoken in an incredulous tone.

"No, he did not murder Lorry Black. You see, Lorry Black was well aware that Davis would be after him. He knew that Davis would try to kill him. He set the stage for Davis that evening. He saw Davis waiting for him and he took the boat out to fish, knowing that Davis would not miss such a good opportunity. He expected Davis to follow. He gave him the money willingly and gladly. He set his net wider than Davis set *his* net. It is true that Davis hit him on the head, but Black was already halfway over the side of the boat. He was a good swimmer. He managed to get ashore. He wanted Davis to hang. He provided the body that was identified as his own."

The judge sat up stiff and straight.

"It is impossible," he said, sternly.

"But it is true," went on the waiter. "He got the body—— But why weary you with what is another long story? He saw to it that the body would be identified as his, and he committed it to the sea. He did that rather thoroughly. He anchored the body with certain anchorage that would decay by the action of the water in a given time. The tides would do the rest. Then he went into retirement. He took another name and waited. He was one of those who stood at Wandsworth prison gates and read the notices that John Davis had been well and truly hanged."

The waiter ceased, and the judge, who had been listening intently, seemed to slump into his chair. His massive face was more wrinkled than ever, and there was a shade of baffled weariness about his eyes.

"I sentenced John Davis," he murmured. "The evidence was clear. The jury were satisfied."

He seemed to Be talking to himself.

"Lorry Black was in the gallery of your court and heard your summing up," said the waiter. "He also was quite satisfied with your judgment—especially when you put on the black cap—even if he disagreed with the penal code on principle. He proved that the law can be used against itself. It is the principle we are discussing. By the way, Black got a lady friend, whom he had appointed his heir in his will, to lift his insurance money. It came in very good time."

Suddenly the judge straightened.

"If Black is still alive, and if what you say is true——"

"Please do not be alarmed," said the waiter, suavely. "I have the best of reasons for knowing that Black is alive. *I* am Lorry Black."

He stretched out his hand and took another glass from beside a sleeping member of the Clue Club and placed it next the one he had already claimed.

"Second point to me," he smiled.

CHAPTER IV

The Judge States His Second Case

One thing must certainly be said in favor of the judge at this stage. He took the surprising revelation very well.

A faint, bitter smile hovered around his lips for some time. It was just such a smile as had appeared on his features when he had learned for the first and only time in his career that his judgment had been upset by a higher court. This had occurred a long time previously, and the barristers who pleaded before him seemed, on the following morning, to adopt a trifle more confidence, a subtle, hardly distinguishable self-assurance. But the judge had had his revenge. The higher court had admitted at a later sitting that the law, in this particular instance, was anything but clear, and they had recommended that a new statute be drafted on the basis of the judge's interpretation.

Probably something came to his memory of that vindication as he now considered the waiter before him. It was the latter who first broke the silence.

"Courtesy compels me to put the usual question to your lordship. Is there anything you wish to say against my finding?"

The judge shook his head, but his eye was fixed on the two glasses beside the bludgeon.

"Presuming that your identity is as you admit, there is nothing very useful that I can say in objection. But the name you gave to me just now is not that in which you came here as waiter——"

"It is merely one of my aliases."

"One of them? Interesting enough. A man of your intelligence need not be reminded, in that case, that you are liable to prosecution——"

"Provided I allow the police to prosecute."

"It is altogether a remarkable situation."

"Brought about by remarkable circumstances."

"I do not follow."

"It would be cruel for me to tantalize your curiosity without limit. I do not intend to do so. But, on the other hand, the time has not arrived for me to satisfy it."

The judge murmured something that was scarcely audible. The waiter bent forward.

"No," he said, quietly, "I do not think that you will hear it all from the bench. The fact is that I came here as waiter so that we could discuss in private the subject of the penal code so far as it applies to the judgment of death. There is never any opportunity for a prisoner in the dock to engage an eminent judge in controversy. No judge would listen——"

"The time of the court could not be wasted," smiled the judge, now more than ever convinced that he had to deal with a lunatic and anxious to avoid a rupture.

"Therefore, for that very reason, I designed this meeting with your lordship. I hope it is proving quite as agreeable as your favorite chess game, though so far you have lost two men and gained none."

The judge made a motion of his hand to signify that the loss of the men did not give him any regret—a gesture that did not by any means indicate his true feelings.

"Chess is an old game," he remarked. "I believe one of the Chinese rulers used to play it with living men. When these men were lost, according to the rules of the game the ruler and his opponent made the ending completely novel by taking off the men's heads on the spot! One imagines there was not any great enthusiasm to become chessmen."

"That, of course, was murder," commented the waiter, sternly.

The judge, who had mentioned the ancient game with live men in a jocular vein, controlled the ripple of mirth that he was about to express at his own joke. He saw that the waiter did not agree with his humor, so he was silent.

"It is just on the same ground that I object, in one way, to modern judgment of death," went on the waiter with a show of anger. "These chessmen's lives depended not on their own deserts, nor on justice,

but on the ability of the ruler and his opponent to play chess! On their vacillating decisions, in fact. Is it just that an issue of life or death should depend on that? Yet that is what happens today."

"I still hold," said the judge firmly, "that your estimate of capital punishment is both unpopular and unworkable——"

"You cannot deny that the final decision, notwithstanding the verdict of juries and judicial pronouncements, lies in the hands of whoever happens to be Home Secretary. The personal moods, resolution, firmness, or weakness of that official are the frail balance ——"

"There is always a tribunal of the Court of Criminal Appeal——"

"Who judge, like you, on the legal code and administer it in the same way—death for the uncontrollable frenzy of a moment as for the considered poisoning of a long period. A gunman from Chicago and a betrayed girl in London have both been found guilty of murder and sentenced to execution though their respective measures of criminality were entirely different."

"Ah, the old idea of making the punishment fit the crime is just what capital punishment does," cried the judge. "I will give you an instance that will convince you. Will you please let me have the minute-book for a moment as I refresh my memory."

He assumed something of his heavy authority as he stretched out his hand and took the book which the waiter passed over to him.

The fact was that the judge was still smarting under the reprimand he had just received when he told the story of the living chessmen. He was so used to counsel and witnesses bursting into guffaws at his wit that he experienced a sense of irritation when his playfulness was without this gratifying result. Had the waiter only been in the witness box how the judge would have roasted him! Had he been in the dock——!

A KILLER BY NATURE

There was a look of cold disdain in his eyes as he raised his head and pushed the book a little to one side. Then, in his court voice, without emotion, yet with emphasis on the right words, he related

the following case, adopting the waiter's method, perhaps unconsciously.

I had great satisfaction [came the lofty authoritative pronouncement], in donning the black cap and sending Abe Lammie to the scaffold. He was a natural criminal.

Never in all my years on the bench was I so revolted at a crime as at his. Hanging was his deserts. Death was his due. Extinction was his fate. I had no pity for him, nothing but loathing, anger, contempt. These emotions were shared by the jury, who did their duty as honest and just men. So thoroughly was I in agreement with their verdict—which I had plainly hinted to them was the only one they could possibly bring in—that I exempted them from service for five years. They did not leave the box, but found Lammie guilty without a second's hesitation.

My experience in legal matters—in the humble position I occupy and during my early days—leads me to believe that the best way to reduce crime to the irreducible minimum is to make the risks greater than the recompense. But this man was a living contradiction to the theory as he was a contrast to ordinary criminal methods and theories. Therefore he was a greater danger to society, which must be protected; society, whose mouthpiece I am, deserved to be rid of him. I, like the jury, did not falter in my duty or responsibilities.

Had there been no risk Abe Lammie would probably have passed by the temptation to rifle the safe of a certain West End store. Had he passed by that temptation the watchman would not have lost his life. It was Lammie's nature to burrow and to attack from unexpected quarters. He had entered the store and had struck down the watchman before the latter could protect himself. A mean, brutal blow, it was.

He had approached this job by the tortuous way that many times had baffled the police. Most criminals would have hidden in the store at closing time and would have attacked the safe when the watchman was in a distant part of the building. But this man, Abe

Lammie, was called by his confederates by the name of The Mole. He was indeed such an animal. He attacked the watchman before he attacked the safe.

His record showed that in one thing only did he resemble his fellow criminals. He watched a job, as they call a burglary, before he set to work on it; but even in this he differed from his mates. What he watched for in any job was not the easiest way of escape, but the difficulties which he might turn to his advantage.

Lammie did not choose any of the hiding-places this store offered to burglars. He could have crept under a counter before closing-time. He might have hidden himself among hanging garments. He might have stepped into a cupboard. All these are places usually sought by burglars just on closing-time. But Lammie worked according to his own theories. He entered the premises through a manhole in the pavement at the back of the building.

He wore rubber-soled shoes. To make sure that the watchman would come his way he deliberately upset a glass stand of displayed goods. When the watchman did appear Lammie knew him. The man had been a jailbird. Lammie recognized him at once. He had seen him in prison, and Lammie recollected that this man had tried to speak to him once, but a warder had intervened. All this passed through The Mole's brain rapidly. As the watchman stooped to examine the smash The Mole struck him down.

He left the watchman lying there while he made his way to the safe. There were several hours at his command since the watchman was out of the way, and he worked carefully. The police gave him credit for being a good burglar. His burner went through the door of the safe quickly and the lock fell into his hands.

The safe contained many things for which he did not have any use. There were ledgers, cash books, account books, letter files. These Lammie did not touch until he had pulled on a pair of gloves. He took two books down to where the watchman lay huddled on the floor.

Lifting the dead man's right hand, he smeared the tips of the fingers with dust and pressed them on the binding. He had the destroyed lock of the safe in his pocket and he pressed the tips of the watchman's fingers against it also. Then he returned to the safe.

He placed the books so that it might be thought they had fallen when the safe door opened. He put the lock on the floor. Then he delved into the drawers containing the cash. It was made up in bundles of notes held together by elastic bands. As the store had a *bureau de change*, there were a number of foreign notes; but Lammie took only the British ones. Altogether he had loot in hard cash to the value of nearly a thousand pounds.

He emptied the silver into a canvas bag which he took from his pocket. Leaving the safe door open, he rose to his feet and carefully brushed the floor so that the dust would not tell tales. His footprints did not trouble him. Flat rubber leaves practically no mark, and as dozens of people had already passed that way during the day his footprints could not be distinguished.

With his booty stowed in his pockets and his tools in the leather pouch inside his waistcoat he went to the jewelry section. Here he closely inspected the cases with the aid of an electric torch. A case of gold watches attracted him. He smashed the glass and helped himself.

In all he took over two dozen watches. They were the best in the case—goods he could sell quickly and without trouble. He inserted them into small pouches in his belt specially adapted for articles of jewelry. He next selected several watches and other goods of lesser value and carried them to where the watchman's body lay. He put the articles into the dead man's pockets and—it may have cost him a heartbeat—he also put a five-pound note in beside them.

He searched the dead body for the keys necessary for what he had still to do. Having secured the keys, he went to the door at the back of the premises by which the staff entered. On the back of the door was a burglar alarm which Lammie disconnected. He opened the door, peering out as cautiously as the animal after which he was named. The street was deserted. He shut the door and ran back to the watchman.

Hoisting the body on his shoulders, he returned to the door. Before he opened it this time he put the keys back into the watchman's pocket. He peered out again. All was quiet. He placed the body on the sidewalk near the gutter. Then he walked away. His burglary and murder were complete.

He went straight home after having a cup of coffee at a dingy stall in a mean street. He and his wife occupied a small flat on the ground floor of a tall, shabby house in a shabby suburb. The flat consisted of two rooms, one facing the front, the other facing the back. Lammie occupied the back room, his wife the front. There was a reason for this, as there was a reason for everything The Mole dictated. He had thus two means of entrance and exit. The windows of both rooms were auxiliaries to the doors.

He was awakened in the morning by his wife, who was standing by his bedside, her hand on his shoulder. In her hand was a newspaper, and her forefinger pointed to a heavily-typed column.

"Was this you, Abe?"

"Is it about a watchman?"

"Yes."

"It was me."

His wife threw down the newspaper with a shudder. She was a big, angular woman, who seemed at ordinary times to be incapable of emotion; but in the presence of her husband she was always nervous. She obeyed him in everything to the letter, afraid of him, yet with a hesitating admiration for him. She was afraid on her own behalf, also, perhaps.

"One day, Abe, you'll make a mistake," she breathed.

"I can't see that day."

"The paper has a piece that says there's nearly a thousand quid in cash—lifted!"

"That's about right."

"And that the watchman must have let the—the—burglar inside. Some stuff has been found on the watchman. They say the police think he may have been in on the job and then there was a quarrel about the square-up. Is that right?"

"If that's what they say, let 'em say it."

She picked up the jimmy that lay among his tools as he had thrown them on the floor. A red smear stained one end.

"You wash that off," he commanded, "and gimme breakfast. I'm due somewhere by midday."

She took the satchel into the kitchenette obediently while he arose and pulled on his clothes. He ate his breakfast rapidly, not once glancing at his wife, who stood beside the table attending to him as a slave serves a master. When he finished eating he got up and took the tools from the kitchenette and put them into his coat pocket. His wife watched him all the time, following him about with a dumb interest that was doglike.

"Abe, I need money."

He whipped out a bundle of notes and handed over one.

"That's a fiver. Get it changed this morning. And look here, if anybody asks where you got it, say Braid, the 'fence,' gave it you. Get that?"

"Braid?"

"That's it, Braid. That's what you've gotter say. If nobody asks, say nothin'. Listen here. I'm goin' to Braid now. I've got something to sell. I'll be back maybe a bit late. Wait up for me—and look out!"

"Abe, can't we go away somewhere—abroad, Canada, anywhere? I'm wearin' out fast with all this waitin', waitin', waitin'. Them cops ——"

"Aw, we'll talk about that later."

"When?"

"After you've spent the fiver."

He went out by the back window and walked swiftly down the lane, diving into an underground station. The stolen watches were strung in his belt around his waist; the banknotes were in his pockets. He was going to get rid of his loot until the time when he could use it fearlessly. He knew—as had happened in the past—detectives would visit his apartment home. They often visited his apartments, and as often he gave account of his movements that satisfied them. He was quite sure of his ground on this occasion, as usual.

It is a fact, known to the police after much inquiry and investigation, that few receivers of stolen property make their arrangements with thieves within the circles of large cities. It is the same in New York, Chicago, Philadelphia as it is in London, Glasgow, Liverpool. When a burglar has considerable booty to sell

he goes out of the radius of the city. It may be in the outer suburbs, or deep in the country; but it is not, as a rule, within the metropolitan area that he makes his rendezvous with the receiver.

The reason for these rendezvous some distance from the busy centers is quite simple. Most goods of value have to be disposed of immediately they are stolen; and, again, if the hue and cry is very hot, the criminal has always a good jumping-off spot. If all goes well he can deliver his loot, get his money, and be back in the center of the city, or among his social haunts, before the police have time to fix on a clue. These men always have alibis. Their companions commit perjury habitually. The disposing of jewelry has become an art.

Abe Lammie's destination was northwest of the city. All his instincts revolted at the idea of traveling by bus or ordinary overhead train. Mole-like he went underground. It was not that he feared being arrested if he showed himself in daylight; the police never moved so quickly as that. It was not that he regretted murder and wished to hide from his fellow men; he had used violence previously. The real objection he had to moving on the surface of the earth was the key to his whole existence. The trade—or profession—of burglar fitted him as closely as his skin. He was by nature a subterranean mammal, a shunner of the sun.

He had no parents of whom he could say, "Here is my mother, there my father." Of the former he had never heard or known a thing. Of the latter all he knew was that he was a prisoner somewhere, held by his own natural enemies, the police. His recollections did not go farther back than the time when, as a boy, he stood alone in the dock and was sentenced to a period of detention in a reformatory. He had not seen his father since that day. Not that it mattered much, for neither father nor son had any attachment for the other.

But even in these far-off days Abe Lammie escaped from the institution. How? By digging under the walls. He had remained underground ever since—a mole. In appearance he had a distinct resemblance to the animal. His arms were short, his fingers were stubby, like claws. His neck vertebræ were solidified. His chest was wide and powerful, his legs long and muscular. He walked as if he

were swimming through earth. He made night his day and day his night. He hated summer and liked winter. He was a bundle of adaptations.

Starting with this resemblance between him and the creature after which he was nicknamed, the likeness ascended in rapid stages. Physically the similarity was positive. Socially it was comparative. Mentally it was superlative.

He chose his place of residence as carefully as any mole ever built his home. The path from the front gate to his door was the first "run," over which he, or his wife, could see the advance of strangers. The back lane, a dozen yards from his window, was his "bolt-run." The two rooms were his "fortress." His wife was his sentinel, his lookout, ready to give the alarm from the front room. Under the floor boards, behind the lathing of the walls, among the bricks at the back of the fireplace, in holes behind the skirting boards, in every unlikely place he had often stored his loot; but only temporarily, for the police had searched his fortress more than once. Their failure to find evidence on which to arrest him was due to the cunning Lammie exercised in storing the goods. He changed the places with the ingenuity of a molewarp. When he was engaged on a "job" he was the animal indeed—vigorous in moving, feeding, fighting, everything.

His mind was the mind of this creature of the hedgerow to a surprising degree. His brain was contraplex—two messages were constantly passing in opposite directions athwart it at the same time. The one current represented the action about to be performed, the other concerned the hiding of that already performed. To him an obvious thing was dangerous and a sign of foes. A straight line was abhorrent, because he had found out that the law was represented as the most direct route to retribution. All penal codes to him were entirely unfair; his mind was so crooked that he believed he had a right to steal what he could and get away with it. He did not admit the wrong of burglary. If jewelry was not well enough protected to keep him from taking it, the owners deserved to lose it. The law had no right to punish him; he classified punishment as another wrong against him. Thus the combative strain of the mole in him had developed until it had become contumacious. And this development

only served to emphasize another trait relating to his nickname. Having observed how the police, his natural enemies, collected reliable witnesses, he adopted the idea, but used it as a defense instead of an attack. He involved those who feared him and screened himself behind them because they dared not give him away. Out of their helplessness he erected a bulwark for himself.

The subway on which he traveled roared its way across the foundations of the city and bore him upward toward the high ground of the northern section. Within a few miles of its terminus it burst out of the tunnel into the sunlight. Abe Lammie crouched in his corner, blinking his small eyes at the brightness he hated. On each side of the railway track new excavations were being made; brown clay was heaped in high embankments and lay across the green valleys extending toward the final station of the track. On the side of the hills some distance off he noticed two black holes that had been excavated. A steam navvy was heaving great loads of rock and rubble down a chute. The sight stirred a memory and a slumbering sympathy in him. He kept his eyes fixed on the excavating work until the train pulled up. He awakened with a jerk to the knowledge that he was at his destination.

He traversed the streets of the new suburb by stages, taking every back lane. In time he arrived at the house he sought. It was an old manor house, a relic of a past generation, with half an acre of thickly wooded ground surrounding it. He was ushered into a large room barely furnished, and found himself facing a small man who nervously twirled his hands as he greeted him.

"Well, Abe, I see by the papers——"

"I got the stuff," interrupted Abe. "There wasn't much of what you said. Two dozen tickers. But gold."

"Show them to me."

The Mole loosened his belt and swung it clear of his body. The receiver examined every watch.

"I'll take them. Twenty pounds the lot."

"They're worth ten times that."

"I said twenty pounds."

"All right. Hand the money over."

It was always the same. He did the work and the receivers beat him down in price. All he ever possessed in this world he took by cunning and by force.

"Now that you've skinned me," he said when he stowed the money away, "I've something I want you to look after for me. It's my own loot—not yours. I got the tickers for you. I took this for myself. I know the exact amount——"

"I couldn't store it for you, Mole."

"You know what it is?"

"It's the banknotes, isn't it?"

"You bet. You can hold them until it blows over."

"Sorry, Abe. That's your funeral. I can melt down gold or silver, I can't melt notes. I expect the cops know the numbers of some of them, if not all, by this time."

The receiver twirled his hands more than ever as he saw The Mole's brows drawn down. There was silence for a few moments. The receiver spoke again.

"Seen the papers, Abe?"

"What do they say?"

"The watchman was found on the pavement. You laid him there, I suppose?"

"Well?"

"One idea is that he let some one into the store. A pal, likely. They say the watchman was an ex-convict, a lifer, who did his term and was expected to make good. You did it smart, Abe, but I didn't want you to kill. That was where you slipped up, Abe. It's bad to kill. You've given others the knock-out, but not the good-by. Why did you do it?"

"He was in the way. What's it matter? I'd do it again. What about them notes? Are you scared to hold 'em?"

"There's the numbers, Abe, and numbers tell tales. You've been a good boy to me, I admit, and so I'd like to do what I can for you. You'll want to get away now that the watchman is on your conscience——"

"I haven't got a conscience," said The Mole. "What about the notes?"

"I'll buy them, Abe, if you'll let them go cheap. I'm only doing this to help you get away. What about a hundred pounds, cash down?"

"Huh! You get the tickers dirt cheap and then you offer me a hundred for nearly a thousand in notes!"

"Look at the risk, Abe! This is a killing case. You'll have to get away."

The Mole lit a cigarette and puffed slowly at it, his brows drawn down over his dull eyes. He knew quite well that the receiver was not concerned about his safety.

"It was you put me up to the job," he said, after a little. "*You're* all right. *You* don't get pinched. *You* don't risk swinging. It's me that runs for it every time. I'm always on the hop. I'm always between you and the cops—keepin' my eye on both. And you have the nerve to offer me a mean hundred for all that pile!"

"It's all I can afford to risk, Abe. If you ain't satisfied, go and get them changed somewhere else and see what happens!"

He snarled the words and turned away as if to wash his hands of the proposition. The Mole laughed and the receiver turned quickly. There was something in The Mole's laugh he did not like.

"I gave one to my wife," said The Mole.

"That's your affair, Abe. You shouldn't trust women, even wives. They'll grab your wife, sure as a gun, and then it's all up with you. Isn't a hundred better than—the other thing?"

"It won't be the other thing, you mean Yid! I told my wife what to say, and she'll say it and stick to it. She was to say that you gave her the note."

"Abe!"

"Oh, she'll say it. She does what she's told."

"Abe, you dog!"

"She knows better'n give me away. She's all right."

"Abe, you devil!"

"I've tied you both up, old yellow Yid! You and her. See?"

The receiver was livid. He trembled with rage and, but for the knowledge that The Mole could have killed him in a struggle, he would have thrown himself at Lammie. His anger mastered him and he threw out a finger, shaking and accusing in the excess of his fury.

"I won't touch the notes now! I'll blow up everything! I'll deny you gave me the watches! They'll never know that bit! I'll tell them you have the notes! They will get you and you'll swing, Mole!"

Lammie shrugged his shoulders and threw the stub of his cigarette into the fireplace.

"Not so fast, Yid! If the cops come for me I won't run. I'll hand 'em a speel. But they won't get a scrap of evidence to pin on me. You've had your chance to help me out and you've refused. All right. I know where to hide the notes. And when you are in the dock—you and the wife—I'll lift the swag and hit the trail somewhere."

"I'll tell them you came here with it," yelled the receiver, triumphantly.

"Huh! They'll believe me first when I say I came to ask you where you got the note you gave my wife and why you gave it her! You and she can argue it out before the judge!"

The receiver was staggered at the audacity of the defense this human mole had prepared. It was feasible, cunning, as plausible as anything the receiver could say. And The Mole's wife would back The Mole up with her blind loyalty. It was two against one. The receiver was caught, hemmed about by the scheme of The Mole.

The burglar laughed sardonically, lifted his empty belt, and buckled it around his waist with deliberation. The receiver stood like a man bewildered, not knowing which way to turn, yet watching The Mole's movements with a strange, paralyzed stare.

He saw The Mole choose another cigarette from his case, light it, and throw the match down. He saw him button up his coat, pull his cap down over his forehead, and stride across the room. The bang of the front door aroused him.

"I'll find out where he hides the notes!" he cried, swiftly. "I'll follow him!"

A voice from the dark hall answered him as the door of the room was flung open.

"If you follow me, Yid, I'll croak you!"

The Mole was standing in the dim passage. He had not gone out at all. He had banged the door to make the receiver believe that he had.

The two men gazed at each other for a tense moment. Lammie was grinning at the success of his trick.

"I wanted to see what you'd do, Yid. I expected you'd rush out to follow me. Listen here. If you follow me a step, I'll murder you!"

The receiver collapsed into a chair, his head dropped on his chest. He had been beaten. After a time he raised his head. The Mole was still regarding him from the passage.

"It's all right, Abe, I won't follow you. Honest to goodness."

"I know you won't," replied The Mole, grimly.

"But, Abe, you'll make a mistake. You work too much alone, Abe. All them that work alone make a mistake one day."

In spite of himself The Mole started. The words were those his wife had used. But he tossed his head defiantly.

"It's you that has made a mistake, Yid. And my wife, too. She made a mistake. I haven't any use for either of you."

The words revealed the depths of his scheme. Abe Lammie had no compunction about involving his wife in the toils he had cast around the receiver. He was sacrificing her as he was prepared to sacrifice anyone, in order to cover his own trail. The sexes of moles build separate fortresses.

The door banged once more. This time The Mole had really gone.

It was gray evening when he arrived in the main street of the suburb. He had a meal in a mean restaurant. He heard the newsboys call the evening's news, the news of the murder and burglary. He did not buy a newspaper because he could not read much. But, having finished his meal, he set out on the next stage of his plan.

He bought a ball of cord, and at a green grocery stall he persuaded the proprietor to sell an empty potato sack. Then he strolled toward the outskirts of the suburb. It was dark now. He passed out toward the meadows. He sat down by a hedge and parceled up his booty.

He tied the bundles of notes together, adding the notes he had received from the "fence" for the watches. He put the loose silver, which was in a canvas bag, on top of the notes, but retained sufficient for his immediate wants. With his tools he dug a hole and put the tools, wrapped in the case, into the hole and covered it up, marking the spot by a tree and putting a large stone on the top. With the notes and silver tied up in his sack he rose to his feet and struck across the country, his bundle under his arm.

He went straight to the excavations he had noted from the train when he arrived at the suburb. He descended the embankment of loose rubble and rock and took a pickax, which he carried toward a large tree well away from the diggings. He dug another hole at the tree roots and buried his money, marking the tree so that he would know it again. Then he returned the pickax and in time reached the high-road.

He went back to see if the receiver was still at home. There was a light in the room where he had interviewed the receiver, but The Mole wanted to make sure. He threw a pebble against the window. The receiver's head appeared as the blind was drawn aside. The Mole dropped down among the shrubbery, and when the receiver's head was withdrawn The Mole moved away, grinning to himself. The receiver was where Lammie wanted him to be.

The Mole then went home. He was perfectly content. His plans had worked without a hitch.

There was an arrangement with his wife that she manipulated the blind of their front room as a signal to him when he was returning home. If the blind was halfway down, cutting equally across the upper and lower sashes of the window, it meant that the police were waiting inside to interview him. The police often called on The Mole after a burglary. He had been in prison several times. Now, however, he had his defenses so well set that he was without any anxiety. He acted characteristically, banging the gate as he entered the front garden, and walking into the front room boldly enough.

He whistled softly to himself as he entered the room. Two men were sitting behind the door; his wife was by the fire. Her eyes fluttered toward her husband.

"From the Yard," she said, with a movement of her hand toward the visitors. "They want a word with you, Abe. I've told 'em you've been on the straight. Lookin' for a job of work, I told them, which you can prove."

"You bet," said The Mole.

He turned toward the men, who had risen to their feet.

"I'm glad you come. I want a word with you about a fiver that a Yid give my wife. I've warned her about that fiver and I was up seein' the Yid now. If he's been using her to pass stuff——"

"We did come about money," said one of the men.

"Expected it. Huh."

The Mole took a cigarette and lit it in a matter-of-fact way. It was just as he had thought. His wife would be taken, not himself.

"But there is something else, Lammie," went on the man. "I have a warrant for your arrest. There is another charge against you."

"Come off it," laughed The Mole. "I hadn't anything to do with that fiver. My wife will tell you who gave it to her. What's the other charge, anyway?"

"The watchman of a store has been murdered, Lammie. Fingerprints were found on a showcase that was upset. You forgot to wear gloves before you pushed it over. But the main charge is not burglary. That watchman was an ex-convict who had been in his job only a few weeks. We have identified him all right. The charge against you is parricide."

"What's that?" asked The Mole, hoarsely.

"A parricide," explained the officer as he put the handcuffs on the unresisting Mole, "is a man who murders his own father."

The judge paused for an impressive moment, then stretched out his hand toward one of the two glasses on the table before the waiter.

To his astonishment and chagrin, the waiter raised a remonstrating finger.

CHAPTER V

The Waiter States His Second Case

"Surely!" cried the judge; and his tone rang high, charged with indignant protest.

In the one word was a whole speech of dissent, a compressed synopsis of his surprise and sense of injustice.

He drew back his hand inch by inch, while the waiter's finger remained poised. There was something Solomonic in that uplifted finger, something, too, of satanophany in its rigidity that had a chilling effect on the judge's outcry.

"Who are you?" he demanded, forcing a certain authority into his voice that he was far from feeling.

"All things in their places," responded the waiter. Then he dropped his finger. His expression, which had been commandingly pregnant, changed to one of engaging frankness.

"Your lordship's eagerness to justify the black cap," he said, "reminds me of an incident that occurred during a race meeting at Aintree some time ago. You must be aware that at one time the royal racing colors included a black cap, and on this occasion the valet of a royal amateur steeplechaser had, in the hurry of packing the kit, omitted to include the cap. Just when the race was about to begin the loss was discovered. Where was a black cap to be found? In the midst of the anxiety a humble spectator observed that very famous Judge Hawkins, who was as eager to see a horse race as he was willing to sentence men to death. 'Ask old 'Awkins,' shouted the spectator. 'He's bound to have a black cap in his pocket!'"

In spite of himself a gray smile twisted the judge's features at the waiter's story; but he pulled himself together and frowned.

"Am I to understand that you deny the justice of the death sentence of Abe Lammie? Stop fooling and let us keep to a clear issue. Lammie accepted his fate."

"By all means. I merely told the story as a balance to the one you recited a short time ago. Do you seriously put forward the fact of a man accepting his fate as an argument in favor of capital punishment? That is no argument at all. You have mentioned an ancient custom of a Chinese ruler. Let me mention a custom that still prevails in that country. Commanders of British warships raiding the lairs of Chinese pirates have often found that if they demand prisoners to be handed over, the headman of a village is willing to hand over a number of innocent people for execution in place of the guilty parties, who may have fled to the interior. The guiltless persons themselves do not object to being beheaded. They act as substitutes for the guilty because of the old Chinese custom whereby a condemned man may give a substitute's family compensation for his act. Doubtless your penal code would condemn this custom, but a Chinaman who believed in it would see no cause for complaint."

"I am not concerned with Chinese beliefs," said the judge. "Do you decline to admit that Abe Lammie's death on the scaffold was justice?"

"Before I answer that I must ask your indulgence to relate my second case," replied the waiter. "It may have a bearing on the case of Abe Lammie. We shall come to a definite conclusion regarding both cases when I have finished. The bases of both are rooted in the same soil. But by a peculiar chance the reference to pirates has some relation to the case I am about to present. This murder occurred at Wapping."

"What on earth has that to do with pirates in China?"

"Nothing whatever, but it is reminiscent of pirates in England. You cannot have forgotten that Execution Dock was situated at Wapping."

The waiter waited for the judge to make some sort of admission, but beyond a slight nod of his head the judge did not answer. He seemed, in fact, to be somewhat befogged at the reference to Wapping, and settled himself to listen as the waiter cleared his throat and turned over the leaves of the minute-book.

"I have no other reason for referring to Execution Dock," continued the waiter as he leaned back in his chair and regarded the judge closely to make sure that he was paying attention, "than to point out how many men ended their lives quite unprotestingly there. I make a point of this to offset the idea in your mind that the judgment of death is always opposed by the victims. Such is not the case. The pirates who were condemned at the Old Bailey, as a matter of fact, as often as not declined to put up a very strong defense. Having been condemned, they were placed in chains in a cart and transported through the streets of Wapping at a very slow pace. The populace usually pelted them with mud and refuse. Before the cart containing these unfortunate men the Marshal of the Admiralty drove, equally slowly, in his gorgeous carriage. His officials carried the badge of his office, a silver oar. That silver oar can still be seen in the Law Courts of London.

"In this way the dismal cavalcade proceeded to Execution Dock. A gallows was erected in the river at low-water mark, and there the wretched prisoners were hanged and gibbeted. Three tides washed over their bodies before they were cut down and taken away for further disgrace. The bodies were tarred, placed in an iron cage, and hung in chains so that all could see. The famous Captain Kidd was treated in this fashion.

"It was within a stone's throw of the site of Execution Dock that Jeff S. Connolly killed a woman and began his flight from the law. A great many of you anti-abolitionists hold that if a criminal had the fear of death in front of him he would not kill. That is a foolish supposition, and because I know it is a foolish supposition, and because you, my lord, sentenced Jeff S. Connolly to death, I desire to present him to you in an original light, as it is the true light. In a word, he was

THE MAN WHO WISHED TO BE HANGED

The murder he had committed had no relieving features. It was sordid, passionate, terrible. He killed a woman because she had ceased to love him and had proved unfaithful. One is not sure

whether he intended to kill her. Certainly the first thought that crossed his mind, when he saw her lying dead at his feet, was that it was one of the easiest things in the world to kill a human being.

Connolly was an American who had lived most of his life in England. He was usually a quiet, inoffensive man; but something of the primitive was in his nature. He killed this woman in a wild, Berserk rage of fury. Perhaps the necessity to stifle her cries when he first attacked her had something to do with the frightful end. And when she lay there, battered to death, he stood up and breathed deeply, conscious that he must now get away.

The few trinkets she wore were not of great value, but he took them. He stepped over to the window and looked out.

No one was about. The narrow street was dark; her cries had not aroused the neighbors. He slipped out of the doorway, closing it behind him, and walked smartly away.

His brain was in a whirl, the struggle had thrown him into a strange state of unreality. The world had somersaulted in these few minutes. He boarded an omnibus and went to his lodgings, with the object of going to bed and resuming his ordinary routine; but when he let himself into his room he found it impossible to do so. He was driven by a demon of unrest. He sat down and tried to think out the best way of escape.

One fact was patent. There was no doubt the woman would be found. There was equally no doubt the police would trail the city for her murderer. They might find a clue, a fingerprint, something that would lead them to him. He looked at his coat; a button had been torn off. And there was another thing—he had come away without his hat. He could not now recollect where he had laid his hat when he had called on her. He must have come all the way from that house without the hat. The omnibus conductor must have noted him. Pedestrians would have seen him. He had hundreds of witnesses against him. The police would have no lack of witnesses, and every finger would point toward him. The thought sent a shiver through him. He must get away.

His first act was to change his clothes. He put on an old suit, took an old cap, and went out. More than two hours had now passed since he had left the house where the woman lay dead. The

omnibuses were making their final runs for the night. He stepped on to one and took a ticket to the terminus. Somewhere beyond the city he would find a place to hide.

He climbed to the top of the bus, though there was a flurry of rain in the air. He took care to muffle up his face in his coat as much as possible, and huddled in the back seat, wondering, vaguely, what plan he might adopt. He had a little money. Ought he to take a train to a port and try to stow away on board an outgoing vessel? No, that was impossible. The police would track him that way easier than any other. The skipper of the ship would communicate with land; in any case, even if he managed to work his passage, he only narrowed his chances of hiding by going to sea. One cannot run away from a ship.

On the other hand, since he must stay on land, he knew it was but a matter of hours before every policeman in the country would have his description and would be looking out for him. These things were done by telegraph. There was also the telephone. On land and on sea he did not seem to have a chance. But on the other hand he could hide so long as he was free. That thought comforted him a little.

When the bus reached the terminus he dismounted and walked along the country road beyond the bus sheds as if he knew his way; but this seeming knowledge of his whereabouts was merely as a blind in case the busmen had seen and noted him. He hadn't the least idea where he was going. All that was in his mind was that the police would soon be on his trail and that he was safest away from his usual haunts. In the wide country he would work out a way of escape.

He put his hand into his overcoat pocket and found that he still had the blood-stained handkerchief with which he had wiped his hands after the deed. He wanted to get rid of it, but could not think of how to do it. The rain had filled the ditches along the road. He filled the handkerchief with stones and dropped it to the bottom of the ditch. He did not want to be found with that handkerchief on him. Then he sat down on the sloping bank. The rain had ceased. He leaned against the hedge, trying to sleep.

But the darkness terrified him. He had never known what it was to spend a night in the open alone, with only the silence of the countryside around him. He could not sleep. He was chilled and his

bones ached. But he did not move. No one came near him. A stillness as of death filled the air. The atmosphere was singing with that peculiar hum that makes quietness intense and lonely. The night dragged.

Perhaps he dozed a little. He never knew, but he closed his eyes often enough and opened them at intervals. Once, when he opened them, he saw that it was dawn. He was shivering. Birds were twittering in the trees, insects were flitting about the grass and the roots of the hedge, the cattle in the meadows were lowing. Nature was expanding, like one of her flowers, to another day's life. Only the man who crouched at the base of the hedge feared the coming of the light.

In the distance he saw the red tower of a church, and, besides the church, the blue-gray smoke of the cottage fires issuing from the chimneys. He heard the crunch of a country cart coming along the road. He arose and began to walk in the direction of the village.

At the fringe of the village there was a signboard which gave its name. One arm of the board pointed down a forked road, indicating that he was over a dozen miles from the city. The other arm gave direction to a town he had never visited. He dared not go back to the city. If he went to the town, he would run into danger that way, too. He decided to wait in the vicinity of the village. Hunger was beginning to gnaw at him.

He loitered among the meadows for an hour or two and saw the village awakening to its work. Men and women came out to the fields. The church clock struck hours at what seemed terribly long intervals. The crowing of cocks and the barking of dogs came to his ears. Necessity forced him to make a bold move. He walked into the village and entered the first inn he reached.

The moment he caught sight of himself in the large mirror above the bar he realized that he presented a wild appearance; disheveled, dirty, a contrast to the trim proprietor who was polishing glasses.

The fugitive strode over to a corner table and sat down. A newspaper lay on the table, and at another in the opposite corner several countrymen sat talking and drinking beer.

"What can I get you, sir?"

The landlord was standing before him, pleasant and clean in his white apron.

"Some bread and cheese and beer."

In a few moments these were placed on his table, and as he paid for them he heard the conversation of the men in the other corner.

"What I say," said one, dogmatically, "is this: There isn't a chance for him. I'd rather be the one that was murdered than the murderer."

The fugitive drew back into the shadow, his bread halfway to his mouth. He gripped tightly at the edge of the table.

"Why do you say that, George?" asked another. "If you was murdered you'd be dead. You ain't much use to yourself or anybody if you're dead."

A third man laughed. "While there's life there's always a hope," he said, and sipped at his tankard.

"That may be true," replied the man called George, "but I'd rather be dead, killed and done with, than running like a hare before the law. I've bin thinkin' about it since I seen the newspaper. I seen a bit in my time. I'd rather be the one than t'other. Fancy runnin' wild with a reward out for you!"

The man in the corner lowered his head so that they might not see his face. He was trembling, though whether from weakness or from fear he did not know.

"The best reward for a man like that," said the second voice, "is a rope round his neck and a six-foot drop. We don't want murderers in this country. Kill 'em off, I say. This one went to see the woman and killed her because she'd got another man. It was a brutal crime. The paper says so."

"It was a crime of jealousy," said the man called George.

"Huh!"

"He had been in love with the woman. Some say they were as good as married. He come back to find another in his place. He'd been away for some years. There was a story I read once, called 'Enoch Arden.' Well, I was thinkin' about it. What would you do if you came back and found your wife had thrown you over for somebody else—any of you?"

There was a silence. The man called George continued.

"Jealousy! Ain't that a kind of madness? Ain't love a kind of madness?"

"No reason for murder, George!"

"Oh, I don't know. Just think—if it came to you. I'm not sayin' he was justified. I'm not savin' anything except this—if you ain't jealous you ain't in love. Anyway, it's done. I'll bet he's sorry by this time."

"Come, George, you can't tell us that a brute like that has any conscience. Murderers haven't any feelings of that kind. Hang 'em, say I. If we don't hang 'em we'll have people committin' murder wholesale."

"I never heard of anybody, except maybe a raving lunatic like Jack the Ripper, who wanted to commit more'n one murder," replied George. "I've seen things, I tell you. And them like Jack the Ripper ain't responsible. Besides, I'm not talking about conscience. I'm thinkin' about him bein' hunted up hill and down dale. There ain't much chance for him."

"That's true," said one with satisfaction.

"He can't get away," went on George; "at least, not far. They've got his description, and it was only last night the murder was done. How'd you like, Tom, to be on the run, knowin' you were wanted everywhere? It would be a terrible feeling."

"I wouldn't commit murder," retorted Tom, doggedly. "He brought it on himself."

"I know. I know. I'm not taking his side. I think he should be caught. But it seems to me that he is at a horrible disadvantage. Think of what must be going on inside his brain just now. He's bound to know he'll be caught."

"That's true!"

The voice had come, forced as it were, from the fugitive. He was bending over his table, his fingers crumbling his bread nervously. George turned in the man's direction and nodded sagely.

"Glad you agree with me, sir," he said. "It isn't much of a chance he has.... See you've been having a tramp around the district? Lots of folk come down this way on a walking tour. There's the pilgrim's path over the downs. A nice walk that."

A silence fell on the room. The man in the corner was staring vacantly at the man called George.

"Speaking to me?" he asked, slowly.

"Yes, sir. You agreed with me about this here murderer——"

"Did I?"

He did not know he had spoken. His brain was not under his control, and the reminder that he had addressed this man called George sent his fears sky-high.

A footstep sounded in the passage and a man stood on the threshold of the taproom, beckoning to the landlord. The murderer sank deeper into the shadow. The man who had beckoned to the landlord was a policeman.

The landlord went out and there was a hum of conversation carried on in low tones. In a few minutes the landlord returned, his face grave and solemn.

"That's Ben Turner, the constable," he announced. "He says that they've reason to think the murderer is in the district. He left the city on a bus last night——"

"The murderer?"

"Uh-huh. He left his lodgings not half an hour before the cops went there to get him. He was easily traced. He left his hat and plenty of finger-prints, and a coat button."

The fugitive lowered his head still further and hid his face in his arms, pretending to be asleep. But his ears were open to catch every word.

"And me, I was just saying," said the man called George, "that I wouldn't like to have the feelings of that man. Hunted for his life."

"What about the life he took, George? It was a bad business. He battered that woman up terrible."

"There ain't much in a man that attacks a lone woman," cried one of the countrymen. "The sooner he's caught the better."

"Oh, he'll be caught all right," said George. "They're always caught. They make mistakes."

"I'd like to think it," said the landlord, skeptically. "Things ain't safe with them kind about."

"Yes, they make mistakes," continued George, quietly. "Even them that plan murder and carry it out in cold blood. Even them. They can't help it."

The murderer raised his head cautiously and saw George laying down his tankard of beer to resume his speech.

"You see," said George, "they're bound to make mistakes. A murderer fleeing from the law is handicapped by the strain and anxiety of the chase. Just think of it! He can't lie down and sleep in peace. He can't be seen in the daytime. He daren't go near his friends. The police are watching his usual haunts. They are at the railway depots. They are making inquiries everywhere. There isn't a step a murderer dare take that he must not test before he takes it. The telephone is working against him. So is the telegraph. So is the wireless. At the morning parade in every police headquarters this morning this man's description has already been read out. I tell you a murderer's position is hopeless from the start. Think of the wearing effect on him. England isn't so big. No country is so big that he can expect a getaway. It isn't that his danger is ever over. So long as he is uncaught he is in danger. A murder charge hangs fire for all his life. And then, when his nerves are in rags, he makes a false move, says an incriminating word—and he's done for!"

"Maybe that's true," said the landlord. "How'd you come to know all that, George?"

"I knows it by watching the foxes that rob the henroosts. When you corner a fox you can see the hopelessness in his eyes. You may have him treed, or just cornered. It don't matter. You can see him making his bad moves. You know he knows the fight is hopeless. In the end he gets desperate, reckless. Then you've got him. The same with dogs. And men, too. Some men do one thing and some do another. It all depends on their brains. But sooner or later their brains fail 'em. The torture of being hunted tells. The police know it well enough. I've talked it over with an inspector."

He turned toward the man in the corner, eager to find some one who would agree with him. But the man in the corner seemed to be asleep, his cap drawn down over his forehead. The landlord rubbed his chin.

"Wonder who he is?" he said, scarcely above a whisper. "He's been tramping the road. Maybe looking for a job. I thought he looked like needing a wash——"

He crossed the room and laid a hand on the fugitive's shoulder.

"Gone asleep, sir? Better wake up or your beer will go stale!"

The man lifted his head. The landlord looked into the dirty, haggard face.

"Hey, what's your name?" he cried, quickly. "Where do you come from?"

For answer the man sprang to his feet and struck the landlord full on the mouth, sending him staggering back across the room. Then, upsetting the table and his food and drink, he leaped forward and was gone before a hand could be laid upon him.

As he raced past the window he heard the shouts of the men in the taproom:

"The murderer! It's the murderer!"

But Connolly ran on down the village street. He had a glimpse of a constable and a plain-clothes man emerging from the local police headquarters as he fled past; then he dived down a side entrance to a house, climbed over the wall at the bottom of the garden, and ran across the meadows toward the river.

He had a good start. A thick wood clothed the banks of the stream, and beyond the wood was hilly country. If he could gain the hills he might hide until night and then make his way back to the city. The country, where he had expected to find security, was his enemy. His thoughts went back to London and its opportunities. He saw his mistake in coming to the country. The old theory that a city is the best place in which to hide pierced its way into his mind with painful acuteness. And as quick as it came this theory vanished. What chance had he in London? There were teeming millions, it was true, moving about its streets; but there were thousands of policemen. No, the country was the place, after all! The woods, and the hills, where he could see his enemies from a distance! He could not see them, at least he could not distinguish them, among his neighbors in London.

These thoughts flashed through his brain as he raced toward the river and the woods. They were not so much thoughts as impressions, swift and fleeting. He cast a glance behind him. He was being pursued, the policeman and the plain-clothes man in advance of others. A dozen people, mostly men, were strung out in the chase. The hounds and their quarry.

Connolly dashed into the river, which was not deep, and waded across. Into the woods he ran, but when he saw a grassy slope beyond the trees he knew that he would be caught before he reached the ravines and wooded gullies farther ahead. He rushed back to the river.

His pursuers were now on the opposite bank. He heard them shouting and saw them gesticulating. He dodged behind the trees and shrubbery, racing, bent almost double, into the thick undergrowth and pushing along the bank. Suddenly he burst through the shrubs and found himself facing a small inlet, a backwater of green, slimy water out of which reeds and rushes grew in profusion. He plunged into the almost stagnant place and found that the bottom was soft with ooze; but it was not more than a foot or so deep. He lay down among a large clump of reeds, drawing them over his face as best he could.

It was terribly cold, but he did not feel the chill. He hugged the tall grasses and weeds, covering himself with them so that only his face was above the surface, and that practically hidden. He could thus breathe.

Hardly had his arrangements been made when he heard his pursuers. They were searching the wood. The water around him was now smooth and untroubled. Peering through the grasses he saw, on the edge of the inlet, the figure of the man called George.

"Seen him, George?" called a voice. It was the policeman's voice.

George did not answer at once. His eyes were sweeping the creek, resting on every bunch of reeds slowly and critically. Connolly felt these eyes come to his clump. He felt that George was gazing straight at him, that their eyes had met. A tremble ran through Connolly's limbs. He was about to leap up and make a dash for it, when the voice of George answered the policeman's query:

"Expect he's through the wood and down in a hollow, Ben. But he can't escape. He'll be caught all right."

The searchers moved off, going toward the ravines.

Connolly could have sworn that the man called George had seen him—but that was evidently his own fears at work, his own nerves making hay of his better judgment. He raised his head and peered about. There was no sign of his pursuers. But they might come back. He crawled to the bank, a ghastly wretch covered with green slime and dripping with water. He was like a dirty water-snake. Now that he was free of the water of the inlet, he shivered.

He wrung the water from his garments as best he could and crawled toward a thick oak, on his hands and knees, resting his back against the trunk of the tree. He was exhausted and worn. His teeth chattered, but that was not altogether the result of cold.

But he dared not lie there. Already he seemed to hear voices in the distance. Some of those who had pursued him were returning, others from the village were crossing the stream. He was between two forces. Where could he find safety? Upward! He began to climb the tree.

It was terrible labor, but desperation lent aid to his slipping feet and clutching hands. At last he reached a heavy branch. He drew himself up and toiled upward into the thick foliage. Thus he found a screen between him and those who sought him. He looked down from a fork where he was lying like a lizard. He saw men and youths passing below. There were a few women, too. Oh, how the whole world was searching for him! All wanted to hang him. Strange how everybody sought revenge for a crime with which they had nothing to do and which they did not altogether understand. All they knew was that he had killed—and for that he must be killed.

He remained in the tree all day, undiscovered and unsuspected. Men moved about, but the wood had been searched so thoroughly that a rabbit could not have remained on the ground unseen; nor a mouse, for that matter. It was not until evening that the searchers left the wood and returned to the village.

What Connolly endured in that tree during that day only he and God knew. His clothes dried on him, becoming hard and uncomfortable. He could keep his perch only with the greatest difficulty; sometimes he lay clasping the branch in a sort of wakeful dream. Things assumed unreal shapes and appearances. But everything had been unreal from the moment he had lifted his hand against the woman. All was now a distorted nightmare, a frightful, spectral phantasma that moved ghost-like before him. His very existence was a matter of doubt to him. And gnawing at him was his excruciating anguish of mind and body that almost drove him frantic.

Time after time he drew aside the screen of foliage and looked about. The village did not seem disturbed. The houses were there, straight walls and horizontal roofs. The church steeple towered straight to heaven. Among the trees in the distance he saw a moving plume of white smoke. That was a train going to London. London!

Twilight came, then night. The lights in the village twinkled. The murderer lowered himself to the ground. He was so stiff that he fell when his feet touched the earth. He staggered to his feet and rubbed the blood of his body into circulation. Wave upon wave of despair swept over him. Food had not passed his lips, except for a mouthful at the inn, for twenty-four hours. He lay down and drank greedily from the muddy water of the creek. That revived him a little.

At midnight the village was dark and quiet. He came out of the wood.

Hunger was driving him—hunger and the necessity for action. He crouched low, like a hunted animal, with one idea in his mind. He must get to London. In the country people did not stay up late. He could get food at all hours in London. He had a little, a very little, money, and he could sell the trinkets he had taken from her. He crossed meadow after meadow, breaking his way through the hedges. He had almost reached the highroad when the headlights of an automobile swung round a corner and the roar of its engine filled his ears.

Connolly stood still in his tracks. His fears bawled at him that in the car were other pursuers, more police from London to hem him in. They were coming to the village. The village would be raised

against him once more. London would be up in arms, too, watching and waiting to pounce on him. What chance had he in London? The same as he had in the country, and that was nil. Not a single chance anywhere! He dropped to the ground as the car rushed past him, so that the headlights might not pick him out. The act of dropping stirred his resistance. Was it true he had no chance? Not a single chance? He threw himself down on the grass under cover of a hedge to think it out. Was he capable of thought?

"I can't go to London," he cried. "They will be waiting at the railway and on the buses. And I can't walk. But there is bound to be a chance. One chance!"

The stifling truth burst on him that he was not really fighting men at all now. He was fighting the emotionless, relentless machine called the Law. That machine was searching for him, outlawing him, driving him to desperation and to thoughts of unspeakable reprisals. His weariness was so heavy that it bore him into a state of semi-consciousness. He lay motionless under the hedge.

The hours passed.

He came back to himself as the gray dawn tinged the east. For other men it was a new day, born in hope and promising the glory of achievement. For him...!

After a while he raised himself to his knees, and so to his feet. He stepped into the highway. A fierce resolution stirred within him. He had an idea.

Not more than a hundred yards down the road a red brick villa stood isolated. The blinds were drawn. But in the villa there must be food, drink, clothing.

Connolly walked toward the house, slunk round to the back, and prised open a window with his pocket knife. In climbing over the sill his foot caught a flower pedestal and sent it down with a crash.

If Connolly had any idea of retreating, he had no time to do so, for the door of the room was flung open and the light was switched on. An elderly man, clad in clerical garb, stood on the threshold.

He saw Connolly and the broken pedestal in one glance.

"Who are you?" he asked, not angrily, but puzzled and annoyed. He passed his thin fingers through his white hair as he advanced.

"You disturbed me at early study," he said. "What do you want?"

Still Connolly did not answer. The white-haired man was close to him now. His face was pale, and Connolly saw that his hands were trembling. The clergyman gazed hard at him.

"You are the murderer!"

Still Connolly did not answer.

"What do you want here?"

This time the fugitive replied, fiercely:

"Food. Drink. Clothes."

"Your name is Connolly?"

"It is."

"I recognized you from the pictures in the newspapers. It was you the village people chased."

"I want food," cried Connolly.

"I can give you food."

"I want drink."

"I can give you drink."

"I want a place to hide."

"I cannot give you that."

They stared at each other, this desperate, worn-out man who was a murderer, and the old priest.

"There is no sanctuary here," said the priest in a low tone. "The days of sanctuary are long past."

Connolly groaned.

"The church can offer you only one thing."

"What?" cried Connolly.

"Repentance!"

Again Connolly groaned.

Suddenly the spark of resentment that flickered in him blazed up.

"I could kill you, too!" he shouted.

"I know. Would that help you in any way?"

Connolly had expected opposition. The admission startled him strangely. It was as if the words had disarmed him. They left him more confused than ever.

"Give me," he pleaded, "give me a chance to get away."

"I dare not."

"What?"

"The law forbids it."

Connolly's last hope crashed. He recollected, in a fumbling way, that he had asked this priest to do something that would bring him under the lash of the Law—that rigid, unrelaxing force that was on his own trail, that machine that was mightier than any individual.

The longer he stayed in that house the nearer the Law would creep until it laid its hand on him. He turned and was halfway out of the window when he heard the voice of the priest:

"Stay here and you shall have food and drink. It is all I dare give you. All except my prayers——"

Connolly heard no more. He was racing out toward the highroad.

He crossed the meadows again and reached the river bank. Some distance ahead he saw a figure seated on the slope. He crept forward and saw that this man was fishing. By his side was an open basket and a pile of sandwiches lay on an open handkerchief. Connolly recognized the figure. The fisher was the man called George.

Connolly was being driven by hunger. He picked up a heavy stick, part of a fallen branch of a tree, that lay on the open ground. He crept toward the man.

He was within a few feet of George when he stood up, raising the stick above his head. But he did not strike. The man turned his head and looked at him. Connolly dropped the stick and dashed into the river, wading rapidly to the other side.

He climbed the muddy bank and walked toward the village.

The man called George followed him, but the murderer took no notice.

He reached the village street and strode into the inn. The landlord behind the bar saw him and shouted:

"It is the murderer! Seize him!"

The murderer made no attempt to escape. The man called George was behind him and a policeman was coming in at the door. As he came forward Connolly held out his hands for the handcuffs. When they were fastened on his wrists he sat down with a strange, savage satisfaction and looked up at the man called George.

"I could have killed you also," he cried. "But that would never have given me what I want most."

The man called George nodded sagely.

"I know," he said in a soft tone. "I saw you in the creek yesterday. I knew you stayed in the wood all day. I know how you felt. I have been a warder in my day. You murderers are all the same. You are your own prosecutors. Only yourselves can give you what you want most."

"What did he want most, George?" asked the landlord. "Why did he give himself up so easy?"

The answer came from the murderer as he rose to go with the constable.

"The fox is treed!" he cried, wearily. "Can a man fight a nation? Take me to be hanged! At last I can rest!"

CHAPTER VI

The Judge States His Third Case

The waiter rose to his feet and pointed to the fire, which had died down during his recital.

"Perhaps you would be good enough to put some coal on," he said. "You will find plenty in the coal box."

The judge, whose chin was resting on the back of his hand, seemed deep in reflection; but he stirred at the suggestion.

"Are you forgetting yourself? You are the servant here, are you not?"

"Please do not let me insist. If I turned my back to you it is possible that you would have a temptation to do what Connolly was tempted to do to the man called George. It would have regrettable results. But if you do not feel cold——"

The judge put plenty of coal on the fire and returned to his chair. His manner was austere and distant. The waiter had pushed the minute-book in front of the judge's chair and was still standing. Not until the judge resumed his seat did the waiter sit down.

A silence fell on the room, broken only by the crackle of the coal on the fire. The other members of the Clue Club gave no sign of life. They sat or reclined in strange attitudes, heaped in their chairs as dead men.

From the street outside came the sound of singing and music. Christmas waits were heralding the approach of the new day.

"I promised you," said the waiter, "that I should answer your query about Abe Lammie's case when I had related the climax of Jeff S. Connolly's career. I propose to do so right away. First of all, I take it from what you have said that you belong to that school of crime students who believe there is such a thing as a 'born criminal': that, because of certain characteristics, some men and women are natural lawbreakers."

"I certainly believe that there is a criminal class," declared the judge, somberly.

"Precisely. You follow the teachings of Lombroso, who compiled charts to show that these characteristics presented physical traits such as receding foreheads, heavy jaws, and so on. But you may not be aware that at a meeting of students of criminal anthropology at Geneva it was successfully proved that most of the students themselves were not free from such traits. In a word, one has only to observe some of our most respected and most blameless leaders in the Church, in the legal or other professions, to see similar traits. This proves that charts and tables are unreliable guides. You cannot hang a man for his facial expression. Come, do not you see in me some of the facial traits that you yourself possess?"

The judge cast a melancholy look on the waiter but did not answer. He regarded the comparison as excessively impudent.

"If you will not admit what I suggest, then I must be content with my own belief. And you are a judge of the Criminal Court, while I am one who has stood in the dock. Luckily for you, our positions are not reversed!"

The waiter was becoming positively insulting. The judge remained silent. But he was thinking of how he would deal with this man when he came up for judgment!

"Opposed to the theory of Lombroso," went on the waiter, "is the classical school of thought founded, I think, by Beccaria, who held that, though every man had free will, the same punishment would not be just if applied to every case. This meant that while the crimes might be the same, the responsibility was not. These conflicting theories, I fancy, were the cause of the founding of the American Institute of Criminal Law and Criminology. The city of Chicago, perhaps appropriately, was the cradle of this organization.

"One result of this classification of crime and its causes has been the inevitable classification of offenses. This has led to confusion indeed. A man may be executed for being accessory to killing another person, but he cannot be hanged for attempting to commit suicide. Cornering the food supplies of a nation so that people die is not illegal; but if a clergyman defies the rubric and substitutes his own form of service, he may be haled before a judge and jury, and severely punished. At one time it was a grave offense to refuse to listen to a sermon on Sunday. At the present time emigration is

encouraged by governments where formerly it was illegal. Even now there is no clear distinction between a felony and a misdemeanor, except the vague understanding that the one is a more serious offense than the other."

"Are you reading *me* a lesson on law?" interposed the judge, sarcastically.

"I am merely pointing to the confusion that exists in the penal code. This confusion exists to a fearful extent in the matter of judgment of death. You know as well as anybody that cases of depravity from the East End of cities are dealt with much more harshly than depravity that comes from the West End. Please do not deny it. There is plenty of proof. But to return to the cases of Lammie and Connolly. The root fact of these two murders, committed by these two men, is that they had their origin in conditions that punishment can never cure."

"You mean that the law can never cure such criminals?" demanded the judge.

"Judgment of death can only obliterate the offenders."

"That is all the law desires to do, for the plain reason that society must be protected. These executions act as deterrents."

"Have you stopped murder since the days of Cain? And yet——"

"You have the wrong end of the argument, my friend. The judgment of death is not only a deterrent; it is necessary for the reason that the law considers the lives of its citizens to be sacred ——"

The judge could not continue, owing to the guffaw of derisive laughter with which the waiter interrupted his speech.

"What a legal mind you have, to be sure!" cried the waiter, scornfully. "Why, your law of judgment of death, while it pretends to regard life as sacred, violates its pretense by destroying life!"

The judge made a gesture of dissent, but the Waiter pursued his attack.

"In the case of Abe Lammie, The Mole," he shouted in his earnestness, "society was as much to blame as he. It started him off with every encouragement to develop the very traits in his mental

make-up that you declare are criminal traits. *Yet you have the audacity to take his life for being what you expected him to be!* Is that logical, I ask you?"

"Every man has free will——"

"For a judge you do not show any marked clarity of thought, my lord. You apparently want to stand with a foot in the camp of Lombroso and a foot in the camp of Beccaria. It will not do. I cannot allow such loose thinking. And I am the judge in this room. What is your defense? Do you found it on Lombroso's teachings or on the school of Beccaria? I am waiting."

The judge shifted his position and bit his lip. It was all intolerable; but what could he do? He became irritable.

"I am not here to be cross-examined, or even examined, sir. I am here——"

The waiter's long fingers gripped the handle of the bludgeon used by the barbarian Kartarus.

The judge faltered, coughed, and resumed.

"I am here to conduct my own case as I think fit. We are engaged on a discussion, each giving proof and support to his words by quotations from this minute-book. I say that every man has free will and must abide the result and consequence of his actions."

"Then I take it that you agree with Beccaria. But he argued for grades in responsibility?"

"Never mind what he argued. There is one law and one consequence for those who take life. I do not admit that I subscribe to the conclusions of any theorist. I insist that man has free will."

"Alas! one may insist too much. You must know that there are two forces that govern conduct. A low mentality, urged forward by low hereditary instincts and inclinations, will break into crime sooner than a high mentality influenced by higher considerations. At the same time it is true that temptation plays a powerful hand in all of us. There is a point in everyone that marks the limit of our resistance to external and internal urgings. Society, the social system, made The Mole what he was externally. His heredity largely made him what he was internally. He knew the effect of the contributory causes of his criminal inclinations without being able

to diagnose them—gambling, ill-health, drink, unemployment, poverty, and so on. He laid the blame for these conditions on society. The mistake of which the penal code is so often guilty is that it is retaliatory when it ought to be reformatory. Force proves nothing. So long as you continue to believe in the existence of a criminal class you will make criminals; and so long as you make them you will be compelled to kill them. Therefore the penal code had no moral or logical right to make Abe Lammie and to take his life for being what he was. In not a few cases society ought to stand in the dock instead of the prisoner. Therefore I claim and take another point."

The waiter put out his hand and added a third glass to his collection.

"With regard to Jeff S. Connolly," he continued with a kind of bland impertinence, "there was the unreasoning, terrible motive of jealousy at work. When this is allied, or applied, to the sex impulse it becomes irresistible. Is love a species of madness? The divine passion! Even Jehovah, the Jewish tribal God, declared that he had pangs of jealousy. Is not all deep emotion a sort of madness? It is an excess; and excess means lack of balance. In several European countries there never would have been any judgment of death on Connolly. Has not the unwritten law been successfully advocated? That is not to say that Connolly would have been allowed to go free. But tell me, has your lordship's life been so blameless that unruly passion has never overthrown all else?"

The judge started; his hand fell on the table and remained there. He was about to cry out in protest, but the other's voice restrained him.

"What profound truth," cried the waiter, "was in the exclamation of Richard Baxter, the preacher, when he saw a criminal led to his doom—'There, but for the grace of God, go I!'"

The waiter paused impressively.

"Really, it was not much of a triumph for the law to hang Jeff S. Connolly. Hunted and harried, there was no place for him in this world. In a moment of frenzy he had reverted to the primitive and had visited unfaithfulness with death. The penal code retaliated by setting all its machinery in motion that it might inflict a second

death. Did the execution of Jeff S. Connolly protect society in the very slightest? Protect? Did his decease alleviate in any degree the anguish of the first death?"

The waiter seemed to be carried away by his own vehemence. His long forefinger pointed accusingly at the judge.

"Fool! Don't you see that here is an answer to those who say, like you, that imprisonment would be no punishment to a murderer? Tortured to extremity, Jeff S. Connolly asked for execution. He desired death as a release. You gave it him as a punishment! Futility of finality!"

Again the waiter's mood changed. He assumed an air of judicial gravity, an air that reminded the judge of his own manner on the Bench.

"I give a verdict against the plea for judgment of death in this case also," he said as he lifted a fourth glass. "Will your lordship please open the next case for the defense?"

The waiter leaned back in his chair.

The judge stroked his chin, a trifle nervously, but thoughtfully.

He was not afraid of this man who seemed to have lost his senses; but he did not wish to arouse any hostility. The truth was that the judge did not know whether to take the waiter seriously or as a preposterous lunatic. A little of the self-assurance of the judge was departing from him, however, and he was smarting under the reproofs he had received. His legal mind, trained to argument, was strongly opposed to surrender. His life was one of domination, in his court he was supreme. Even if this was a crazy man who was baiting him, he was a crazy man with whom the judge was beginning to get really angry.

The judge had been insulted. He had been called a fool. Moreover, the judge felt the advantage of the discussion—the mere logical advantage—slipping from him. He regretted having accepted the challenge of this waiter, but, having accepted it, his self-respect cried aloud to him to smash his opponent by argument.

"May I remind your lordship that time is passing? Have you any other case to offer? You made a remark a moment ago about the judgment of death being a deterrent——"

"As a matter of fact," interrupted the judge, harshly, "I was thinking of that very statement. If I recollect clearly, it was that very declaration that brought forth your contemptuous laughter. You must know the old proverb about he who laughs last. The murder which Nathaniel Gore committed will prove my point that execution is a deterrent. I sentenced Nathaniel Gore to death in spite of a plea of insanity that was ill-advisedly put forward. It was the last time I put on the black cap before going for my long vacation the following morning. Gore was hanged in due course, a man whose vanity brought him to the scaffold."

The judge turned over the leaves of the minute-book, read a few words, and threw back his head as if to sum up to a jury.

THE VAIN MURDERER

One point that I have repeatedly observed about criminals brought before me for sentence [said the judge, ponderously] is not their cleverness in covering up their tracks, but the amazing carelessness they exhibit in providing clues for the police to work on. This subject has on more than one occasion been discussed by the members of this club. To put the matter quite frankly, a great many criminals—indeed, practically all—might just as well leave their names and addresses so that the authorities could call and arrest them at home. This lack of precaution is well known to the police both here and in America.

What is the reason for this seeming indifference to consequences? We have talked it over many times in this very room and we have come to a definite decision. It is that in all these lawbreakers there is an inordinate amount of vanity.

In every class of crime this vanity may be observed, and not least in the crime of murder. Some people are so ill-balanced that they actually invest the murderer with a kind of romanticism that is as false as it is misplaced. As for the murderers themselves, they often exhibit a conceit, even in the dock, that is truly amazing and truly ostentatious folly. The most vain man who ever received sentence at my hand was Nathaniel Gore.

To begin with, Gore was brought into court on a stretcher. He had sustained certain injuries at the time of his capture, and he had the questionable distinction of being the only criminal who was saved from death by drowning and brought to police headquarters by airplane. The whole circumstances of his crime and arrest had a certain amount of pictorial sensationalism that caused the court during his trial to be crowded to overflowing. All this added to his vanity. But the law was not to be moved from its pursuit of justice, and Nathaniel Gore was hanged.

Lord Brougham said once, with his usual acuteness, that the whole machinery of the state ended simply in bringing twelve good men into a box. In no case that I remember was this majestic simplicity of the Law revealed more tersely and directly than in the trial of Gore. The cheap notoriety in which he bathed was a tawdry advertisement for him and was, in the end, completely submerged in the stark unaffectation of the scaffold.

As might be expected, Gore was not a common, petty criminal. He went after glittering prizes, and when the news of the find of a great diamond in the South African fields came to be known it attracted him.

The diamond was not so big as the famous Pitt gem, which was over four hundred carats weight when taken from the ground. It was not so big as the cut and polished Koh-i-noor, which is now in the British Crown and turns the scale at one hundred and six carats. But it was the biggest that had come out of a South African mine for generations.

The illustrated journals printed photographs of the diamond on view in Johannesburg behind barred windows, guarded by a squad of armed police. Then came the information that the diamond was being sent to England. It was this news that made Nathaniel Gore form his resolve.

By diligent and diplomatic inquiry he discovered the name of the ship on which the diamond was being transported, and also the amount of the premium the insurance people demanded during transit from the Cape to Hatton Garden, London's diamond market. When he had found out from the shipping list that the liner had sailed, he realized that he had less than three weeks in which to plan

and execute the theft. Once the diamond was landed, it would be so well guarded that no attempt could be made with much hope of success; the place to snatch the diamond was on the high seas.

Nathaniel Gore had not the appearance of a burglar. He was small, and he looked and dressed like a successful man about town. He was known in the West End of London as well as he was known on Fifth Avenue, New York. He had at one time actually been a guest in a house on Lake Shore Drive, Chicago, when he lifted precious stones from a shop in that city and got away with them. He boasted about this. There is no doubt that, in spite of his vanity, he certainly knew gems and their values with uncanny thoroughness. Peculiarly enough, he never bragged about this expert knowledge, the one thing that was his real accomplishment. He seemed to "lift" gems without any more swagger—except in the Chicago case—than an ordinary business man exhibits about his business capacity. He could tell offhand the weight of the Orloff, the Regent, the Florentine, the Hope, and other famous diamonds and could name their owners and their histories.

He had been a convict, which means that he had been cared for by the state. He had been housed, fed, clothed, steam-heated, nourished, and made entirely healthy. But his vanity went everywhere with him. In prison he regarded himself as superior to his fellow prisoners. Out of it he posed as if he were superior to the law and general rules of conduct. He had worked very little in his life, and when asked to make mail-bags during his period of incarceration he protested that the labor would injure his hands. He was therefore sent to the quarry, where his hands suffered considerably more.

But when he returned to freedom he became the same dandy he had been before he was convicted. He had the appearance of an overgrown jockey. In his vanity he employed perfume to add to his conceit. He was a great favorite with women. If they did not love him they certainly had affection for him; as for him, he loved himself too well to spare any for anybody else.

One thing his imprisonment had done for him: it had taught him more than he had ever known about the methods of the police. In court the prosecuting counsel admitted that this was certainly the

cleverest crime Gore had ever planned. But then, there was a woman in it, and the probability is that she had a hand in the scheme.

His object, then, after deciding to steal, was to look out for a means of escape. Attack, then take cover. Strike, then run. Assuredly it was a woman's plan. Gore never doubted his ability to take the diamond.

In one way circumstances favored him greatly. The ship was actually bringing the gem nearer to him every day. The diamond was in charge of the purser, locked in a safe in his room. There was no need to search for it. This floating hotel was merely a strong-room, and Gore was able to break open any strong-room. But this moving strong-room, unless he could leave it swiftly, might become a prison wagon.

There was only one port at which the ship called before she arrived at Southampton. This port was Madeira. Gore decided that the coup must be brought off between Madeira and Southampton and as near the latter port as possible. It was at this stage that the necessity for an accomplice became evident.

Gore did not usually work with anyone else, but the circumstances were stronger than his conceit. He might meet the liner at Madeira and take the diamond there; but Madeira was an island from which escape would be difficult. On the other hand, Southampton was well situated for his design. The Solent was not such a broad arm of the sea that it could not be negotiated; and from the Isle of Wight to France was less than a day's, or a night's, journey.

The woman whom we believed aided him was one named Chicago Anne. She was from that city, a blonde of great attraction, one of a fast set not above crime of this kind. But she was wary. She made the plan to a large extent, and then introduced him to an international crook named Archer. Archer was promised a certain portion of the proceeds. The three of them traveled down to Southampton, surveyed the coast, and decided details. Then Archer left with his part of the scheme to carry out. Chicago Anne returned to London with him.

Gore remained in Southampton, where, through a local agent, he booked a passage to Madeira on a sister ship of the incoming liner. She was due to sail the next day and would reach Madeira several days before the other ship arrived there on her homeward run. Under an assumed name a passage was booked homeward by Gore on the ship bearing the diamond.

His luggage consisted of one handbag, and from the moment he stepped on the outgoing liner he concentrated on his job. He kept to the deck during the passage down the Solent. He noted the lights on the shore and the position of the sea beacons. When the Needles were passed and the open sea made the vessel roll he turned to a study of the ship.

There was a large plan of the vessel in the saloon and he examined this carefully. He noted that his cabin—that is, the cabin on his return journey—was situated within easy distance of the purser's room. He became friendly with the stewards, from whom he gained valuable information. He asked for, and obtained, a seat at the purser's table in the dining-room. To this official he made himself affable, and often he visited the purser's room on pretense of getting information about general matters. But he watched and noted.

He took care to acquire a knowledge of the movements of the staff, the routine of the daily work, a detailed outline of the life on board. By the time he reached Madeira he could have told fairly accurately what was being done by the various officers at any hour.

He spent the waiting days on the island; and when the incoming liner arrived he went on board as soon as possible. In twelve hours the voyage to England was resumed and the second stage in the plan to steal the diamond had opened.

The liner had a full complement of passengers. In the smoke-room no secret was made of the fact that the celebrated gem was on board. Some of the passengers had seen it when it was on view in Johannesburg. They described how it had been discovered by a colored worker in the mine and how it had been guarded from that moment. It was being brought to London to be shown to experts before being sent to the cutters in Amsterdam. Its value was put at varying figures, none of which was less than fifty thousand pounds.

"What is its ultimate destination?" asked one of the passengers.

"Nobody knows," was the reply.

Nathaniel Gore smiled. He was the only man who knew!

Off St. Vincent the weather thickened and a stormy crossing of the Bay of Biscay was predicted. The prediction was accurate. By the time they were over the forty-fifth latitude most of the passengers were in their cabins, many in their bunks. There were empty saddles at every table in the dining-saloon.

Gore kept his feet by strength of will, and vanity. He had not been able to get into close touch with the purser of this vessel, owing to the number of people on board; but the bad weather gave him his opportunity. He waited until the ship's bar was closed and then he went to the purser to ask for a dose of brandy. But the purser was not a talkative man. He was civil, but uncommunicative. He did not invite Gore to sit down; but Gore did not retreat. He stood in the cabin, sipping the brandy and watching. He saw the small safe built into the paneling of the wall. That was enough for him.

The Bay was crossed and gradually the passengers returned to the deck. The English Channel was smooth. The liner picked up speed. She passed the Wolf Rock. Land's End loomed up mistily through the haze. The Lizard came into view. The Eddystone Light stood in the sea like a white pillar. Gore rubbed his hands in anticipation. The crisis was approaching.

He was not nervous about it. He never was nervous. He stayed mostly in his cabin until the ship drew well up the Channel. Then her speed slackened. Night came. Gore went down to dinner that evening as usual, and immediately it was over he strolled on deck. He looked ahead, muttering the names of the lights that glittered in the soft, mellow darkness.

"Over there is Bournemouth, then Hengistbury Head, the Needles, St. Catherine's Point—— Ah, there is Anne—and Archer!"

Some distance ahead a light on a masthead swayed against the sky. Chicago Anne and Archer were waiting, as had been planned. Nathaniel Gore calculated the distance quickly. He had received a wireless from Anne and Archer. The moment had arrived. He went down the stairs from the deck.

It was late by this time and practically all the passengers had turned in for the night. But Gore did not go to his berth. He walked along the passage to the purser's room.

The door was closed. He tried the handle. It turned. He pushed the door open and stepped inside, closing it behind him. The purser was sitting at his table, writing. He looked up.

"Good evening, purser."

"What do you want?"

"Oh, I knew you were writing up your accounts. I dropped in——"

"What do you want?"

The official's hand dropped toward a drawer under his desk.

"I have come to take the diamond," said Nathaniel Gore. "Lift your hand out of that drawer!"

In his own right hand he held a small revolver, the barrel of which was pointed straight at the purser.

The purser did as he was bid.

"I have come to take the diamond," repeated Gore, smiling.

That was all. There was no melodramatic flourish to his speech. He might have been asking for a match to light his cigar.

The purser was an old seaman, cool, quiet, not given to excitability. Most people would have leaped up and been shot. The purser did not show any sign of fear or surprise. He put his hands openly on the desk in front of him and shook his head.

"I did not expect you to come for it with a gun," he said.

"Come, you did not expect me at all!"

"You bet I did. There are two men on this ship after the diamond. One came aboard at Capetown. We know his plans as well as he knows them himself. But you came aboard at Madeira and your real name is Nathaniel Gore. You are a gem-lifter, and until now you have never carried a gun."

It was Gore's turn to be surprised, but he kept his eyes on the purser. "How did you know my name?"

"We have wireless, you know. The liner on which you went out to Madeira had it from Scotland Yard that you probably were aboard. They knew, I expect, that this diamond would tempt you. I don't

know any more than that. But we got it from our sister ship as she passed us that you had disembarked at Madeira."

"And the other man?"

"He is on this ship still. He hasn't tried to steal the diamond, for his plans are to get it—if he can—at the docks—and we have taken precautions. He won't take it."

"No," agreed Gore, "he won't. The diamond is in that safe."

"It is."

"So *I'll* take it."

"I may object."

"You can count yourself out."

"I don't know about that. But in any case there is another factor."

"What is it?"

"The fact that we are at sea."

"Meaning?"

"Even if you took it you could not keep it. You could not land with it."

"You think not?"

"There is also another matter."

"What is it?"

"Listen!"

The sound of hurrying feet on the passage outside burst on their ears. Gore stepped back and slid the heavy bolt home just as somebody shook the handle and demanded entrance.

"That is the skipper and one or two others," explained the purser, shrugging his shoulders.

"You signaled to them?"

"I did with a push-button under the table here. We had the alarm fixed up for daytime. At night a regular burglar alarm is fastened to the door."

"That was very clever."

"I thought you would admit it. You are caught."

"Are you sure?"

"Don't you agree?"

The voices outside grew louder in their demands for entrance. Gore was still smiling.

"No," he said, "I don't agree. Look out of the port."

The purser turned his head and saw lights twinkling straight ahead. About a thousand yards up the Channel a masthead lantern bobbed.

"You see, I have no time to waste," said Gore. "I want the key of the safe."

"The key? Why, man, you are caught like a rat in a trap!"

"Very well, I shall shoot if you don't hand it over."

The purser was about to leap to his feet and resist the threat when Gore shot him squarely between the eyes.

It was deliberate murder, prompted and dictated by vanity.

Nathaniel Gore had never previously carried a gun on a job. He had been, up to this crime, free from violence in his methods. But one of the points in the defense which his counsel put forward at his trial was that the woman, Chicago Anne, had so worked on his natural conceit that he had promised her he would kill rather than fail.

It is possible that she had her own reasons for prevailing on him to take a weapon he had never previously carried. To please a woman a man may do abnormal acts. To make himself a hero in her eyes he may risk his own life—and lose it.

From the moment he fired that fatal shot Nathaniel Gore concentrated with all his skill on the object of his visit. The purser had been marking time, holding him in conversation so that aid would come, believing that Gore would surrender when he heard the officers at the door. But Gore could not now surrender, even if he was willing. He never intended to let himself be taken.

Paying no attention to the noise in the passage, he rummaged in drawers and in the dead man's pockets for the key he wanted. He found it, and opened the safe. There, in a drawer of the safe, was a packet, square in shape and sealed on all sides. He tore off the covering and took a hurried glance inside the morocco case to make sure. The famous African diamond was before his eyes.

It looked like a piece of rough crystal, but Gore had seen uncut stones many times and knew the value of his loot. He pushed the case into his pocket as the first stroke of an ax fell on the panel of the door—an ax wielded by an officer in the passage.

Gore's next movements were rapid. He snapped off the electric light and put his gun into the hand of the dead purser, closing the stiffening fingers over it. He grabbed a life-jacket from under a locker. Without waiting to put it on, he jumped to the porthole just as the bobbing masthead light was passing astern. Then he climbed out.

Being a small man, it was not a very difficult matter. He dropped into the sea, holding the life-jacket; and as he dropped he heard the cabin door give way before the assaults of the officers. But he had beaten them by less than a minute. They had not seen him.

Next instant the sea roared in his ears and he was whirled through a cataract of boiling water.

He was a fair swimmer. As he slid out of the porthole he leaped far out so that he might keep clear of the propellers. He made a few powerful strokes outward as he was swung astern, but he was dragged down into a vortex. When he came to the surface, lungs bursting, he was considerably shaken by the turmoil; but the life-jacket gave him buoyancy and as he gasped for air he saw the liner forging ahead. Beyond the shaking, he was uninjured.

He clung to the life-jacket as he bobbed about on the troubled sea; then, after recovering his breath, he tied the cork jacket in a rough fashion around his body and floated easily. He expected the boat containing Archer and Chicago Anne to bear down in his direction, and he kept his gaze on the masthead light, watching for a flash message from the vessel. To his surprise, the light did not move. No flash came.

He did not doubt that Archer had recognized the ship, for that was part of Archer's job. He and Anne were to hire a large fishing-boat at Cowes, a boat with an auxiliary engine, and come down the Solent and wait for the liner coming up. The spot of contact had been agreed upon. Only that morning he had received a code message to say all was well. The rendezvous was well defined.

Gore swam easily toward the light. The sea was fairly calm. He was not in any danger of sinking, but the water was cold and numbing. The liner from which he had dropped was now far ahead. It had not slackened its speed. All this was very satisfactory to Gore. He chuckled as he pictured the expression of the captain when he entered the purser's room.

Indeed, the actual facts were even more in favor of Gore than he dreamed. The captain and his officers had seen the dead purser, in whose hand was the discharged gun. They had come to the conclusion that the purser had come to his room, had seen the safe rifled, had pressed the alarm, and had shot himself in despair. Not knowing that Gore had gone out of the porthole, they presumed the thief was still aboard and that they would get him at the landing-stage. They were already wirelessing to the shore authorities.

As for Gore, he anticipated that he and his confederates would be on French soil before the police had moved sufficiently to prevent them. The rest was easy.

It was not until he was near the swaying light that Gore realized that this was not the boat he expected to reach. This was a big vessel. She lay high in the water. Not a light showed on her save the one at her masthead and another he could now see at what was either her stern or her stem. Was it possible Archer was on this ship? The single light—that was the signal.

Gore had to get out of the water. He was beginning to feel the drag of his clothes. He was tiring rapidly. He swam desperately for the ship, his mind busy with a false story he could present to her people if Archer were not there. He could leave the getting away to such opportunity as presented itself. For the time being his tale would be that he had fallen overboard from a private yacht.

"Ahoy! Ahoy!"

He hailed repeatedly.

No answering hail came to him. He called again and again. No sound replied to his calls. He toiled laboriously toward her heavy anchor chains and rested until he felt strong enough to climb. He climbed like a cat out of the sea.

By the time he reached the deck he was faint with exhaustion. He stumbled over the bulwarks and shouted once more. Not a soul was to be seen, not a light on the deck. He picked his painful way among the planks. There were holes here and there and what seemed broken gear. The door of the deckhouse was open, swinging on its hinges. He entered, calling for some one to come to him. There was no answer. The truth struck him like a blow. He had swum to a deserted ship, a hulk anchored well out from the shore.

At first he was wild with rage at the mistake, but his anger died down quickly. What was a better hiding-place until the morning, or until Archer came? He sat down and wrung the water from his clothes as best he could, at the same time keeping his eyes on the ocean now and then to pick out Archer's craft. But Archer did not come, though a few ships passed at a distance. Once he thought he saw Archer's boat. It sailed slowly down and turned again. Yes, that was Archer all right, plying up and down for him. But the boat was too far off for Archer to hear his voice. Well, Archer would keep plying up and down until dawn. He had got the message all right. Archer knew him better than conclude that he would drown. No, Nathaniel Gore was not the man to drown with a fortune in his pocket! This was his vanity speaking again.

The small boat passed out of sight and Gore prepared to snatch an hour's sleep. He was very tired and must have rest. He curled himself up in a corner of the deck; but he did not sleep well. In spite of every effort to be warm he remained cold. He went down a companionway and reached a lower deck. He felt his way along, hearing rats running from before his advance. He reached what he thought was the galley. There seemed to be a stove, but he had no matches. But he found a pile of shavings, and he carried several armfuls up to the deck and made a sort of rough bed for himself. He lay down and closed his eyes.

Dawn awoke him with a brightness that cheered him wonderfully. He sat up and gazed about the ship. It puzzled and amused him. It was the strangest vessel he had ever seen. Bags of shavings were piled around the stern. A heap of them lay in the bows. The deck was cracked and broken. The ironwork was red with rust.

The sun came out from behind a cloud and flooded the sea with warm rays. Gore sat on the crazy deck and examined the diamond he had stolen. He was now a rich man, so rich that it intoxicated him to think of it. If only Archer would come now!

A faint droning sound caused him to look toward the land. A headland jutted out in the distance from the main line. He jumped to his feet. That headland! He knew it. There could be no question about that headland. He knew every line of the coast that stretched into the morning mist. He was not facing the rendezvous. He was facing Portland Bill!

How had he come to make such an error in his calculations? He had the ship's speed down to a mathematical fraction. She was due to dock at a certain hour. He had worked it out carefully. He had traced it on a chart; every day so much; every day so much. And then it occurred to him. He had worked out the speed and the distance, but had forgotten to look at the log for corroboration. The storm in the Bay of Biscay had delayed the liner!

His thoughts were interrupted by the droning sound he had heard. It was louder now, like the hum of an automobile. He looked upward. Coming up over the headland he saw several airplanes, rising rapidly against the heavens like wasps. The sun flashed on their wings. He watched them as they came out to sea swiftly—one, two, three, four, five, six—forming an arrow-head shape of remarkable evenness.

Now they flew higher still. They were over him now, droning louder than ever. Battle formation! They hovered for a moment, circled, shut off their engines and swooped. A sudden spark burst from the first plane, and Nathaniel Gore's brain cleared. He leaped to the side of the ship and threw himself over just as a falling bomb hit the deck and exploded in a thunderous roar that shook the world.

Nathaniel Gore just saved his life by that small fraction of time; but he was terribly injured. One of the observers of the planes spotted him as he went overboard. He was picked up and carried ashore. In the hospital they found the diamond in his pocket.

The ship on board which he had climbed, you see, was an old hulk which had been towed out and anchored so that the Air Force might sink her in bombing practice.

CHAPTER VII

The Walter States His Third Case

"Congratulations!" exclaimed the waiter, clapping his hands noiselessly together. "My lord, your dramatic sense is springing to life! I doubt if I could have told that case more effectively."

"You seem to have a high estimate of your abilities," retorted the judge, frigidly.

"On the contrary, I have—or had—a low one of yours."

"You are damnably impertinent, sir!"

The waiter bent forward and his face assumed a severe expression. He shook his forefinger at the judge.

"Another word of such language and I shall commit you for contempt of court!" he cried. "It is intolerable that the dignity of this assembly should be lowered by the vulgar parlance of the taproom. I give you an opportunity to apologize to ourselves before I send you to a place where you shall have leisure to reflect on your indiscretion!"

No wonder the judge gasped. The words thus addressed to him were his own—the very warning he had uttered to a prisoner but recently in his own court!

He experienced a sensation that made a chill run down his spine. The very manner of uttering the warning was his. That poised forefinger! That out-thrust chin! Those slitted eyelids!

He trembled, though he tried to control his limbs.

"I am sorry if I have, in the heat of the moment, given way to my feelings," he stammered. "I withdraw the offending words."

"Excellent!" cried the waiter. "Excellent! My lord, you are becoming almost human!"

Once more the judge experienced that chilling sensation. He had unconsciously made exactly the same apology that the prisoner had made to him!

The perspiration rolled down his face. He drew out his handkerchief and mopped his brow.

"Pray, sir," he forced himself to say, "how is it that you seem to have such an intimate knowledge of legal procedure?"

"Ah, it may be heredity, my lord. Or it may be that I am a criminal. Or it may be both."

The judge fixed his eyes on the waiter.

"You seem to know my court very well. Yet I cannot recollect ever seeing you in the dock."

"You see so many that your memory cannot retain every face. I will admit, however, that you have never sentenced me. I have, nevertheless, attended your court often enough and have listened to your learned summing up of the law. I have generally been in the public gallery."

There was a silence.

The waiter had regained his buoyancy of spirit. His resentment at the judge's outburst had entirely disappeared. He was almost smiling. The judge felt a little more comfortable.

"As it is now my turn to state a case for the prosecution of the prisoner and the views he holds," said the waiter—and at the words the judge's heart fluttered a bit—"I wish, in the very first place at this stage, to make a protest and a suggestion. I have never understood the justice of putting a *suspected* person in the dock, for the fundamental principle of penology and law is that an accused person is innocent until he is proved guilty. It follows, then, that until the verdict is given the accused is technically innocent. Do you agree?"

"Technically, yes, but——"

"Never mind the 'but.' You lawyers are constantly admitting arguments and then inserting a 'but.' The plain truth is that a suspected person has no legal or logical right in the dock. He is presumably innocent. I hold—and I am not alone in this—that just as the state has its public prosecutor so the accused person ought to have the services of a public defender. Do you agree?"

"I am afraid——" began the judge, cautiously, and the waiter waved his hand contemptuously.

"Of course you are afraid."

"I am not afraid!" snarled the judge, angrily, his temper fanned to flaming condition.

"But you said you were!"

"I am not!"

"Be careful. You say now that you are not afraid. Yet it is not a moment since you said you were afraid. Which is it to be?"

"I have told you. I am not afraid—not in the sense you mean."

"How do you know what sense I mean? Tell me how you are not afraid."

"I am afraid"—and the judge stopped and smashed his fist tempestuously on the table, baited to active resentment and his temper now well alight, furious at having contradicted himself, raging at the misconstruction put on his words and anxious to recover from the vindictive pressure of the waiter—"I am afraid, sir, that I do not feel called upon to explain why I am not afraid."

"Pray be calm," said the waiter, patiently, assuming an affectation of aggrieved innocence of all baiting intentions. "If you do not feel able to answer a plain question, or if you are afraid, as you have admitted, that you cannot tell me why you are not afraid, will you then confess at once why you are afraid you cannot tell me why you are not afraid?"

"I decline to reply to foolish questions," cried the exasperated judge, his face crimson.

"Very well. But I warn you that the responsibility may be grave if you persist in that attitude."

The judge turned his head away and pretended to become engrossed in the ceiling.

A silence ensued that might have been interminable had not the judge, after a while, happened to drop his eyes. To his astonishment, he saw the waiter doing his best to stifle laughter by holding his handkerchief over his mouth. But his eyes were brimming with suppressed mirth and his hand was holding his side.

"Ah, judge," he cried, taking his handkerchief from his face, "you do not make a very good witness for the defense!"

"What do you mean?" growled the judge.

"Merely that you now know what a poor devil of a prisoner, or witness, feels like when a counsel roasts him in cross-examination. I have seen you yourself take a delight in the game. How do you like it now you see it from another viewpoint?" And the waiter put his handkerchief to his face again and went into a paroxysm of laughter.

The judge did not deign to answer this unseemly taunt. He was more than ever convinced that the waiter was mad; but at the same time he wished that he had come out of the cunningly planned ordeal in a different fashion.

"I observe," he said, coldly, "that you make no defense of the crime of Nathaniel Gore. Perhaps you have no defense and so try to hide the fact under a camouflage of boisterous, if rather forced, mirth."

The waiter controlled his features and pocketed his handkerchief.

"Pardon me," he retorted, with gravity, "it is you who are adopting an old legal trick. Having no case to present, it is the custom to slang the opposite side. How long will it take you to get it into your head that I am not acting for the defense? I am prosecuting."

"Then I shall be glad to hear your prosecution of the law that hanged Nathaniel Gore," remarked the judge drily. "I recited the case to prove that execution did in fact act as a deterrent. I would merely add that since Gore was hanged, as he deserved to be, there has never been an attempt to steal diamonds brought from abroad by ships. If that is not deterrent, then I do not know the meaning of the word."

"And so you expect to make use of the antidote in this flask and recall one of your members back to consciousness? I would be the first to admit your right to the claim if I thought it was reasonable and beyond controversy. But it does not happen to be so. As for your failure to see the reason of my mirth, that is quite understandable. Few prisoners, or witnesses, do relish the laughter in court that judges indulge in, with counsel as good supports, but which they suppress in anybody else. Their sense of humor is not the same. How can a prisoner be expected to enjoy a joke when the discussion giving rise to it involves his chance of life?"

All trace of levity had now disappeared from the waiter's manner. He was once more the serious person the judge desired him to be.

"And while I have mentioned executions," continued the waiter, "let me bring to your notice the remarkable methods that penal codes adopt in order to carry out the judgment of death. Each country has its own particular form of procedure. In England the method is hanging, in France it is the guillotine, in some states in America it is the electric chair. There has been some discussion of late as to which is the most humane way of killing criminals guilty of murder. The guillotine is said to be at least the swiftest, if it is the most bloody. England claims that hanging is the surest. In those states in America where hanging is adopted there is a difference in the mechanism of the scaffold. The American way is to have a heavy weight to jerk the condemned man into the air instead of the usual drop used in England. But this weight method raised a considerable protest in Connecticut when a bandit was jerked into the other world. It was held to be barbaric.

"England's claim is not altogether well founded, either. There was a case some time ago where a man had to endure three successive attempts to hang him by the drop method, none of which was successful. Can you wonder that the officials present were filled with disgust?

"As for the electric-chair method, it is held to be barbaric in the extreme. It is not an electric chair at all, except in name. The prisoner has to be strapped into it. He walks to it in an old suit of black generously provided by the state. His funeral clothes. How edifying and gentle is civilization! Behold, too, the paradox of one of the wardens of a famous prison where executions are carried out actually making it known that personally he is against the death penalty! Poor man, he has his job to consider.

"We have had a parallel to this expression of opinion in England. The late Major Blake, at one time governor of Pentonville prison, who saw a number of executions, confessed that the whole thing sickened him. '*I cannot help asking myself,*' to quote his exact words, written after he had ceased to be a governor, '*why, when one was called upon to superintend an execution one should have been*

affected with such a keen sense of personal shame.... There must be something fundamentally wrong with a law which has the effect of lessening the self-respect of those whose duty it is to carry it out.'

"And, by the way, how many advocates of the judgment of death would be willing to carry out the sentence? Is not it true that, according to law, the sheriffs ought to do the deed? Why, then, pay a hangman to do the thing they shrink from? Not so long ago a chief warder at Wandsworth prison, in London, committed suicide because of the haunting memories of the executions at which he had assisted. Ah, that emblem of death, the black cap, which you don with self-confessed satisfaction, your lordship, is no mere emblem of retribution focused on the victim alone!"

The judge frowned, but did not interrupt, though he was sorely tempted to. He wanted to claim his point and restore one of his members to life.

The waiter seemed to read his thoughts, for without more ado he began to state his third case.

THE PASSIONATE CRIME

Though you did not sentence Walter Seale to death [said the waiter], you will find his crime mentioned in your minute-book. You may not have been present at the meeting at which your fellow members [and he made an eloquent gesture toward the unconscious men] discussed his case and came to the conclusion that he also justly deserved to be executed. As in every case that has come up before the erudite Clue Club, all members have been entirely unanimous in their conclusions.

Walter Seale has been chosen for presentation because his criminal act fits in very appropriately at this juncture. Have you not related the case of The Mole, that representative of a base stratum of the social cosmos? Is not it quite fitting, then, that a representative of another stratum should be paraded whose sentence and crime were in the same category so far as the penal code judged? After all, The Mole was a criminal who warred on society so that he might live. Walter Seale—— But you shall hear his story.

When Seale had thought out his plan to the last detail he went to the Criminals' Rescue Guild, saying that his sympathies were entirely with them in their difficult work, and asked if they could provide him with a valet.

He was given a choice of several men who had served considerable terms of imprisonment for various offenses. One was an ex-forger; one was an ex-"confidence" man; one was a habitual convict; one had spent many years making himself a proficient burglar. There were others, all men who had reformed after having paid the penalties of their evil-doing. Walter Seale chose Adam Jelks, the ex-burglar.

"We do not wish to hide from you the fact that occasionally we are bitterly disappointed in those we try to help," was the candid admission of the secretary of the guild, "but we believe that all the men you have seen are honestly making an endeavor to go straight. At the same time, in taking them as employes, employers are accepting them at their own risk; but the men have asked for jobs, and if treated fairly they generally prove worthy of the trust. I am quite sure that Adam Jelks will turn out a good servant. If you have any complaint, please let us know."

Walter Seale thereupon took Adam Jelks into his employ as valet in the small bachelor flat he rented in the West End.

What Walter Seale, however, did not tell the Criminals' Rescue Guild was that he had not come to give a man a chance to build up a new and honest career, but he had come to choose a man whose past would aid him to commit a crime if the crime he contemplated was necessary; and he wanted a man who, without knowing it, would be his best defense, a sure shield against suspicion falling on Mr. Seale when and if suspicion fell at all.

For several weeks Adam Jelks did his duty as valet with a willingness that no employer could question or find fault with. He took pains to show that he was worthy of his hire, that he was desirous of being able to face the world again. He was a young man, considerably younger than Walter Seale; and Seale was not much over thirty years. Jelks had a small bedroom at the flat. He had one whole day and one half-day off every week. He was treated well. He responded to the good treatment by giving good service.

One afternoon, when Jelks was engaged in polishing the silver in his kitchenette, Walter Seale called to him to come at once. Jelks hastened into the sitting-room. Seale was busy with a few photographs, a pot of paste, and some cardboard mounts. He nodded toward a wineglass on the table.

"Jelks, please fetch a little water in that glass. I want to damp the backs of these pictures to make them stick fast."

Jelks took the glass and brought it back filled with water.

"Can I help you in any way, sir?" he asked, seeing his employer using both hands to hold down a mount.

"No, thanks. I can manage all right. Get ahead with your polishing. Clean hands are wanted for this job."

Jelks returned to his work, closing the sitting-room door behind him.

In the sitting-room, as soon as he was alone, Walter Seale ceased to be interested in photographs. He had not been mounting them at all, just pretending; and he was now looking, with every sign of intense interest and satisfaction, at the glass Jelks had brought him. A strange smile was on his face. He took a cigarette from his case and began to smoke leisurely, still gazing at the glass.

When he had finished his cigarette he lifted the wineglass carefully, one finger and thumb on the rim and base, respectively; emptied the water into a flower-bowl; and, when dry, placed the glass in a small cardboard box that seemed to be made for it. He next put the box into a drawer of his writing-desk and locked the drawer. The first step in his elaborate plan had been achieved.

That evening, while dressing for dinner, which he was taking at the club, he called Jelks once more. This time he informed Jelks that he had lost a valuable set of studs. He was very perturbed at the loss, as also was Jelks. A search failed to reveal the missing studs.

"I left them on my dressing-table," said Seale, indignantly. "They couldn't walk off. They were there this afternoon."

"I never saw them," protested Jelks.

"There was nobody here except you and me," retorted his employer, meaningly. "It's a scandalous thing to lose valuable articles right under one's nose. I shall have to use a set for my shirt

that I don't care for. Are you sure you did not lift them?"

"I did not lift them; and I did not steal them, if that's what you mean, sir," replied Jelks. "You may search my room if you like. I swear I know nothing about them."

Walter Seale considered the matter. He had the shirt-studs in his pocket at that very moment; but he was playing his game.

"Very well, Jelks, I'll say nothing more about the matter for the time being. I am going over to the Continent tomorrow for a week, and I shall want these studs when I come back."

"I'll try to find them, sir. I'll hunt through the flat——"

"Well, no. I was thinking of locking up the flat, Jelks. You had better take a week's holiday, as there is no need for you to stay here alone. I shall send for you if I want you when I return. I want you to leave here tomorrow morning. I am going off in the afternoon. Your address will always be at the offices of the Rescue Guild, I suppose?"

"Yes, sir," replied Jelks, humbly, stunned by the possibility of losing his job. "If you don't want me again, will you give me a reference?"

"I'll see to that when I come back, Jelks." And Walter Seale went off to his dinner at his club.

The next morning Jelks informed him that he had searched over the whole flat but could not find the missing shirt-studs. Walter Seale made no comment. He paid Jelks his wages, and after saying that he would let him know if he desired his services when he returned from France, he retired to his room.

Before lunch time the valet's belongings had been removed and Seale was alone in the flat. The second step in his plan had been carried out.

For the time being he dismissed the personality of Jelks from his mind and concentrated on his next move. He went out for lunch and returned to his flat before tea time. After waiting for a short time he prepared for the great crisis.

He went up the carpeted stairs of the block of flats and rang the bell next a door on the top floor.

His summons brought a woman clad in a bewitching afternoon gown. She was young, beautiful, attractive; but her brows wrinkled as she recognized her caller.

"May I see you for a minute, Dora? I thought you'd be at home."

"I hardly expected you to come here again," she answered, coldly. "You know I told you not to call."

"It may be the last time you'll see me. Surely you won't refuse a final interview?"

She allowed him to enter, and he walked straight into the tiny parlor where she had been sitting at crochet work. The fire was lit in the grate, the room was as cozy as a nest. On a side table, on a tea tray, were a cup and saucer, a plate of cakes, and a silver teapot.

"What have you to say?" she asked, a little uneasily. "Have you done what you promised?"

He sat down, but he was gazing at her, trying to read her thoughts.

"You know I love you, Dora."

"You must not begin that over again. I have answered you once and for all time. Have you straightened out the swindle in which I detected you——"

"Dora——"

"Please answer my question. I told you that unless you put that matter right I would tell my husband tonight."

"You really meant that threat?"

"Certainly I meant it. Now answer my question. That is the only matter you are to talk about to me."

"Then you will never love me? You will never accept my love?"

"Mr. Seale, how dare you begin all that again!"

They looked at each other for a moment, she with indignation, he with a desperate desire to move her.

She seemed to read something in his face, for she suddenly made an exclamation.

"You have not carried out your promise—the one chance I gave you! I shall tell my husband the whole affair of your swindle when he comes home."

"I have not carried out my promise," cried Seale, harshly. "I cannot carry it out. If you would only be reasonable——"

"If you do not go away I shall have you ejected."

"Is that your last word?" he cried, passionately. "Reflect that I love you more than your husband does——"

She clutched her crochet work tightly and threw her arm out toward the door. She was more beautiful than ever in that attitude, a perfect woman. Even though she was angry, Seale desired to possess her.

"Go!" she cried. "I gave you a chance. Now go!"

It was then that Walter Seale, seeing her so determined, committed his terrible, passionate crime.

He shot her where she stood.

It was the work of a moment. He whipped out his revolver and fired like lightning. Thwarted passion was behind that shot, the desire to possess was the urge.

She fell, bleeding from a wound in the center of the forehead. She was dead before she touched the floor.

Looking on her lifeless form, Walter Seale realized that the crisis, the apex of all his plans, had arrived—and passed. He could never undo that act, he could never bring back that life.

He experienced neither fear nor remorse. In a way he had killed this woman to save himself.

He had always declared that he loved her, even before she had married her husband; but he was of no interest to her, though he pressed his friendship on her and on her husband after the marriage. He pestered her with his attentions after as he had pestered her before. Since he could not possess her as his wife, he wanted to possess her anyhow. This continued appeal had compelled the woman to tell him that if he wished to retain friendship he must cease to talk of love. From that moment Seale opened a new campaign.

It mattered nothing to him that she was the wife of another man. Indeed, this only added to his mental unrest. Unrequited love may be a torture as exquisite as any ever devised; and he considered that she belonged to him by right of his own infatuation.

The truth was, nevertheless, that he had become enamoured of her because he was a voluptuary by nature. Men of his kind share with painters and sculptors the discerning knowledge of a perfect form when they have but glanced at it; but where an artist may view such a form with all the enthusiasm of a creative workman bent on copying, Walter Seale saw a masterpiece for love.

His new campaign became subtle, and he took pains that it should be unnoticed. His conduct became strictly correct. He appeared to accept the situation and continued his friendship with the woman and her husband, biding his time. He was aware that the husband did not know of the siege he had made, or was making, of his wife's heart. She had told Seale that she had not mentioned the circumstance to her husband, not because she had anything to hide, but because she did not wish to give her husband any anxiety. All this helped Seale toward his objective, which was nothing less than the ruin of the husband so that the wife might surrender.

Seale was in the City, dabbling in financial transactions. He advised the husband on deals, keeping back the fact that he himself was barely solvent. By one move after another he had obtained the husband's confidence until he had involved him to such an extent that there was little hope of recovery. To save himself he had descended to forging the husband's signature. It was merely a matter of time, he knew, before he could recover sufficiently to save his own face, but by adjusting affairs he would leave the husband worse than bankrupt. But the woman had found him out.

With that instinct which is the finest weapon of a good wife, she had suspected Seale. She had made inquiries, as a woman makes them, which is the most secretive way of all. She had faced Seale with an accusation, and she had given him a short period of time in which to restore the situation or face her husband. It was because he had pleaded for this chance that she had given it him.

But Walter Seale knew that it was beyond his power to make restoration. His crooked deal would go through without any suspicion attaching to himself. The woman's discovery meant disaster. Her ultimatum meant disgrace in any case.

Warring with the humiliation of being found out was the frantic desire he had to possess her. This desire amounted almost to an insanity that he could not, or did not, control. From the moment that she intimated she had discovered his deception he saw that she was forever beyond his reach. He saw his danger. He resolved to make one last appeal, and if the appeal failed she must pay the penalty of finding out these things. Thus his selfishness came to the top.

Once she was dead, he would be avenged on both wife and husband. If she lived she would denounce him and he would lose not only her, but his liberty. The forked stick on which he found himself did not cause him much anxiety as to choice of ways. He was, like many men who are not criminals, prepared to sacrifice anything or anybody to his own ends. This quality had caused him to be regarded as a good business man. He would have made an excellent lawyer. His excuses and distortions of plain truths were innumerable; and mostly they were plausible.

Everything went by the board so that he might survive. His valet was but a pawn in the game, a decoy, a figurehead behind which he sheltered. The desire to have the woman was in his mind right up to the last moment, but the necessity to save himself outweighed this when he saw that she was incorruptible.

He had planned the climax and the steps leading to it with superb cunning. He knew the movements of the woman's husband and was aware that he would not return from the City until late in the evening. He knew that the maid would be out for her half-day when he called.

While he stood looking at the body of his victim the clock on the mantelpiece chimed the hour. He glanced up and noted that he had sixty minutes before the husband arrived. There was plenty of time to complete his scheme.

First he put the revolver into his pocket and pulled on his gloves. They were yellow chamois gloves which could be washed. He stepped to the bathroom and raised the lower half of the window as high as possible. A fire-escape iron staircase passed just under the window, near enough for an active man to enter or leave.

Seale went back to the parlor and tossed cushions about to make it appear that a struggle had taken place. He cut the telephone cord. He laid a valuable flower-vase on the hearth and smashed it with his heel, letting the water run over the tiles and carpet. He upset a chair or two. He did all this noiselessly.

He went into a bedroom and rummaged among the contents of a wardrobe. He did the same with the dressing-table. He found several articles of jewelry—a watch, a brooch, a string of pearls, a few rings. These he put into his pocket, with the exception of the brooch, which he laid carelessly on the step of the iron fire-escape nearest the bathroom window.

He went into the dining-room and took a decanter of wine from the sideboard. This he carried to the parlor. He took from his pocket the small box containing the wineglass which he had brought with him, extracting it as carefully as he had laid it there, by finger and thumb on rim and base. He poured a little wine into the glass. As he did so he smiled to himself.

Plainly marked on the glass were the fingerprints of Adam Jelks, the ex-burglar, his valet.

The glass was of the same pattern as the others on the sideboard. Seale had seen to that, by getting one some time previously so that he might match it, on the pretense that he liked the design. But he had not matched it. He had merely obtained Jelks's fingerprints.

When he had completed his arrangements he took a last look at the dead woman. She was lovely even in death. If only she had been unfaithful!

She lay with her crochet work still clasped in her hands, and her workbag had dropped from her chair to the floor. Did Seale feel regret? He regretted, at any rate, that she had refused to listen to him. He walked to the door; but just as he was in the act of opening it he remembered that he had left his walking-stick in a corner of the parlor. That would have been fatal. He returned, lifted the stick, and, stepping over the dead woman, took a last look around. There was nothing he had forgotten, nothing he had omitted, nothing he had left undone. He had accomplished what every criminal hopes one day to accomplish—the perfect crime!

There was not a trace of his presence, not an item that would lead to him. Everything would lead to Adam Jelks. He opened the door and stepped out to the corridor. The passage was deserted. He began to descend the carpeted stairs.

Was he not perfectly secure? Had he not carried out the murder with absolute excellence, with consummate ingenuity? Not a blemish could be found in his mode of action. The police would find the wineglass and would observe the fingerprints. Adam Jelks would be arrested. Would not the past career of Adam Jelks rise up and convict him—or at least aid toward a conviction? Seale himself would give evidence, since he had been the last to employ the ex-convict. He would, with seeming reluctance, relate the incident of the valuable shirt-studs; he would tell how he had therefore dismissed Jelks before going to Paris. In this connection he had but one more item to fill in and the picture would be complete. It would be the high spot that artists always add last, but it would throw the whole scene into proper perspective. He would write to the Prisoners' Rescue Guild and inform them, with regret, of the studs and his action. He would do this before he took his suitcase and drove off to catch the night express to Dover. As for his swindle, the husband of the dead woman would be too busy to worry about financial matters for the time being; when he did get the true position he would be hit. Seale would be all right.

Walter Seale entered his own flat, leaving his front wooden door open as usual. The vestibule door closed softly on its catch. He sat down at his desk and laid a sheet of notepaper on the blotter in front of him. There was no real hurry for the letter, which he had not already written because of his hope that the woman would surrender. The boat train did not leave yet awhile. He smoked a cigarette with satisfaction and enjoyment, lingering over every whiff. His only emotion was regret that the woman had refused him to the last.

Finally he lifted his pen to write the letter; and as he stretched his arm toward the inkwell the vestibule door was thrown open. Two men appeared on the threshold. One was the husband of the woman, disheveled and agitated. The other was a policeman.

"What do you want?"

Seale was quite calm as he turned toward them, pen in hand.

Both men stepped toward him. It was the policeman who spoke.

"There's been trouble. This gentleman's wife has been murdered. He brought me here. I want a word with you."

"Why come to me about this?" asked Seale. "Murdered, you say? That is terrible news——"

"Have you been up at her flat?"

"Me? No, I haven't been near the place. I've been here all day——"

The policeman took a step nearer.

"Then how do you explain this?" he demanded, pointing to the floor.

Walter Seale could not suppress a cry of dismay when he looked down.

Caught in the spat on his right foot was a silk thread that trailed along the floor behind him. The policeman was speaking again.

"We followed it down. The other end of that silk is in a ball wedged between the dead woman and the leg of a table. It isn't easily broken, that stuff. I'm going to search you now for the weapon that killed her."

And thus, instead of going to Paris, Walter Seale spent that night, after the search, in a police cell.

A silken cord had trapped him. It was the hangman's coarser rope that hanged him.

CHAPTER VIII

The Judge States His Fourth Case

"And do you seriously mean to put forward a plea to the effect that the penal code should not hang such a foul murderer as Walter Seale?" asked the judge, when the waiter had finished his story.

"Pardon me, but it is very exhausting to be constantly bringing your lordship back to the point at issue," returned the waiter, coughing to clear his throat. "It would not be impossible to argue against the judgment of death even in Seale's case. But the issue before us in this instance is not what you suggest."

"What is the issue, my friend?" asked the judge, condescendingly and with a rare and sardonic smile.

"If you recollect, it is perfectly simple. You gave the case of Nathaniel Gore to prove that the death penalty acted as a deterrent."

"Well?"

"Really, you make me tired. The real reason there has not been any further attempt to steal diamonds brought from abroad by ships is that the people who send the diamonds, and the people who receive them, have adopted new methods of transit; or, if they still send them by that line of ships, they have so many guards and take so many precautions that a thief stands no chance at all. I include all precious stones—from Burma, India, South Africa. Recently a consignment of gems came to England by airplane. Well, well, what does it matter? Gem thieves are only human. That is why there are no more big thefts on board ship. And yet that is not the issue between us in these two stories of Gore and Seale."

"Well?" asked the judge again, this time a little heavily.

"The plain issue is whether the penal code stops murder by being a deterrent. My answer is this: You sentenced Nathaniel Gore to be hanged. The news was told by newspaper, by wireless broadcast; in fact, everybody knew it. You yourself remarked on the public, and feminine, interest in his case. Very well. Do you realize that the

murder that Walter Seale committed *was committed the very next day*? Seale knew of the verdict in Gore's case. Did that deter him? And that is my answer to your plea. So I claim another two points."

He added two more glasses to his list before the astonished eyes of the judge.

"I am sorry your lordship hasn't put up a better defense," he smiled. "Really, you know, for a judge of your lordship's eminence your lack of observation is deplorable. You went on your holiday after sentencing Gore. Do you never read the newspapers? Do you never read the minutes of your own intellectual club? Really! Really!"

The judge flushed under the sneering taunt. He could have sentenced the waiter there and then to life imprisonment!

"It is useless for me to combat your decision," he grumbled, resolved not to show any anger or disappointment at the ending of the cases, though he was terribly grieved that he had not been allowed one point. "What is the use of discussing legal matters with you when you have the result already decided? But let us waive that"—for an ugly look came into the waiter's eyes—"and allow me to say that I am not so deficient in observation as you suppose."

"No?"

"You stated that Walter Seale knew of the verdict in the case of Nathaniel Gore. It would be interesting to have proof of that assertion."

"I can give you proof."

"Indeed? Incontrovertible proof?"

"Absolutely."

"Let me hear it."

"I myself handed the morning newspaper to Walter Seale and pointed the verdict out to him."

"You?" The judge half rose from his chair.

"Then you are——"

"Adam Jelks!" bowed the waiter.

"Good God!" exclaimed the judge, sinking back into his chair.

"Merely one of my aliases."

The phrase sounded reminiscent in the judge's ears.

"You said the words when you claimed to be Lorry Black," he murmured in a dazed way. "Lorry Black! Adam Jelks! Which is your real name, may I ask?"

"Neither is my real name."

"But the police records——"

"Bear a third alias, the first name by which they knew me. You see, I am frank."

"Disastrously so. What, then, is your real name?"

"Gently! Gently! Why press for it?"

"I am curious."

"All in good time."

Once more the sound of music and singing broke on their ears. Another band of Christmas waits were in the street. They were obviously trained singers and players, and the words of their carol came melodiously out of the night:

"*Peace on earth, good will to men.*"

In spite of themselves both the judge and the waiter listened to the soft, sweet strain. Gradually the music died down, the waits moved on to another street, but they could be heard singing faintly in the distance. In time the waits moved out of hearing. There was not a sound in the large room. The candles had burned more than half their length to their bases, and the light from them, added to the ruddy flare of the fire in the grate, cast a queer illumination on the figures of the sleeping members.

The waiter shrugged his shoulders and tapped the table with the bludgeon to call the judge's attention.

"Do you feel inclined to make another attempt to score a point, your lordship?"

The judge awoke out of a revery into which he had been plunged.

"Is it worth my while, sir?"

"That is for you to decide."

"The dice are loaded against me. You have decided the end, it seems, so that whatever I may say——"

"Come, come, do not be so melancholy. I assure you I was prepared to act impartially if you had been able to convince me of the justice of your views."

The judge glanced at the array of glasses in front of his antagonist, then his gaze strayed to the windows. His hand fumbled at his waistcoat and drew out his watch.

"There is just time," urged the waiter.

The judge was silent. He was really pondering how he could overcome this man whom he believed to be mad. He was silent.

"Let me make a sporting offer," remarked the waiter, encouragingly. "Do you feel depressed because I have won six of your men?"

Still the judge did not speak, though his countenance showed that he was far from being happy.

"I will stake my six glasses against one for a final throw. Does that appeal to you?"

The judge's head raised and his eyes showed a glint of hope.

"Explain yourself," he said.

"You heard me well enough. I will repeat the conditions of the challenge we agreed to at the beginning of our evening's entertainment. For every case you proved that the judgment of death was deserved you were to gain a member's return to consciousness. I have won six times. You, none. I propose now to stake my six points against your ability to cite a case proving your claim. Thus you will be entitled to a verdict. Is that clear?"

"Perfectly."

"And you accept the offer?"

The judge considered.

"If I should obtain the verdict," he said, "it would mean that you had lost, for we cannot carry this discussion on a great deal longer."

"It would mean that I had lost," agreed the waiter.

"And that you were my prisoner?"

"Ah, that is a new element!"

"But it is a reasonable one."

"It was not on the cards, to begin with."

"You think the risk is too much!" pressed the judge, challengingly, just as the waiter had challenged him at the start.

"I think it was not in the original issue. You were on trial."

"And now, supposing the positions are changed——"

"I cannot suppose anything of the sort. I was not guilty of upholding the judgment of death code. It was you who were placed on trial. The best you can expect is to be acquitted."

The judge bit his lip.

"Well, that is always something," he said, with a faint smile.

"It is perhaps more than you can expect—unless you have a remarkable trump card up your sleeve which you have not shown. Am not I giving you every opportunity to show that trump? Is it not a great risk I am taking in making you this offer of the six points against one?"

"I appreciate its generosity. On the other hand——"

"It may mean that I have great faith in my own ability."

"Or none whatever in mine!"

"Precisely."

"I wonder which!"

"Ah!"

They were actually smiling to each other like two counsel engaged in a lawsuit!

The judge turned over the pages of the minute-book, genial and beaming. He looked at the recorded meetings rather critically, apparently not quite sure which case to select. The waiter watched him, and it was curious that the waiter no longer smiled. His face became clouded and heavy, and his eye glinted cunningly.

"Are you in a difficulty as to the case you will choose?" he asked, without looking directly at the judge.

"I must confess that I have a few here, the claims of which all seem equally decisive."

"What about the case of the man who was hanged for shooting Goff, the money-lender? There was what you, and the public, too, called an unforgivable crime!"

The judge smiled.

"Thank you for reminding me. It certainly was a crime committed by a man whose act showed the basest ingratitude for favors received."

He considered a moment, scrutinizing the face of the waiter, but that person's countenance was without expression. The judge came to the conclusion that, since they had been on almost good terms a few moments previously, the waiter was generously suggesting a case where the judge could, with ease, capture the six glasses. Thus the evening would end in a truce, or rather in a deadlock; and the adventure of Christmas Eve would end in both sides calling quits.

But the judge, while disposed to accept this conclusion in order to recover his fellow members from their oblivion, did not intend to let the matter rest there. Secretly he felt that he could not allow the insults to which he had been subjected to go without correction. The waiter had been grossly impudent. He had taken liberties that no waiter, that no man, had any right to take. Besides he was an admitted criminal. So the judge reflected that, for the time being, he would pretend to let the affair blow over, he would have his friends brought back to life, he would even allow the waiter to leave the premises free. But the police must hear of this outrage without delay so that such a state of things might never be repeated. They would easily trace this waiter who had the aliases of Adam Jelks and Lorry Black. Under these names his fingerprints would be on file. And when he was caught and brought before the bench the judge would read him a lecture and would give him a sentence—but not a very severe one. Perhaps one in the second division. Just enough to remind him that the law was not to be derided and trifled with. It might be for the man's good to send him to preventive detention for a space. Now, the shortest term of preventive detention was five years. Well, was a judge to be insulted and the law to be held up to ridicule? The thought of preventive detention brought the judge's mind back to the murder case that had been suggested to him. He breathed freely, yawned, and once more his deep tones sounded throughout the apartment.

THE BLINDNESS OF JUSTICE

I am really indebted to you [said the judge] for recalling the murder of Mr. Goff, the money-lender, although it is more than possible that I would have selected this crime in any case. The murder and the discovery of the murderer provide excellent examples of, first, the patience and penetrative ability of the police, and, second, the blindness of our justice. Especially does the second aspect appeal to me, and I am sure you must admit that it is the most salient feature of the case. No effort to thwart her decisions, no dodge to influence her judgment, has any effect on the Ideal whose figure, gilded and noble in proportions, stands on the highest pinnacle of the Criminal Court, the scales of justice in her left hand, the sword in her right, and her eyes bandaged to prove that impartiality and intellectual discernment guide her always.

The man who was hanged for the murder of Mr. Goff, nevertheless, in spite of proof that he was guilty of miserable ingratitude and a most detestable crime, had the audacity to make a fight for his miserable life that is memorable in the annals of our penal statutes. Several defenses were brought forward. The first was that he was not guilty—which, of course, is the formal plea of every criminal. One takes little notice of this stereotyped defense, for it is merely the basis of legal proof or disproof. But one defense—or part of the whole defense—had to be argued very closely. This was the more or less reliable data put in by the defending counsel that his client was insane.

One mentions this because it was on that basis that the appeal against the verdict of death went before the higher court. My summing-up was also attacked on the ground that it was biased. Such absurdity! What could possibly induce a judge to be biased one way or the other? Nothing at all. The Court of Appeal made short work of that suggestion and upheld my ruling. As for the plea of insanity, that, too, was ridiculed, as it deserved to be. It has become so common.

Perhaps it would be as well to state here the legal definition of insanity, for I had to remind counsel of it more than once during the trial. Up to 1843 the tests were rather crude, but when insanity was pleaded with success on behalf of Daniel McNaghten—the man who shot and killed Sir Robert Peel's private secretary in the belief that

he was shooting Sir Robert—it was realized that a close and clear interpretation ought to be laid down. After due consideration a number of judges, all learned and competent in law, pronounced that an accused person was insane within the meaning of the term when he "was laboring under such a defect of reason from disease of the mind as not to know the nature and quality of the act he was doing, or, if he did know, that he did not know he was doing wrong."

The waiter at this point raised his hand in interruption, and remarked, bitterly:

"The definition is as clear as mud. In this it resembles many other definitions laid down by learned lawyers. I could cite a number of public men who, under that ruling, ought to be in criminal lunatic asylums."

The judge did not take any notice of the criticism, but continued as if he were explaining the law to an attentive jury:

Another step was taken as late as 1922 to define the term "insanity" with even more exactitude. A special committee was appointed, largely because the plea had become so usual, especially in murder charges. This committee came to the decision that there was no ground to sentence a mentally defective person for a criminal act provided this defect "prevented him knowing that the act was wrongful, or prevented him from controlling his own conduct."

Once more the waiter raised his expostulating hand and interrupted with the biting words:

"A long way of admitting the existence of uncontrollable impulse. It is the Lombroso theory denying individual responsibility, for who is capable of always controlling his conduct? Yet you judges accept this as law while disregarding it in practice."

Again the judge appeared not to hear the words of the waiter, in which he seemed to observe, nevertheless, a hint of future opposition. He went on with his story calmly and with dignity:

Let us now consider the crime itself and the remarkable circumstances in which it was committed. We can best do so by putting ourselves in the position of the police, who earned great credit by the method used to find the guilty person.

Mr. Goff, the money-lender, occupied a house in a country district. On this particular night he had several guests down from town, and after they had all retired he went into his library at about ten minutes to midnight. His purpose was to fill up some loan forms. He sat down at his desk, facing a large French window that opened out to the garden. The window was wide open, for the evening was warm.

Mr. Goff had just been seated in his chair when there was a knock on his door and his manservant, a man named John Williams, thrust his head into the room.

"Shall you want me any more tonight, sir?" he asked.

"No," replied Goff; then he added, "Are all the visitors in their rooms?"

"I think so, sir."

"Very well. Lock up as usual and leave me."

Williams withdrew. Mr. Goff flourished his pen, took a sip from a glass of refreshment at his elbow, and was about to begin writing when a sound near the open French window caused him to look up.

A masked man was standing by the window with a revolver in his hand. Before Goff could give a shout of alarm the revolver was fired. Goff fell back into his chair with a bullet in his brain.

The intruder stepped to the safe, the open door of which attracted him. He was wearing gloves. Opening the door wide, he rummaged in the drawers, found several small bundles of banknotes, and pocketed them. He pushed the door close again and walked to the French window.

According to the police reconstruction of the crime it was at this stage, when he had already pulled off his gloves and had thrown his gun away, that his eye caught something that startled him. The glass at Mr. Goff's elbow had been upset when his arms sprawled outward, and was rolling slowly toward the edge of the desk. The murderer caught it before it fell and left it lying in the spilled liquor. Then he disappeared.

A few minutes later Williams, the manservant, opened the door of the library, after knocking once, and saw his employer dead in the chair. He did not lose his head. He went out to the hall and

telephoned for the police. After this he aroused the guests and servants, but did not allow them to enter the room.

The police headquarters for the village were situated about a mile from the house. The arrival of an inspector and a constable was heralded by the growling of the watch-dog. Williams and the inspector knew each other quite well.

The inspector was a large man, slow of movement and heavy of frame. He first of all cleared the servants from the hall and stationed his constable there. He then invited Williams into the library and closed the door. Mr. Goff was finished with money-lending forever, and it was now the business of the police to find his murderer.

There was, of course, no sign of a struggle in the room. On a side table were four empty glasses besides a pack of cards. The guests had been playing before they retired. Mr. Goff's empty glass lay on his desk in a pool of slipped liquor. The door of the safe, which was built into the wall next the bookcase, was open.

The inspector took in these details rapidly. He noted that the French window was ajar, allowing anyone to pass out or in. The rustle of the wind among the trees in the garden whispered through the room.

The inspector bent over the dead man for a moment, then sat down and took out a notebook and pencil.

"Sit down, Williams, and tell me about it. Where were you when you heard the shot?"

"I didn't hear a shot, Inspector; that is the funny thing. I had been clearing up after supper. The guests were upstairs. I came in to see if Mr. Goff wanted me any more, and he said he didn't. Then I went upstairs. But I had forgotten to mention a detail to him—a trivial matter about my usual holiday. I get off usually for Saturday and I wanted to have a little extra this week-end. When I opened the door I found him—like this. That was just before midnight, just on the stroke."

"How many guests are there?"

"Four gentlemen from London."

"Has anybody been in this room since you made the discovery?"

"No. I awakened the guests, of course, but I did not allow anybody to come into the room. I knew you wouldn't want that. But they looked in. I could not prevent them. It is a terrible business."

"Go on. You did not hear a shot?"

"Not a sound. The French window was open as it has been all evening. They were smoking a lot."

The inspector glanced at the dead man and then toward the window.

"Had Mr. Goff any enemies that you know of, Williams?"

"Well, I couldn't name any, but what moneylender hasn't?"

"That is true. The murderer, it seems, shot him from the open window. Let us look."

The inspector took an electric torch from his pocket and went round the room, flashing the light into dim corners and under the furniture. He bent down to the carpet several times. He went out to the garden and spent some time searching along the path and among the flower-beds. Presently he uttered an exclamation and dragged something from under a rhododendron bush. It was a revolver. He brought it into the room and examined it before putting it into his pocket. Then he turned to Williams, who had remained seated all this time.

"There is a silencer on this gun, John. That is why you did not hear the shot."

"Ah, that's the reason, is it?" exclaimed Williams. "I wondered about that."

The inspector walked back to the window and faced the dead man. After a few moments he spoke again.

"The man who killed Mr. Goff fired from about where I stand. He came in from the garden through this open window. He must have fired at once or Goff would have made some resistance and raised an alarm. The reason Goff's head is thrown back as you see is because he looked up from his desk just in time to receive the bullet in his forehead. The smack drove his head backward. That is why his face is turned toward the ceiling and his neck on the back of his chair."

"I see," answered the manservant.

"Then the criminal threw away this gun——"

"In his flight?"

"Perhaps."

The inspector went round the room again, looking at the walls and the floor. He came to the card-table and sat down beside it, leaning his elbow on the table, and fingering his chin thoughtfully.

"Was there much money in the safe, John?"

"I don't know how much, but I should say a tidy bit. You see, the four visitors came here to arrange the details of loans, so I understood. It was an idea of Mr. Goff to ask regular borrowers down to talk over terms—I mean big borrowers, of course; his customers, one might call them."

"Robbery and murder!" murmured the inspector. "It is a big case, John. Bigger than we've had hereabouts since I can remember. I'll have to question everybody in the house. Somebody may have heard a suspicious sound."

"They've all told me that they didn't hear anything. We talked it out before you came, but the guests are in the morning-room. They'll be glad to tell you all they know."

"I'll have a word with them later. Pure formality, but rules are rules, you know. This will mean a long report."

He glanced round the room once more, rubbing his chin and shaking his head dismally.

"You see, Williams, to find the criminal we ought to reconstruct the crime. We know that Mr. Goff was a wealthy money-lender. He kept a safe in this room. It is there, with the door open. There has not been any struggle. Mr. Goff was at his desk, writing. The pen he was using is on the blotter. The sheets of paper in front of him are forms to be filled up for loans——"

"Which the guests were to sign in the morning," said Williams.

"Of course, that's it; and the terms had been arranged, or Mr. Goff would not have been in the act of filling up the forms. Along comes the murderer, looks in at the window, sees Mr. Goff and the open safe—and shoots him! It's hard on the four visitors who had come for loans. What are they saying about it?"

"They're a bit upset, naturally. Will you have a word with them now?"

"Before I go in to see them, John, tell me who they are."

"Oh, I know very little about them—as little as a man in my position knows about guests."

"Tell me what that amounts to."

"Well, there is Mr. Ralph Brunner. He is a bookmaker and tipster. He has a house at Epsom, but he goes all over the country. You know what some racing men are—loud-voiced, bragging. He lives and talks without reserve. He has been here often."

"Yes. And the next?"

"Mr. Jacob Finn. He is one of the nicest gentlemen I have ever served. He was a doctor at one time, but got into trouble over a wrong diagnosis and it broke him. He has acted as medical friend to the boss."

"The next?"

"Mr. Roger Cass, who has had many business deals with Mr. Goff. The two were great friends. He was the only one who talked openly at supper about the loan he was needing."

"The next?"

"Mr. Philip Oakland, a friend of Mr. Brunner's. I don't know what his business is, but he is always complaining of being hard up and how difficult it is to make ends meet these days. That's all I know about the guests."

"Any new servants?"

"Oh, no. We have only the cook, and the gardener who is her husband, as you know well enough. There is the maid to help the cook. They are in the kitchen now. I told them you would want to see everybody."

"That was right."

"You see, Inspector, I lost no time before calling you. You could not be expected to get the murderer if you didn't get a quick start on his trail. And then, I have the guests to consider. They are going back to town."

"When are they intending to go?"

"I had my orders to see to them. I was told at supper that they were going back by the midday train tomorrow—I mean today, since it is now morning."

"Have you seen anybody hanging about here lately—any suspicious-looking person?"

"Well, the visitors took up all my time since they came the other day. It was one call, call, call, from morning until night. Four gentlemen take a lot of looking after."

The inspector remained silent for some time; so long, indeed, that Williams became irritated at the slowness of the man's mind.

"Hadn't we better be getting on with it?" he ventured. "You'll report this to Scotland Yard, I suppose, Inspector?"

"Not yet, Williams. If I report and ask their help they'll send an investigator down. He can't arrive before the afternoon or evening. Maybe I'll send a call to the county headquarters, however. You'll help me all you can, won't you?"

"Certainly, Inspector. Well, what about seeing the guests? They're anxious to tell you anything and then get off to their business."

"Williams, have you ever snared rabbits?"

"No."

"Or trapped hares?"

"No."

"Or hunted otter?"

"No."

"Or dug for badgers, or went after moles?

"No. What has all this to do with——"

"If you had done any of these things you'd appreciate the value of patience. You're a townsman. I'm not going into your past, for we know each other. We in the country need patience and we acquire it. After all, the man who committed this crime was patient, so why shouldn't we be? He came here meaning to do it."

"You think so?"

The inspector took from his pocket the revolver he had found in the garden and laid it flat on his broad palm.

"The number plate has been filed off to keep us from tracing where it was bought. That was cunning."

"I see."

"The murderer wore gloves so that there would not be fingerprints—proof that the crime was not spasmodic and uncontrollable impulse. He has not left a trail. He is more cunning than any otter or badger I ever hunted. I think I'll send a call to county headquarters."

"You mean for them to keep a lookout for strangers?"

"Well, they look after the details of the prosecution at trials——"

"But you haven't got a clue yet and the man you want may be well on his road anywhere. If he goes to the city you'll never find him. This looks like a case of town *versus* country!"

"It is crime *versus* justice," corrected the inspector, gravely.

"Well, what are you going to do?"

The inspector took a sheet of paper from the desk and began to write rapidly. Williams watched him contemptuously. When the inspector finished writing he took an envelope from the stationery rack and addressed it carefully.

"I'm going to ask you to do something for me, Williams. The police doctor must see the body and give his certificate. Will you please go to my office in the village and deliver this note to the sergeant in charge? He will be expecting to hear from me."

"Why not send the policeman who is in the hall?"

"I'll need him to corroborate my report. Two of us are necessary here."

"Or telephone?"

"The doctor must have written instructions."

Williams took the envelope and went out of the room, the inspector at his heels. In the hall he turned.

"What if I meet the murderer?"

"Take the dog with you if you're afraid, but I hardly think you'll meet anyone. Come, I'll see you off."

He went into the yard, where the manservant released the dog and put him on a leash. The inspector accompanied him to the front gate and watched him go toward the village. Then the inspector returned to the room where the dead man was still in his chair.

He examined the floor again, but could not find any footprints of special interest, for there had been quite a lot of walking about the room and there were marks of people having come in from the garden in plenty.

The inspector next went upstairs, where he remained some time. At last he returned to the hall floor and went into the morning-room. The four guests were sitting, clad in dressing-gowns, before a bright fire.

"This is a bad affair, gentlemen," said the inspector. "I'm sorry if I have caused you any inconvenience, but I'll need to keep you up a little longer. Perhaps, instead of questioning you all separately, you can tell me right away, so I can get my report made out."

They signified their consent at once.

"It is a shocking nuisance," cried the tallest man of the four. "I came down, like my friends, to get some money, and here we are mixed up in a murder without a chance to put the loans through. If I'd anything to do with the police I'd have every man out scouring the roads by this time——"

"You are Mr. Ralph Brunner?" interrupted the inspector, quietly.

"That is my name. How did you know?"

"I thought you were Mr. Brunner. Now to the work of finding a clue. Did any of you gentlemen hear a noise?"

Not one of them had heard anything, or knew anything, until they were awakened by Williams, who told them of the tragedy. Brunner said it took him some minutes to grasp what the manservant informed him of, and he wondered if he was even now in a dream.

Oakland glowered into the fire, nodding his head profoundly and muttering about "hard luck."

Finn smoked a cigarette and asked the inspector just where the shot had struck Goff and if he had died instantaneously. He then turned and explained to Cass, who was seated next him, just what happens when a bullet plugs its way through one's forehead.

Cass did not seem to be listening very intently.

At the end of five minutes the inspector wrote out a short statement and the four guests signed it in turn.

"Is there no clue?" asked Brunner. "Can't you get ahead and search the countryside?"

"There is no clue yet, sir, but we'll find one. There always is a clue."

"It looks as if the perfect murder has been committed," said Finn. "What do you think, Inspector?"

"There isn't such a thing as the perfect murder," replied the inspector. "No crimes are clueless. There is always at least one clue."

"For God's sake, then, find one here!" cried Brunner; and Oakland echoed the words, but rather lifelessly.

"We'll find one, gentlemen, never fear. Criminals take pains to hide their tracks, but I never knew one who did it successfully. They all leave their marks somewhere, somehow. It may be a button, a handkerchief, a weapon, or a fingerprint. It may be a footmark on the floor. But they always leave a trail. No man can walk into a room and do what this criminal did without leaving traces of his presence."

"That sounds easy in theory," smiled Finn. "But when it comes to practical things—well, you don't mind my saying that your abilities will have to be high to work it out in this case. You have admitted an absence of clues."

"It isn't my abilities, sir. It's the criminals who forget some little thing. By the way, whose cigarette case is this? I found it under the card table."

"That's mine!" cried Cass, swiftly; and his face went white as he stretched out his hand. "You don't—mean—you can't mean to suggest——"

A sudden silence filled the room. The three other guests looked at one another, then at Cass. Cass was gazing in a scared way at the inspector. Fate seemed to hang in the balance. The inspector laughed as he handed over the case.

"I don't mean to suggest anything, sir, except that the case must have fallen when you were playing. You don't think I was charging you with the crime!"

"For a moment I thought you were," said Finn, glancing at the inspector keenly. "I don't mind confessing I thought so. And so did my friends. As a doctor—a discredited one, but still a doctor—I should say that Cass's heart gave him a nasty turn just now——"

"Your heart is tough enough, anyway, Finn," burst out Brunner, with a forced laugh. "You are the only one who hasn't changed color. But then, you are a doctor and you're tough. I never saw you upset."

"Doctors don't show emotion," replied Finn, flicking the ash of his cigarette into the fire. "Strike the bell, Brunner, and have Williams fetch us something to drink. It will do Cass good."

"I'm sorry, gentlemen," put in the inspector, "but Williams isn't in the house. He has gone on an errand for me, but there is no need to stay up any longer. I was merely proving to you that there is always something a criminal forgets——"

"What about all the undiscovered criminals?" demanded Finn. "There have been murders—all countries have them—where the murderer is never found. I believe that in England the proportion of acquittals for murder is higher than for many other crimes. Answer that if you can."

"I think I can, sir. You see, in murder the strongest proofs of guilt are required, stronger than in any other crime. And not so long ago the Home Office issued a statement on this very subject. It is called *Criminal Statistics* and there it is stated that an acquittal does not necessarily imply failure to detect the perpetrator of the crime. Some juries shrink from giving a verdict of guilty where others would not hesitate. When I handed over that cigarette case I was just trying to show how little things are often forgotten by anybody."

"Bah! You found the case and knew it must belong to one of us. Cass has claimed it. What about the other three of us? You said no man could walk into a room and fail to leave traces. I'll bet you could not prove—actually prove—that we three were in that room."

"You forget, sir, the glasses on the table. Your fingerprints must be on those glasses."

The inspector arose. The door of the room had opened while he was answering Finn.

Williams, the manservant, had returned, and handed a note to the inspector. The latter opened it and read its contents.

"Good," he said. "My sergeant has gone to fetch the doctor. He'll be here shortly."

"Maybe the doctor will find a clue for you!" said Finn, ironically. "Do you mind if we wait up to see?"

"Not at all. I don't suppose the examination will be long. Doctors never are. Oh, there will be a clue, sir, though we may not get it right away. I believe there is always a clue. Well, thank you for your statement, gentlemen. After the doctor is finished you can go to your rooms to rest after the upsetting business. But nobody is to go into the library—not during the night or until I give permission——"

"Are you staying here all night?" asked Brunner.

"No, my constable and I will go back with the doctor. We have work to do, you know."

"The flying squad!" said Oakland, sneeringly. "By heck! And anybody would have had men out to search the roads long ago—anybody with sand, I mean. It's up aloft some officials need it. By God!"

"That's true, Oakland," cried Brunner. "The wanted man will be far enough off by this time. Counting his banknotes, I have no doubt."

"Oh, we'll get him, sir, don't you fear," asserted the inspector, confidently. "By the way, Williams, you will lock up as usual after we've gone and get to bed——"

"Meantime he can get us a drink," said Finn, rising and stretching his arms. Then taking out his cigarette case and finding it empty, he added: "I'm going up to my room for smokes. Williams, you know my taste. Whisky and soda. I suppose you three will wait up for the doctor?"

They nodded agreement.

"It's a terrible end for old Goff," said Brunner, "but, though I wish I could stay and see it through, I've got to get back to town, especially now the loan has dropped through. Will you wait here

with us, Inspector, for the doctor?"

The inspector accepted the invitation and Williams brought in the drinks. Finn came back with a supply of cigarettes for all; but they were not long seated when the doctor arrived by automobile.

The examination was not of long duration, and when it was over the inspector informed the guests that they could now go to bed. After a last drink they went off, but not before asking if a clue had been found.

"Sorry there's nothing new," the inspector admitted; and the guests looked at one another and shrugged their shoulders as they went upstairs to their rooms.

Williams let the doctor and the inspector out by the front door. The constable went with them, for there was now no reason to remain in the house. The servants had all been sent to their quarters, and with a last instruction not to allow anyone into the library the officials went out to the waiting car.

As the inspector and his constable took their seats in the car they heard the manservant locking the front door. The car started for the village; but it had not gone more than a hundred yards when the inspector requested the doctor to stop.

"I have forgotten something," he explained. "My man and I will have to go back and we may be some time. You'd better go on, Doctor."

The doctor made an offer to run them back, but this was declined and the inspector and his man returned together, while the doctor made for home.

Not a word passed between the inspector and the constable until they had almost reached the house. It was the inspector who spoke.

"This way," he said, gruffly, pointing to the hedge. They broke their way through. They were now in a meadow that bordered the garden of Goff's house.

"Into the library!" ordered the inspector.

They found a gap in the garden hedge big enough to allow them to press through. They crossed the lawn noiselessly and entered the apartment by the open French window.

The inspector stationed his man behind the door while he took up another position.

"Have your flashlamp ready!" he whispered.

"What's to be done, sir?"

"Wait!"

They sat like black statues in the death chamber. All was still in the house.

An hour passed.

Through the quietness came a shuffling sound, a furtive footstep. It came from the hall.

It reached the door of the library. The key was turned in the lock. The door opened softly. A man glided into the room.

He moved cautiously, with hardly a sound.

He reached the side of the murdered man and bent down toward the desk, his hands stretched out, searching for something. And then——

Flash!

The flood of the inspector's torchlight was but a fraction in front of that of the constable. The man beside the desk leaped back with a cry. The wineglass which he had touched was thrown to the floor and smashed.

"Hold him!" cried the inspector. "We have the murderer."

"I am innocent! I am innocent!" cried the wretch who had thus been caught red-handed as it were.

The inspector lit the lights of the room.

He looked triumphantly at the man who was his prisoner.

"You know enough of the law," he said, warningly, "to know that anything you may say will be taken down in writing. There were five men in this house, five possible murderers. I was certain it was one of you. I know what you came for just now. I mentioned the possibility of fingerprints on the glasses purposely. It was a bait; and it fetched you."

The inspector turned to the dead body of the money-lender.

"Maybe you would like to know why I suspected one of you five? It was easy. When we came here the dog started a row. Had the murderer been a stranger the dog would have awakened the household. The dog must have known the man who came in at the French window. Moreover, there are no fingerprints on the safe door, and none on the revolver. That meant the murderer used gloves. An ordinary country burglar doesn't use gloves. It was a city crook's crime. But the glasses had fingerprints—and that glass by Goff's chair was upright on its base in the center of the spilled wine. It had been placed that way after it fell, knocked over by Goff's flailing arms when he was shot! That was easy to deduce."

The inspector turned to his subordinate.

"Guard him while I make another search of his room. I hadn't time to go through it properly first time."

Five minutes later the inspector returned to the library with the bundles of banknotes that were missing from the safe.

"They were under a corner of your carpet," he said, quietly. "We need no more proof."

The prisoner was dumb, struck silent by this incriminating evidence before his eyes.

"Goff befriended you," went on the inspector, sternly, "when you needed friends. He treated you well. He did not know that you had a bad record and had just been released from a period of preventive detention for being a habitual criminal. I am charging you with murder, John Williams. I've been keeping my eye on you for some time. I suppose you will go quietly."

And Williams went without a word. He did not say anything from that moment until, in his cell, he asked for a solicitor to undertake his defense.

He was hanged in spite of his fight for his worthless life.

That was certainly an occasion on which I donned the black cap with every justification....

The waiter flicked an imaginary speck of dust from his coat.

"You will pardon me," he said, crushingly, "if I disagree with your final observation. The execution of John Williams was indeed the sentence of a very blind justice, my lord! The real murderer of Goff,

the money-lender, is alive and well today and your penal code cannot lay a hand on him because (although he makes no secret of his guilt) your law cannot charge a second man with a murder for which another has already paid!"

CHAPTER IX

The Waiter States His Fourth Case

At the calm words of the waiter the judge showed symptoms of extreme consternation.

The waiter did not make any attempt, nor give any indication that he was at all anxious, to allay the other's perturbation. He seemed, indeed, to be singularly detached, and it was not until the judge's countenance showed that his disturbance was giving place to resentment that the waiter made a gesture that caused the judge to grit his teeth. The waiter yawned.

"You have made a declaration," began the judge, irritably; but the waiter brought his fist down with a resounding whack on the table.

"I have," he said firmly. "I have made a few declarations since I entered these premises; and this one is no less true than the others. I have said that the real murderer of Goff, the money-lender, is still alive. To go into a minor detail, he is at this moment in prison."

"I thought at first," remarked the judge, as his lip curled, "that you would claim the distinction of having yourself murdered Goff. You have two aliases——"

"Oh, I have more, but they do not affect our present considerations. I am not the man who murdered Goff. I have not murdered anybody yet. So far my attention has been directed to smaller matters in the crime calendar. And I have been studying the law."

"But you have not been observing it in obedience," thrust the judge at him angrily. "I am waiting, however, for you to prove what you have just said. I shall require absolute proof—and even then—— But I am prepared to listen to your explanation."

As a matter of fact, this was just what the judge, at that moment, was least inclined to do. He did not want to believe that the law for which he stood had been guilty of such a frightful mistake as to hang the wrong man. On the other hand, he was aware that such mistakes *were* made in the past, few in number, of course, but still mistakes

that were very regrettable. He had never come up against any mistake of that kind in his career and he could not admit that the law, which he so revered, had overlooked any item, or over-emphasized any point. Did not the foremost counsel argue in his court? Did not he himself explain every point of law to every jury before allowing them to retire to consider the verdict? These thoughts were running through his brain when he became aware that the waiter was speaking.

"I am asking you," the waiter was repeating, "to consider the inmates of Goff's house. There were the usual servants, all of whom we can rule out. There were the guests and there was the manservant, Williams. I should like you to use your powers of deduction in this matter. There were four guests——"

"Hadn't you better prove the innocence of Williams before you attach guilt to anybody else?"

"Very well. Nothing could be simpler. Williams did not shoot Goff. Williams went into the library, not to take the wineglass on the desk and so eliminate evidence that would go against him. He wasn't thinking of the glass. He was trying to find a document that Goff had on his desk. That was a letter which had been sent to Goff informing him of the past convictions which had sent Williams to prison. When he discovered that his employer was dead, Williams returned to the library to get that letter and destroy it. Do not you remember that such a letter was found on the desk?"

"I am not sure."

"Then look up your minutes and see if the letter is mentioned."

The judge obediently turned over the pages of the minute-book, but his mind was not really on the search. He was fuming inwardly. He felt that somehow he had been tricked, that this waiter had led him to commit a blunder.

"Have you found it?" asked the waiter, a little impatiently.

"No."

"Pass the book to me. Perhaps I shall be more successful."

The judge shoved the book along the polished table, frowning and glowering. He positively hated the waiter at that moment.

"Here it is," said the waiter, after a few moments. "Your finger was on the very page, my lord. Fancy not seeing the paragraph! It mentions that this letter was under the loan forms. It was read at the trial of Williams, who admitted its truth. You observe how this letter, which the wretched Williams was trying to hide, actually became part of the police network to send him to destruction. That letter was written by one of the guests, I fancy, but it was signed 'A friend.' Those anonymous friends are the very devils, aren't they?"

The judge did not answer. He was gazing at the table absently, chin in hand, his massive face wrinkled and creased with thought.

"Come, my lord, cannot you deduce which of the four guests killed Goff?"

"No."

"Do try!"

"I do not believe that a guest did."

"Tut, tut! Why be so obdurate when I am offering you proof? Now, do come. It is a good mental exercise. What do you say? Consider the characteristics of them all. You told the story and you knew these men quite well enough to describe them."

The judge raised his head and a look came into his eyes that showed he was taking an interest in the question put to him.

"Was it Brunner?" he asked. "That loud-voice——"

"No, it was not Brunner."

The judge considered for a moment.

"I have it," he said, confidently. "It was Oakland, the man who sneered——"

"It was not Oakland."

"No? Strange. There are only two left. It could not have been the doctor, Finn——"

"Why could it not have been the doctor, Finn?"

"Why, he was a professional man—one who, to use his own words, was discredited—but he was the only man of those four who had command of himself——"

"That is just why it was Finn who killed Goff."

"What!"

"It is disappointing, perhaps, to you, but it is true. Finn, the man who had been a prosperous doctor and surgeon at one time, killed Goff, the money-lender."

"Why did he do so?"

"The reason goes back some years. Finn was a clever enough man, but he was a very reckless man. He drank and gambled more than was good for him. He took life much too irreverently, as some practical scientists are apt to do. He found that practicability rebounded and struck him. He was in a hole for cash. He came to Goff, who loaned him a sum. To pay that back at high interest Finn did things which were very unprofessional. Step by step. Goff sent him women patients. You understand? But the law, when a woman died, laid its hand on Finn. He was sent to prison. That ended his career as a doctor."

The waiter paused, and tapped the table with his forefinger, just as was the judge's habit when emphasizing a point in law.

"The authorities were so keen to prove the guilt that they did not lift their eyes to anyone else, and so they missed seeing Finn. Goff had Finn tied up with loans. He made a slave of him. It became a matter of Finn doing what Goff said. Finn had come down to ask for money. Goff refused. It is easy to follow the mental process of Finn. If Goff was out of the way he might be free to re-establish himself somehow. Remember, Finn cared little for human life. His profession had lowered its value. So he shot Goff. And he took the notes in the safe."

Again the waiter paused, again his forefinger tapped the table.

"Now you are thinking that the notes were found under the carpet in the manservant's room. Finn had them. But Finn was a man with a clear brain. He was impressed with the inspector's insistence that the murderer was sure to leave a clue. If the notes were found on him, supposing the police searched the house, he was lost. He went upstairs ostensibly for cigarettes. It was then he laid the banknotes under the carpet in the manservant's room. Is there any other item you would like to have explained?"

"How do you know all this?" demanded the judge in a suppressed tone.

"Finn told me. He is in prison now. It was in prison I met him. He spent the money recklessly. He became a hanger-on. Then he took again to the business that Goff had taught him. His patients were women. But his professional ability was impaired and he committed another disastrous mistake. He was sent to a convict prison, having been charged with manslaughter and sentenced for that crime."

The waiter leaned forward and whispered the name of a prison.

"You will find Finn there now. He is a desperate man, but he is not a bad prisoner. The other prisoners know that he claims the murder of Goff. He was questioned by the governor, who sent a report to the State Department; and the State Department pigeonholed it, being unable to lift a hand against Finn. Have not you here a case where the law defeated itself? You believers in the judgment of death! Is it not enough to make you grind your teeth in humiliation?"

The judge stroked his chin with deliberation. He felt like grinding his teeth, but not in humiliation; in a temper that was swiftly rising against this man who had teased and taunted him all night! But at the same time the judge was too old a hand to allow his temper to master him. If he was to overcome this tantalizing, jibing individual he could do it only by assuming a pose he was far from feeling. But for the moment he seemed unable to assume any pose. Through his brain there was surging a frantic idea, a bitterness that flared out in his tone as he fired a question at the waiter. His anger overcame his discretion.

"You, of course, knew all this when you suggested the case of Goff to me?"

"Ah, didn't you say that it was more than possible that you would have selected the case apart from my suggestion?"

"But you forced the card on me! You made me take the case, knowing that you had information I had no knowledge of! It was cheating!"

"Steady! Steady! You use a harsh word, my lord. There is nothing to complain of. You, a lawyer, know it is an old trick. Did you ever, in your pleadings before you became a judge, let the other side know

what card you had up your sleeve until the moment arrived to present it? Come, come!"

The judge flushed and glowered.

"Besides," went on the waiter, "the information I possessed was available to everybody who cared to find it out. Doubtless the State Department I have mentioned feels a little reticent about the Goff case. To admit a great miscarriage of the law would militate against the security of the public mind. Ah, and to think that convicts in a prison know what the public never guesses! My lord, is not the object of my coming here tonight to let you see the point of view that you and the public seldom perceive? I assure you it is. Alas, for the defense of John Williams, the manservant! It never had a chance against the trained legal minds of state-paid officials who desired a conviction and an execution. Why did Williams not keep on yelling his innocence from the moment he was arrested? I shall tell you. It was because he was already a victim of the law."

"What do you mean?" asked the judge.

"You have told me what I already knew—namely, that Williams had been sent to preventive detention. It was you who sent him. Listen to me."

The waiter rose to his feet and wagged a finger in the judge's face.

"I tell you there is a prison full of men in this country—and there are prisons full of men in other countries—where the fiercest hatred of your law is fostered by the conditions under which these men live. They are, or they hold they are, serving two sentences for one crime. Is that fair? Is it just?"

"I know of no prison of the kind, sir!"

"Yes, you do. And you have sent men there. Two sentences for one crime! When they have served their first sentence they are sent to preventive detention for a period of not less than five, and not more than ten, years. Two sentences for one crime! So many years in a convict prison is a punishment enough for most crimes. To be transferred to another prison for another term is a frightful injustice. Two sentences for one crime, my lord! How would you like to serve them?"

"My dear sir, be calm!" expostulated the judge. "You must be aware that you are referring to habitual criminals——"

"Habitual sentences!"

"These men must have had at least three convictions against them after the age of sixteen years; and they must be shown to be living dishonestly——"

"Stop it! Living dishonestly! What about your business crooks, and fakes, and bluffers, and four-flushers, and company promoters, and gamblers in stocks and lives, and slum owners, and rack-renters, and all the petty and great dishonesties that go on every day, winked at by the law and encouraged by the society you smugly defend?"

"Exaggerations, my dear sir! If the law is broken the legal process may easily be set in motion. The habitual criminals who are sent to preventive detention are recidivists whose cases are considered by—shall I say it humbly?—wise judges, who send them to detention under discretionary powers——"

"Discretionary tommyrot! Two sentences for one crime! Two sentences for one crime! And not always for even one crime! A police interrogation may lead to a charge. Harsh opponents of the police call this a frame-up. How many ordinary people know that if a policeman asks questions they have the right to say, 'I will not answer'? And answers may be misrepresented unwillingly. The judge and jury are prejudiced against a wretch the moment he appears in the dock. The betting is a gold mine to a hayseed against the prisoner! That was why John Williams, who had endured preventive detention, did not open his lips. His prison life had taught him that if he showed resentment, if he protested, if he cried aloud in his agony that he was a victim of a police mistake, he would be put through an examination—which, with exquisite humor, is called 'making a statement'—that would reduce him to pulp mentally and a wreck physically. Oh no, the third degree is not practiced in this country! Not at all! But there is damned little difference between the British legal enticement to 'make a statement' and the French or American third-degree torture! Two sentences for one crime! And so John Williams was silent—the silence of the beaten, hurt, scared animal caught in a net. His

solicitor did not believe in John Williams for a moment! He accepted the defense because he wanted to figure in a big murder trial! The swine that lawyers are! And he suggested the defense to Williams, the defense of insanity and innocence all mixed up and so distorted that Williams, led onward by his lawyer, never really had a chance. It was you, my lord, who tried the case. Is it not a fact that the defending counsel frankly admitted that he had advised his client to throw himself on the mercy of the jury when he saw the arguments going against him? Answer me, is not that so?"

"It is. I recollect the speech."

"You recollect the speech! Do you recollect the prisoner? Fighting for his life in the midst of a whirl of legal arguments he did not understand, and procedure he did not follow. So he was hanged. Thus the law murdered him, after it had bullied him and smashed him and cowed him and frightened him. The majesty of the law! The blindness of justice! Supposing I made an additional charge against you, my lord! Supposing I said that I would now try you for the murder of John Williams, what would you say?"

The waiter stopped and his face returned to its normal calm. He had worked himself up into a fever of excitement during his harangue and his voice had been raised almost to a shouting tone. It was evident that he was deeply stirred and in a dangerous state. But his wildness had only the effect of raising the indignation of the judge. The latter perceived that this man was a criminal who was suffering from a distorted sense of values.

"Preventive detention," he said, hotly, "is not what you describe it at all. It is meant for the benefit of the prisoners themselves, to reform them and make them useful members of society. The establishment to which you refer is conducted——"

"Aw, cut it out!" cried the waiter, staring at the judge unflinchingly. "You can't tell anything about preventive detention. I've had some."

"But not enough!" cried the judge, swiftly.

"On the contrary, too much! I came from preventive detention to see you!"

The accent of the retort was so incisive that it penetrated the judge's heart and caused him to draw in his breath.

"My lord," said the waiter after a pause, "I think you are aware that you have lost your case and that I may, with perfect fairness, add another glass to my collection. You do not seem to be very successful tonight in your advocacy of the law."

"I protest that you forced a card in the case of Goff, the money-lender. You had facts—if what you have said is true—which never came before me when I tried the case."

"That is a poor excuse, my lord. All these facts were mentioned during the hearing of the case—all but the facts relating to Finn. The case was built up by the police, and on their evidence you summed up and the jury convicted. You dismissed the evidence of Williams that he came down for a letter as a thin excuse. All of you—police, prosecuting counsel, jury and judge—concentrated on Williams when you might have considered Finn. And besides, can you honestly say that you knew nothing about the confession Finn made after he was sent to prison—it was overheard by a warder and communicated to the governor, and I have told you that a report went to the State Department concerned. You must have known there was such a statement——"

"Men often make statements that are untrue."

"There you go again—always trying to sink items that oppose your judgment! You see how you are prejudiced, perhaps unconsciously. Well, well! I will take the glass without further argument."

And the waiter lifted a glass from beside a sleeping member and placed it beside the others.

"Have you anything to say before judgment is passed on you?" asked the waiter in a hollow voice.

Coming swiftly on the top of what had already been said, the question acted as a sting to the judge's highly strung nerves. He jerked forward and began to speak rapidly in a high falsetto key.

"I have a great deal to say. I oppose your judgment altogether. I have not been given a chance. I have been placed in a false position. I have been forced to plead when my function for years has been to judge, to sum up——"

"But you used to defend or prosecute with brilliance!"

"Years ago. And then one had time to consider one's case before presenting it——"

"You complain of being pressed into a defense without having an opportunity to study your brief?"

"I certainly do."

The waiter considered for a moment, deep in thought. Seeing his apparent reflection on this point, and believing that he had made an impression, the judge went on.

"There is a vast difference between hearing a case and presenting one. In the latter instance one has had time to consider the line of attack or defense, according to law. In the former the duty of a judge is to keep counsel strictly to the law. A judge does not know anything about a case before he hears it. A counsel knows everything. The positions here are all wrong. You have known more about cases than I, and have brought forward evidence of the existence of which I was not aware. How, then, could a defense meet a prosecution on fair and equal grounds? Now, had I been in the position of judge—my usual position—the results would have been very different."

"But you accepted the challenge!"

"Perhaps a little unwisely," murmured the judge.

The waiter glanced at the glasses in front of him.

"I agree," he remarked, drily.

"At the same time," cried the judge, "I repeat that I have not had any opportunity of studying my brief——"

"And you think that if you had been in the position of judge you would have reversed the result?"

"It would have been my natural office to sum up with fairness and clarity so far as the law is concerned——"

"But it is the law that is on trial!"

"Admittedly. But there is a spirit as well as a letter of the law. You must know that the proportion of persons who are actually hanged for murder is small compared with the number charged, and, I may say, proved guilty. Leniency is often exercised——"

"We are not discussing leniency. The issue is simply whether the state has a right to take life. You hold that it has. I hold that it has not. You grumble that you have not had time to study your brief. Why, you have had all your professional life to study it!"

The judge was silent. The waiter looked at the glasses in front of him once more.

He seemed to have forgotten the judge's presence, so deeply was he engrossed in his secret thoughts. A few minutes passed. Suddenly the waiter jumped up and gave an exclamation expressive of futility.

"You lawyers! The audacity of you! And the unreasonableness of you! Your minds are encased in a crust of unhuman, stubborn inflexibility! Stromatic brains! Drive you from one stronghold, you find another round the corner! Destroy your web and, spider-like, you begin to weave again!"

He started to pace up and down the room, muttering to himself.

The judge smiled behind his hand. The man was certainly mad. He had given away to the judge in this outburst the key to his peculiar insanity, the weakness that was also his strength.

He stopped and cast a look of purpose on the judge.

"But I shall break through that crust!" he roared. "I shall drive you out of your fortresses! I shall destroy your webs! I shall compel you to admit defeat!"

He resumed his stride, head bent more than ever, shoulders hunched up.

The judge remained silent. He was sure now that he understood the mania of the waiter. The man was suffering from some real or imaginary grievance that had become an obsession and had developed his argumentation until it was mental disease. To such an unbalanced mind there was no satisfaction unless his opponent admitted defeat. It was victory in debate that he desired more than anything. Only the surrender of an antagonist to his deluded logic would calm him.

The judge watched him with a new interest. Was the man really insane? Would the law accept a plea of insanity when he was in the dock? For in the dock the judge intended him to be. Anyhow, there strode the waiter, a tall man, strongly built, his face wrinkled in

perplexity. And around the table sprawled the members of the Clue Club entirely unconscious of the situation. The flask of liquid that was the antidote to their sleep was just beyond the judge's reach. If only he could obtain command of the circumstances! He coughed and raised his voice.

"Why be so troubled?" he said in a tone he strove to make persuasive. "Supposing we adjourn the discussion until after Christmas——"

He was thinking that he would have the man under arrest within twenty-four hours. But that thought was swept from his mind when the waiter turned on him fiercely.

"There will not be any adjournment!"

"But we are both tired!"

"You may be. I am not. I came here to convince you, and I shall convince you! I came here to defeat you, and I shall defeat you! I came here to convict you, and I shall convict you! I came to force your admission of defeat and the justice of your conviction. I shall get this admission!"

There was so much energy in the declaration that the judge saw he was up against a will equal to his own.

"As a counsel," continued the waiter, with emphasis, "you are a failure. You have not won a case tonight. But that is not all I wish. I desire most of all your admission of failure."

The judge bowed understandingly. His diagnosis of this queer temperament was correct!

"Your obstinacy alone remains to be overcome," pursued the other, his brows lowering. "You ought to throw up the sponge, but your mentality is unpliable and is petrified. You raise the excuse that you have not had time to study your brief. More than anything I desire to leave you no excuse, no consolation in your defeat. I am thinking how to proceed."

The judge could not hide a smile that crept round his mouth.

"When I said I had not had time to study my brief," he remarked, "I hinted that as a judge——"

The waiter interrupted him with a shout as if he divined a way.

"As the prosecutor," he cried, "I have the right to make the final speech. That is needless since you have no chance to win in the capacity of counsel. Do I take it you prefer to be regarded as a judge?"

"I have always been perfectly sanguine of my abilities in my judicial capacity."

"You are willing to be judge in a case that has not yet been tried?"

"A hypothetical case would be welcomed."

"Or an actual case?"

"All the better."

"You will judge it according to law, in the spirit as well as in the letter thereof?"

"Without fear or favor, without affection or ill-will, according to the evidence placed before me, as the law does direct, in the faithful discharge of my duty to my sovereign lord, the king, and a true and honest direction to the jury will I give, so help me God!"

"The oath!" cried the waiter.

"Test me!" cried the judge.

The waiter sat down and laid the bludgeon by his right hand.

"I propose," he said, gravely, "to submit to your lordship the basest crime of all."

CHAPTER X

The Judgment

My Lord [began the waiter in an even tone in which there was no trace of excitement] you will not find the case I am about to submit anywhere referred to in your minute-book. Your members have not discussed it. But you may rest assured that I am presenting every fact, and on these facts I ask your learned judgment. Moreover, I shall relate the circumstances without any embellishment and without any intention of playing on your dramatic sense or on your emotions. If you find me straying from the legal method of presenting the case I trust you will immediately notify me, even although I am quite aware that your acute and profound knowledge of jurisprudence will, at the close, sweep aside any irregularities, redundancies, or extraneous nonessentials of which I may be guilty.

In order, also, that there may be no prejudice and that the course of justice may not be colored in the slightest degree, and that the case about to be stated may be regarded equally as hypothetical or actual, I suggest that real names and places be not mentioned. It is my humor to treat this case as a problem for the law to solve, for when one mentions names and places one is often led into matters of environment and psychological details that influence us to wrong inferences.

There is just a third and final preliminary that may be mentioned. We have considered so many cases in which the black cap has figured that it would do no harm, and perhaps more than a little good, if we enumerated the various circumstances in which the danger of the black cap faces a prisoner. Homicide is accepted in law as the general and neutral term for the killing of one human being by another human being [pursued the waiter]. It is true to say that one of the most anxious points of concern in all systems of jurisprudence dealing with homicide has been the nature and quality of the responsibility of the killer to the relatives of the person killed and to the state. This responsibility has been viewed from many angles—from the standpoint, for instance, of the interests of

the state wherein the act occurred down to the standpoint of a general consideration of the sanctity of life. There is also the question of moral guilt involved in motive and intention.

The old Jewish law was compelled to discriminate in cases of homicide, as anyone will find by a perusal of the Pentateuch, the first five books of the Old Testament. In Exodus, Deuteronomy, and elsewhere the law was laid down governing death by misadventure as well as death by design.

In English law, criminal homicide comes under three heads—murder, manslaughter, and *felo de se*, or suicide, by which act a man makes a felon of himself. At one time there was a system by which every man's life was actually assessed at a price. If a man was killed, his chief, or his next of kin, received payment for the loss. Until later than the Norman Conquest it was customary to levy a fine on any district where a stranger was found murdered, provided the killer was not discovered. As the stranger was not known, and therefore had no relatives to claim him, the procedure was to presume that he was a Frenchman; and the national exchequer was the financial gainer. Simple, was it not?

There are times, however, when homicide is regarded as justifiable and not criminal, such as when killing is done in execution by the law—that is, the hanging of a murderer; and in war; but as civilization became more complex the need to discriminate more carefully than ever became apparent. Never has this need been more apparent than now. Three great authorities prepared a draft of the code bill of Sir J. Stephens, and on that draft the present legal code finds a working model and apparatus.

THE BASEST CRIME OF ALL

Now for our experiment [said the waiter]. You will find the prototype of the first character of this case in almost any chorus of West End musical comedy. She was a blonde, a peroxide blonde. Naturally she was a brunette. Imagine her a girl of a distinctly

temperamental type, childlike but not childish, gay and light-hearted, with a figure and face that would attract any man in whose veins red blood coursed.

She was musical to her finger tips. In a day when willowy types were supposed to be desirable on the stage, she was not willowy, but retained a contour that enhanced her type of beauty; for beautiful she certainly was. At the period when this case opens she was in a touring company—one of the many sent out with London successes so that the plays, if not the players, of note, may be enjoyed by provincial audiences.

But before she went she made the acquaintance of a young professional man who was starting out on a career that was in the future to bring him fame. He was tall, dark, with a personality that commanded attention. Like many other young men, he was quite sophisticated. He knew the West End. He attended plays, especially first nights; but it was not at any theater that he met this beautiful chorus girl. As a matter of fact, it was in the street.

It was a small matter that brought them together—a rainy day, the offer of his umbrella to cross the street in order that she could attend the rehearsal of the company of which she was a member. He saw her to the stage door. When, several hours later, the rehearsal was over, he was waiting to meet her again. They went to tea together.

He was intoxicated with her beauty and her personality. She was attracted to him. They met often after this, each meeting bringing out fresh attractions of the girl and binding the two of them together in a bond that was as subtle as it was strong.

Did he love her? I do not know. But he desired her. Did she love him? Here, at least, one is on surer ground. There is no doubt that she was in love with him. When the time came for her to go away on her tour of the provincial towns, he was up at the railway depot to see her off. The city seemed very empty for him when she went; to her the train seemed very cruel.

The tour was just more than half completed when he could stand it no longer. He took the train to the town where the play was being presented and, arriving in the evening, went to a hotel, had dinner, and went down to the theater.

He saw her the moment the curtain went up. There she was, all dressed in her stage array, in a costume of historical accuracy that made her look lovelier than ever. She saw him, too, and the smile she gave him as he sat in the stalls was compensation to him for the journey he had made. His mind had been filled with doubts as to the result of his visit. When he saw that smile he did not doubt more. He knew that he had her when he chose.

He went round to the stage door during the play and was admitted to see her. He came back and spent the remainder of the time in the theater glorying in his conquest. When the show was over he took her and a friend to supper. He spent the next day entirely in her company, feeling his way toward the object of his visit. Then he returned to town. He had left her a book which he asked her to read.

It may be that youth is ever daring, or that present youth is more daring than youth of the past. But why mince matters? It took some time, but the end was gained. She came to town at the end of the tour and he was waiting for her. As they sat in a restaurant in the West End he asked her a question.

"What about it?"

She hesitated, looking at him so that she might read his soul.

"I will see," she answered.

He knew that he would win, for it was his business to read minds and analyze words and accents.

He won, too, perhaps because she loved him so deeply. They took a small flat. It was a marriage unencumbered with legal ceremonies or social customs.

At least she thought it was a marriage; but she discovered reasons for doubt. For one thing, he often went out to attend dinners, social functions, professional engagements. He did not take her where she would have loved to go. She watched him go on these occasions with regret. She knew that he was climbing toward the apex of his career. His name was beginning to be talked about. She loved that. She was proud of him. On his side he considered everything coolly and

dispassionately. His mind was alert, trained, capable. He knew his way about the world. His professional knowledge stood him in good stead. It held her and still allowed him the freedom he required.

At the end of a year or so there came a revelation to her. Indeed, two. The second was, in a way, the more terrible, for it deprived her of the support she needed to face the first. She saw that he was tiring of her.

She pleaded, appealed, asked for reasons, begged him to remember his vows. It was all of no use whatever. He was cold, logical, without alarm, without fear. He knew his ground. He was quite aware of where he stood. He paid the rent up to a certain date, told her to find a place by that time where she might live. On that day she moved out to rooms which she had rented. He promised to visit her there. He sold the furniture of the flat and went his way. He never visited her at all.

[During this recital the judge had listened with patience, but now he bent forward and remarked that so far he had not heard anything that was triable matter. He did not wish to hurry the waiter, but let them get to the legal issue as soon as possible. The waiter continued without replying directly to the interruption:]

When she became a mother, she became an exile. An exile becomes embittered, sometimes desperate. She became both. She wrote letters to him, pleading letters, letters filled with touching memories directed to stir the embers of his forgotten declarations. He did not reply to them. But time and privation did not seem to kill her love for him. She saw his name in the newspapers and cut out all the extracts she came across. She fought against adversity as much as she was able, writing to him at intervals——

["She ought to have applied to the courts under the Act providing for illegitimate children," drawled the judge. "An order against the father could have been obtained." The waiter answered quietly: "We must allow for a shrinking sensitiveness that a betrayed girl may possess. There are hundreds, nay, thousands such alive today."]

She obtained a minor position on the stage. Once from the wings she observed him in the stalls, but when she emerged to the footlights and their eyes met he pretended not to recognize her. She wrote him that night. He replied this time, cold, formal, placing

every legal obstacle in the path of her request, disclaiming paternity of her child. When she received this letter she was as one facing death. She fell ill and lost her work.

Then followed a period of bitterness. He had taken from her more than he knew. He had given her more than he anticipated. She resolved to pursue him for the necessity of life as he had pursued her for the desires of love. She wrote again, in the name of their child, demanding help to bear her burden. She wrote again and again, becoming more reckless, more unguarded in her words every time. At length his answer came. She was arrested for attempted blackmail.

He was safely entrenched behind the habit of modern courts of withholding from publicity the name of the person alleged to be blackmailed. His professional status was high enough and strong enough to hide his name. He made sure of his cover before he launched the law against her. Public men shield public men. The trial was short. She was sent to prison without her story becoming known. It was all quite legal. His reason for this act was to make it impossible for her ever to approach him. He had wiped her out.

Prison did not kill her, though it might have killed her. Her suffering had a curious effect on her. It made her silent; but it made her cunning. She seldom spoke. She obtained a job as a wardrobe mistress in a touring company. By a strange coincidence this company covered the same ground as the company in which she had been a gay chorus girl. Every town at which the show was put on was a crucifixion for her. She remembered every incident of her past, she gazed in bitter-sweetness on the very flagstones where she had met him, where she had stopped to read his letters sent to the theaters; she recalled the phrases he had written, every phrase, every incident, raising memories that tortured and almost suffocated her.

One day she was in a town where his professional duties took him. He was, in one sense, a public man. She went to hear his speech on this occasion, hiding herself behind a pillar in the hall and hoping he would not see her. She listened to his masterly handling of his subject, she saw how he was able to sway the opinions, the convictions, of others. But in her heart there was a

terrible irony. He was defending the actions of a man who had been guilty of conduct similar to his own, and he was doing it by besmirching the name of a woman.

[Here the judge bent forward and asked a question. "What did you say was the profession of this man?" But the waiter apparently did not hear, for he continued his story without even looking up.]

She never went to hear any more of his speeches. She never again watched the newspapers for his name. She became more secretive than ever, more cunning than ever. When the tour of her theatrical company finished, she ceased all connection with the stage. She devoted her time to educating her child, who had been until then in the care of an acquaintance.

And now we must hasten to the climax of the tragedy. The struggle of this woman became more internecine than ever. Her cares multiplied. Her heart, already broken, barely served its natural purpose of holding her life within her. Her spirits, long at zero, fell below that point. The life that was in her was being crushed out as by a terrible weight. Her physique gave way under the strain. Poverty faced her.

Her child had never had any playmates, being attached to his mother so closely that to be separated from her was painful. One evening, in the gloom of their single, miserable room, lit by a candle, the mother, who had been in bed for some days, called this little boy to her and, putting her arm round his shoulders and holding her cheek against his, began a long story. It was a terrible tale, her own betrayal, her love, her shattered hopes, her disillusionment, her desire for vengeance. She talked a long time, punctuating her story with bursts of pitiful anguish and many tears. Who can ever know the effect of that story on the child? His tears mingled with those of his mother, his heart was consumed with awful urgings.

This story of woe was not only a confession of the past, it was a confession of a wrong she had done against the law in the present. She had stolen to live and she was faced with prison again. She had written two letters, which lay, sealed in their envelopes, but unstamped, on a table. One of these letters was addressed to the

man who had wronged her, the other was addressed to the police. She asked her child to go out and put the letters in a mail-box. He picked up the letters and left the room.

But he deceived his mother in this matter. Like all children, he harbored a loyalty to his mother that nothing could shake. But he also had endured enough to make him secretive. Perhaps this was because he was sensitive. He went to the doorway leading to the street, stayed there a few moments, and returned on tiptoe, hoping that his mother was asleep. He peered through the hinge of the door. He saw his mother pouring a liquid from a bottle into a tumbler which she put on a table near her bed. Then she returned to her bed and lay waiting for him. He stayed a little while before entering. When he slipped into the room she was lying still, exhausted by her efforts. He sat down by her bed, conscious that she was seriously ill, bowed down by grief and despair.

His love for his mother bound him to the room. He sat there by the wretched bed all night.

Before dawn she awoke from her slumber and drew him to her. She was very pale, but she was still beautiful. She gazed on him for a long time, then stretched out her hand to the tumbler, asking him to drink some of the liquid first and saying that she would drink some after him, for she was sure he was thirsty and she herself felt in need of drink. But there was something strange in her manner, something that frightened the boy. He assured her that he did not wish a drink. She tried to coax him, but he still protested. She put down the tumbler without taking any of the drink herself, but saying that they would drink together in the morning. Then she lay back on her pillow and appeared to sleep again.

The child was filled with uneasiness and a strange, unaccountable apprehension. The story she had told him, the weariness of his vigil, the dread of the future and privation of the past all stirred within him. He began to think, so far as he was able. Gently he loosened her arm which encircled him and stole over to the window, looking out at the breaking day. He felt in his pocket for the letters he had been asked to mail. He wondered if he had done wrong to keep them. An idea came to him. He went softly out of the room and down to the street.

He could read fairly well. He spelled out the address on the envelope of one of the letters. He set out resolutely to walk to his destination, which was a street in the rich quarter of the city.

The walk occupied about two hours. He asked his way many times. Policemen and pedestrians directed him, the former looking at him inquiringly; but the boy had learned the value of keeping knowledge to himself and he never allowed anyone to see the letter nor gave a clue as to his intention. At last he reached the house and presented the letter. He was given a chair in the hall by a pompous servant. The grandeur of the furnishings seemed to his child mind to speak of a king's palace. It awed him, this magnificence.

He had to wait for some time, but at last a tall man came down and, without a word, laid a hand on his shoulder and piloted him down the front steps. A cab was hailed and they were driven through the splendor of the West End toward the misery of the East End. When they were in the cab the man asked a few questions of the boy; asked them sharply and in a tone that was peremptory.

"What is your name?"

The child gave his Christian name.

"Has anyone seen this letter?"

"No."

"It was sealed when the woman gave it you?"

"Yes."

The boy pondered this word "woman" as applied to his mother. No more questions were asked.

At a street corner they dismounted and walked the remainder of the way, which was not very far. They entered the room, the man going first, the boy at his heels. The boy saw that his mother was awake. When she saw them she uttered a terrible cry. The man stood rigid, regarding her without a word. The child looked from one to the other, seeing expressions on both faces he could not comprehend. He retreated, feeling that here were forces beyond his understanding, cataclysmic revelations he could not fathom. He went out of the room. But he peered through the opening of the door-hinge and he listened.

"What brought you here?" asked the woman.

It was a few moments before the answer was given: "I got your letter sooner than you expected, perhaps. Did you send it to me by hand?"

"It was to be posted. How did you get it?"

"That boy brought it."

The woman groaned.

"That is where he has been!" she cried. "But the police will then have the other one I wrote. You cannot now prevent the truth coming out. Even if they imprison me I will shriek your conduct from the dock and the cell. I had intended to drink what is in this tumbler and so defeat your law——"

She burst into a passionate declaration. The boy at the door heard everything. He heard his mother say that she desired her own and his death. He heard her confess that she had broken the law; that she had recently stolen things; that she was in fear of arrest; that the police were coming for her; that poverty and love of her child had driven her too hard. He heard her upbraiding the man bitterly.

In the midst of the torrent of accusation the boy entered the room, holding the other letter in his hand. The man saw the letter and took it, from him, whipping it from his fingers before the child could explain. The woman shrieked and fell back on her pillow in a faint.

The man turned to the boy and said, harshly:

"Go! Fetch a doctor!"

The boy ran out of the room; but once again the cunning that life had taught him halted him on the stairs. He crept back and looked through the opening of the door-hinge.

He saw the man standing by the bed, his gloved hands clasped tightly together, fingers interlocked, and his expression fixed in a rigidity that was stern and terrible.

For some moments the man remained thus. The child watched, holding his breath. He saw the man lift the tumbler from the table and sniff at the contents, then lay it down again; but he took it up once more and approached the bed. With his one hand he raised the head of the boy's mother. Her eyelids flickered. She sighed. The man's hand seemed to tremble, but he forced himself to put the

tumbler to the woman's lips. She drank eagerly, thirstily, her eyes still closed. Not until she had gulped down most of the contents did she open her eyes. She never spoke, but in her eyes was a look that seemed to pierce the boy to the marrow. She was staring at the man.

The man let her head fall back on the pillow. He laid the tumbler on the table, glanced at his finger tips, and then turned toward the woman again. A spasm passed through her. That was all. After that she lay very still.

The double murder had been committed—first, murder of her soul, then murder of her body.

But the child who had seen this did not understand, though he was aware that a crisis had come and had passed. He burst into tears and ran down the stairs to fetch a doctor who lived in the next street....

[The waiter raised his head, for a sound had come from the judge. "Did you speak, my lord?" There was no reply. The judge's eyes were closed and his right hand covered the lower part of his countenance, an attitude he often assumed on the bench when engaged in deep thought. The dawn was streaming through the curtains. The fire had died down and the room was chilly. A slight shiver passed through the massive frame of the judge. The waiter, too, shivered; but he rose to his feet with an effort.

"I shall not keep you much longer listening, my lord," he said, distinctly, but without looking at the judge. "There is not much to add in this hypothetical, or actual, case, which I have called the basest crime of all."]

The child fetched the doctor. The woman was dead. Listen to the story the man who had killed her told the doctor. He told it pompously, legally, with his usual air of superiority. He said the woman had written to him urging him to come and take up her case, which was of importance. He had destroyed the note she wrote, but out of his generosity—for he was known to be generous at times—he came. But fear of arrest had caused her to take the poison just before he arrived. It was a very virulent poison that was in the tumbler. Recognizing the situation, he had at once sent the child for medical aid.

And the doctor accepted the statement. There was no need for this inhuman betrayer of women to appear at the subsequent inquest. His position made it sufficient for an affidavit to be accepted. The woman's fingermarks were on the tumbler. Who was she, anyway? She was known under her maiden name. She had a child. She had been an actress. Did not all unfortunate creatures call themselves actresses? She had no relatives. She was in poverty. Verdict of the coroner's jury: Death caused by the self-administration of poison while of unsound mind!

And the child? Why did he not state what he had seen? Did I not tell you he was a loyal child? In his young brain there burned the truth that his mother was in danger of arrest, of imprisonment. Shame and fear, misery and despair, grief and confusion, reigned within his mind. His life had taught him suffering. His mother had taught him secrecy. He was afraid of the law, he shrank from the cold authority that was surrounding him. He was stunned by the blow that had fallen. It was the doctor who took him away. It was the doctor who placed him in a home—a home for orphans where he was under the rules and régime of a discipline that shattered his orientation. Can a child think clearly? Can a child arrange his ideas and sort out his troubles? By the time he saw and classified things he was too late to voice his injustices. He was already adrift—stampeded into retaliatory crime!

"Now permit me to come to the motive for the basest crime you have heard. Why do I call it the basest crime? Let us recapitulate those we have considered. Are you paying attention, my lord?"

The judge had not moved. He seemed to be without life, but the tremble of the hand that covered his features told the waiter that he was listening.

"In the first case, that of Ammar Baddan," said the waiter, "the murder was committed because of a clash of ethics. I find no point of similarity there to this case.

"In the first case I related, that of Lorry Black, the motive was revenge. There is no point of similarity there.

"In the second case you related, that of Abe Lammie, the motive was burglary, the desire for possession. There is no similarity there.

"In the second case I related, that of Jeff S. Connolly, the motive was jealousy. There is no similarity there.

"In the third case you related, that of Nathaniel Gore, you yourself emphasized that vanity brought him to the scaffold. There is no similarity there.

"In the third case I related, that of Walter Seale, the crime was one of passion. There is no similarity there.

"Your fourth case—which proved so disastrous to you—demonstrated the blindness of justice and a crime of hate. There is no similarity there.

"I do not doubt that in all your experience you have never come across a baser, meaner, more foul crime of murder than the one—my fourth—which I have just told. You have had the unique opportunity, also, of viewing this assassination from the standpoint of a judge. The motive was the preservation of this man's professional career and social position. Had the woman he had betrayed and then abandoned been arrested, the truth about his past would have been disclosed. He preserved himself at the cost of this girl who had given him all a woman can give. He stamped her into a felon's grave to keep his own feet out of the mud. He made his child *filius nullius*, a son of nobody, inflicting on that child, as he had inflicted on the child's mother, suffering and shame and agony that cannot be expressed in words. Give me your judgment!"

The judge did not answer.

"Your judgment!" cried the waiter, impatiently.

The judge dropped his hand from his face and gazed at the waiter with glassy eyes.

"Your judgment!"

No answer came.

The waiter's voice rang out like that of an advocate addressing a court of law.

"Remember your code! *If the offender means to cause the death of the person killed*—and this man meant to cause the death of the girl he betrayed!"

A pause, during which the judge gave no sign.

"Remember your code! *If a person administers any stupefying thing for the purpose of defeating justice* it is murder!"

Still not a word from the judge.

"Remember your oath! *Without fear or favor, without affection or ill-mil ... in the faithful discharge of your duty ... so help you, God!* You cannot refuse sentence! Judgment of death!"

The judge's lips moved, but no word came. He appeared to be in a trance. He made another effort to speak.

"Judgment of death?" he echoed in a hollow voice; and his hand was raised slightly in horrified, feeble protestation.

"Pass the verdict upon yourself!" the waiter hurled at him in a savage frenzy of victory. "Speak, judge of criminals! Ah, you know! You comprehend! For you were the man who, eighteen years ago, handed the fatal draught to the woman whom you betrayed and then destroyed! Slayer of women! Defrauder of children! Dispenser of the law! See, here is your badge of office!"

He drew an object from his pocket and threw it down on the table in front of the judge.

A shiver passed through the latter's massive frame. Like a somnambulist he put out his fingers and touched the object; but drew back his hand quickly with a startled cry. He recognized the dark object.

It was the black cap worn by judges who pass the judgment of death sentence!

The waiter leered at him; the judge, down whose face perspiration was streaming, jerked himself back in his chair. From being livid his features changed to gray, then to pasty white. His heavy jaws sagged, shaking as with convulsions.

A moment or two passed in silence. There was a terrible look on the waiter's face as he watched the judge's struggles. The latter was making frightful efforts to control himself. At last his countenance became more normal, but his teeth showed, gritting. And his eyes glowed like the eyes of a beast in a trap. They were like two wolves, these men; and if the old wolf was cornered, the young wolf lingered over his victory. He began to taunt him.

"Come on, my lord! The judgment! The judgment! How does it appeal to you now? The black cap is there! It is your own! Taken from your chambers! I took it! I brought it here! Does it not feel homely? Put it on your head! Judgment of death! You cannot refuse! Beaten! That is what you are! Give in! Give in! Confess defeat!"

With a sudden movement he tore open his shirt front. The judge cried out.

Under the waiter's shirt was the dress of a convict, prison garb!

"Come on, my lord! Defeated by me! Convicted by a convict! You have no defense! Look at me! Your obstinacy battered to pieces! Logically bankrupt! Socially, too! Your own law holds you! Confess I have smashed you! Confess I have convinced you! Throw yourself on the mercy of the court! Confess! Confess! Judgment of death!"

"It is blackmail!" came from between the judge's teeth, in a hissing fury.

The waiter either did not hear or did not care to hear. He continued to rail at the judge, taunting with scalding words, hurling the legal code at him, pelting him with sneers and humiliations. And in the end he threw down on the table a small book, and with a twist of his thumb turned the cover over, revealing a photograph lying within.

The judge stared aghast at the book and the old photograph. The book was Abbe Prevost's Manon Lescaut. The picture was that of a beautiful girl in theatrical costume.

"Now will you confess, my lord? See, there is the signature of the giver of the book on the title page!"

The bitterness had gone from the waiter's voice. He was gazing at the judge with tragic intensity.

The judge was ashen; he gasped as if struggling out of a swoon. Red rims circled his eyes.

"Give me time!" he muttered. "Give me air!"

"Bravo! Bravo! You shall have time! You shall have air! Then you will confess failure! The victory I have striven for! A fateful Christmas morn, my lord! I shall open a window. This atmosphere is vitiated. Then for your admission! Your confession! Your judgment!"

The waiter rose and walked to the nearest window, the cudgel under his arm; and as he walked and while his hands were on the heavy curtains he still talked.

"He that liveth by the sword shall perish by the sword, my lord! The *lex talionis* code! Remember the Book of Exodus, chapter twenty-one—*then thou shall give life for life, eye for eye, tooth for tooth, hand for hand, foot for foot, burning for burning, wound for wound, stripe for stripe——"*

A shuffle behind him! He wheeled just in time.

There, within a yard of him almost, towered the judge, a chair swung high above his head, poised to strike.

The judge's shout mingled with the shout of the waiter. Down came the chair! The waiter leaped and swung his bludgeon.

Crash!

The crack of wood against wood! The chair broke, but the judge still held a carved leg with which he struck with all his strength. The blow caught the waiter on the shoulder; but the bludgeon went up and fell on the judge's head at the same moment.

Both men fell; the judge like a log, straight to the floor as a tree falls before the ax of the lumberman; the waiter sideways, grabbing for a hold as he went down.

The chair leg flew across the room and rattled against the wall. But the bludgeon remained in the waiter's hand, glued to his fingers by a grip that had never held it so well since Kartarus swung it when he plundered England.

The waiter was on his feet in a moment. He looked down at the judge, bludgeon still in his right hand. For all his modern clothes he might have been Kartarus then! The poise was that of the barbarian, the same grim elasticity of body, the bludgeon gripped as only that savage hand could grip it, the out-thrust aggressive chin, even the wisp of dark hair that trailed across forehead to the left temple and hung close to the left ear. Kartarus!

A feeble moan came from the prostrate judge.

The waiter bent down and looked into the wrinkled face; then stooped, still holding his cudgel, and lifted the heavy form and propped it in the presidential chair. A terrible wound was on the

judge's head, a wound that would have killed most men outright. And yet the waiter had not struck with all his force.

He poured out some wine and held it to the judge's lips, and dabbed the blood that streamed down from the gaping wound. The judge opened his eyes dazedly.

"Who are you?" he murmured.

"My lord, my lord!"

He gave the judge a little more wine. The judge's hand was raised feebly and his finger pointed to the flask which the waiter had laid on the table at the beginning of that eventful night.

"My lord, there is nothing in that flask but water. It was my trick on you. Just my trick. Only water, my lord. Are you feeling better?"

The judge was far from better. He was not only losing blood rapidly; he was also losing consciousness. His eyes were glazing and his head drooped.

His lips moved.

"You will not escape," he murmured. "You will be caught, blackmailer!"

"My lord, you brought this upon yourself. I did not come here to assault you. I came to conquer you logically, not by force. I came to smash your proud, domineering pose, that crust of legal self-deception and self-esteem that has blinded you——"

"You poisoned these gentlemen!"

The waiter glanced at the sleeping members of the Clue Club. One or two had slightly changed their positions like men who slumbered uneasily.

"All they had was knock-out drops, my lord. How do you feel?"

But the judge did not reply, for his strength was fading. His great head fell on the high back of his chair, the ability to support himself went out of his limbs. He would have slid to the floor had not the waiter caught him. But he could not hold the judge in the chair. The wounded man's eyes were closed by this time, his clothes were drenched in blood all down one side. The waiter put his arms around him and gently lowered him to the floor and laid a cushion under his head.

He brought a basin of water, a sponge and a towel and began to bathe the judge's wound.

Daylight was now flooding the apartment. The candles had burned to their ends and smoked in the sockets. Outside was a white world. Snow lay thick on the houses and street, on the window sills, on the electric standards, on the telephone cables. Snow was falling steadily, coming down from the gray sky in large flakes that gave the impression of an endless sheet of spotted muslin being unrolled in front of the windows.

The judge's lips trembled. The waiter bent his ear close.

"Judgment of death!"

Was it a verdict or merely the semiconscious repetitions of a fading brain?

"Your secret is safe with me, my lord," whispered the waiter. "I have kept it for many years. I have kept it because I have schemed to come to you. It was when I was in prison that I first had the idea ——"

A change came over the judge's countenance. His breathing was now fast and feeble. A strange pallor spread from his throat to his forehead, his eyes seemed to sink into cavities, and the closed lids gave a suggestion of ghastly transparency. It was as though the glazed balls were gazing at the waiter through skin veils.

"Who are you?" he breathed with difficulty.

The waiter sat up, rigid; but before he could answer the judge's weary tone came again, this time with a touch of clarity that thrilled.

"I remember! You were—the boy!"

His head fell back.

"I am your son!" cried the waiter.

Did a sigh escape the judge's blue lips? Perhaps. But now there was stillness—utter stillness.

The waiter put his hand over the judge's heart. There was no beating. He touched the eyes. There was no flicker, no reaction.

The waiter rose to his feet. He took the sponge and slopped it quickly over that part of the table where he had sat. He wiped every glass he had touched. He went over every place where he might have

left a telltale mark and obliterated any possibility of detection. He rolled the blood-stained towel into a ball and placed it on the fire so that it would burn quickly. He picked up the black cap, the book, and the photograph, and pocketed them. He slipped a pair of rubber gloves on his hands and lifted the flask of water which he had pretended was an antidote to the dope and drained it into a flowerpot. He slipped to and fro, doing a few other things so that his trail would be lost. He washed out the bottle from which he had dealt the doped drink.

Finally he stepped to a cupboard and took out an overcoat and cap. He donned the coat and pulled the cap well down over his brows. He lifted the bludgeon and hefted it. He noted that his fingers fitted into the burnt grooves, that he could wield this weapon as if it had been made for him. He put it into his coat pocket.

He was at the door when a sound caused him to turn.

One of the members of the Clue Club was stirring, stretching his limbs, yawning, with closed eyes, as one who comes slowly back to life.

The waiter slid outside before he was observed and closed the door softly behind him.

No hypothetical conditions now prevailed.

CHAPTER XI

Lex Talionis

In his attempt to prove that the taking of human life for murder was unjustifiable the waiter had taken a human life.

He marched along the street with his cap pulled down, his overcoat collar buttoned up over his chin, his hands thrust deep into his pockets. The bludgeon was hidden because he had thrust it up his sleeve. There were very few people about—a stray milkman, a postman with his parcels and letters shielded from the falling snow by his wide waterproof cape, a solitary policeman at a corner.

The waiter marched on, head bent so that his face was invisible. Only his eyes looked out on the white world.

From a side street came the sound of singing. A group of waits, ushering in the day of days in all the year, were beginning a hymn:

"*Peace on earth, Good will to men!*"

The waiter hurried past the side street and pursued his way. He had no time to lose. But he knew his objective: it was some distance outside the city, a house near the river. There he would find what he wanted, what he most required for the moment—safety, a place to hide from his fellows. Good will to men!

It had not been an easy affair to make his call at the Clue Club. Before he had taken upon himself the job of waiter for one night he had been on the run with the law at his heels. The law had been on his heels, it seemed to him, ever since he could remember. The law was his greatest enemy. Between it and him there was an endless feud, a ceaseless war, waged with varying, minor victories for both sides. He still wore the brand of the most recent victory of the law—his prison clothes!

But although the law had won several rounds, he believed himself superior to it, and his boldness had given him victory as often as defeat. He had learned the law by opposing it. His life had been one long conflict with it. A man discovers a great deal about an antagonist if he fights long enough.

This man had been on the run for more than a week. He had broken prison after careful and deliberate consideration, for he had had plenty of time to work out his plan. He had served a term in a convict jail long enough to know every routine, every minute detail, and one day he had escaped.

As he ploughed his way through the snow he remembered every item of that escape, he went over every point. The first twenty-four hours had been the worst, the most exacting, in many ways. They had been the hours during which he had separated himself from the prison with all the speed and all the cunning of his very alert brain. Everywhere warders were searching for him. The local police were on the watch. The civil population were looking out. He had been a hunted thing that traveled over the landscape as a fox travels, furtively.

Everything was against him from the moment he took the chance of freedom into his hands. The very weather was an enemy. His only food for forty-eight hours had been what he stole from the kitchen of a cottage on the moors. He had stolen that food with a wild, terrible joy—the joy of finding something to stay the hunger that made him savage. He had slept one night under the seat of a railway coach in a siding where there was a line of disused coaches. He came out before dawn to stagger on his way toward the city.

If only he had been able to get rid of his prison clothes he would have faced the daylight, but it was not until he reached the suburbs, the outer suburbs, that he was able to get a coat and a pair of trousers from a shabby clothing store, and these garments he pulled over his prison clothes for warmth. The nights were bitter and the frost chilled him through and through.

He had two agonies grinding him. The more pressing for the time being was the deadening sensation caused in his limbs by the absence of heat. This made him feel as if his body was brittle. Only a man of very strong frame could have stood the cold and hunger of the next few days; and this man's suffering went deeper than his bone. It went to his soul. During that week, while he was making his way across country, and while he was hiding about the outer suburbs, he was as a beast of the field. He ate anything on which he could lay his hands. He gnawed at refuse which he took from

dustbins at night. He prowled like a vulture among the byways of the city's fringe, burrowing anywhere, in tool-sheds, in garden shelters, in any place he could find.

And it was here that the second agony joined forces with the first. Had he not been a man of iron will he would have succumbed or surrendered. But his pain had the opposite effect. It made him all the more determined to gain his objective. It acted as a spur, driving him ahead to the crisis he had pictured and fixed in his mind. He suffered that he might triumph.

Prison had failed in his case. It had punished him, perhaps, but it had never deterred him, and it had never educated him out of crime. This was because he had already been a victim of injustice before he was born and had come into the world with a grievance that was a weight to be borne only with difficulty. He was a living problem and a terrible answer to the clergy who prate of children being "lent by God" to parents. God had not lent him to anybody. God had thrust him into a world where he did not fit. He had begun, as soon as he realized his position, to revenge himself on society.

Like many others, he was thus a living proof that, though the law could punish him, it could not deter. Force could be, and was, met by cunning. The fierce methods of early punitive systems never cured the equally fierce methods of criminals, for the obvious reason that to "make the punishment fit the crime" results, as a rule, in the criminal being lost sight of. The law, perhaps because of its own nature, standardizes wrong-doers as it standardizes wrongs, and the result is that every kind of lawbreaker meets every other kind in prison to undergo the same treatment for all sorts of varieties of crime.

Prison, however, had kept on this man, as it so often keeps on others, the thin veneer by which it sought to preserve social habits as opposed to anti-social habits—an endeavor to maintain the skin of civilized man on a rebel. But during his days of anxiety when he was seeking a refuge from his pursuers he became, owing to the necessity of living, a kinsman of savages. One states this without blaming or excusing. It was merely a fact. He had entered prison a polished thief, a glib malefactor. He became, in that week of torment, something quite different. But the idea of revenge, which

had floated at the back of his mind for some time, crystallized. His fine brain, part of his heredity, devised a more exquisite method of vengeance than swift accusation and angry blows. His mother had failed to obtain justice because she had adopted a line that the law did not recognize. His plan was to avoid failure, yet to strike fear. But the mouse had been killed before fear of the cat paralyzed its resistance.

Did he regret the climax that now caused him to speed through the snow-covered streets? It is impossible to say. He had sought for triumph of a delicate and particular kind, and he had obtained a finality. All this had a remarkable effect on him. His brain was as keen as ever, as logical as ever, as fine in its conception as ever; but something primitive in him had developed suddenly. It may have been the grip of the ancient barbarous cudgel that communicated a stark something to him. No man had ever gripped that bludgeon so naturally, so instinctively, since it had been dug from the ooze of the Thames. His fingers clung to the burnt grooves with an inborn intimacy. It was his constitutional weapon. And this new primitiveness made him cautious yet aggressive, furtive yet bold, suspicious yet defiant.

He strode on, his hand on the handle of the bludgeon which was in his pocket, his arm cuddling the knobbed head which was far up his sleeve. In the still, quiet, white morning the houses seemed to him to be tall, gaunt prisons, the few pedestrians were his enemies. But he pushed on until he reached a locality that spoke of middle-class residents, rows and rows of detached houses. He strode to the door of one and rang the bell forcefully.

It was still somewhat early. A window above the doorway opened and a man's head was thrust out.

"Who's there?"

"Come down and let me in," called the visitor. "I have come to wish you a happy Christmas, Bern, you old sinner!"

The window slammed and in a few minutes the front door was opened slightly. The visitor burst his way into the hall and shook the snow from his shoulders and cap. Facing him was a small man clad in a dressing-gown.

"You!" he gasped, shivering as the snow flew about the hall. "You, Lorry Black! You, Adam Jelks!"

"Didn't expect to see me, Bern!"

"No."

They regarded each other for a moment. The man in the gown shivered and his hand shook visibly as he saw his visitor was expecting him to shake. Bern's hand was the colder of the two when they clasped.

"You've got to help me, Bern. Lead the way. Have you a fire? I've come to talk business."

Bern shuffled toward a back parlor and ushered his visitor in. A fire was laid. Bern put a light to it and turned to gaze at the other.

"I saw by the newspapers you had escaped, Lorry—or is it Adam?"

"It doesn't matter much, Bern."

"You've been out for some days. I didn't want you to come here. I didn't expect you."

"But I've come, Bern. I'll tell you why I came. You remember the insurance money that came to me when I was supposed to be drowned in the name of Lorry Black? You got it to hold for me. I need it now."

"But, Lorry——"

"I need it. But first I want another suit of clothes. Fetch a complete outfit. I'm cold."

He opened his overcoat and threw it off, revealing his waiter's garb, and the open shirt front showed his prison jacket. Bern gave a cry and held up his hands in alarm.

"Lorry, where have you been in that dress? Evening dress over *them things*!"

"Get me a suit and I'll tell you. And get me a breakfast too. Go on, you Yid. Do as I say."

He held up the bludgeon, and Bern saw a red smear on the knobbed head.

"Lorry!" he cried.

"Listen, Bern. I came here so that I might get away. You'll do as I tell you. See? If not..."

He hefted the bludgeon meaningly. Bern shuddered.

"Now, Bern, get busy. Breakfast. A suit of clothes. When I'm eating I'll talk."

Bern shuffled off to obey the order. He came back with clothes and in a short time a breakfast was placed on the parlor table. He watched his visitor change his clothes and roll the prison garments into a bundle.

"You'll burn them, Bern. You have a furnace in the basement. Wait, I'll do it myself."

He knew the house, apparently, for he went out and Bern heard him clumping downstairs. When he returned he was smiling grimly.

"That's done, Bern. Now, let's eat. I'm staying here today—until night. I'm spending Christmas with you. No other friends coming, I suppose?"

"No, no other friends, Jelks."

"And don't let any servant see me, Bern."

"No."

"Have a cup of tea. We're going to talk."

Bern had brought two cups. He poured out some tea, but his hand was still shaking badly.

"Where have you been since you broke out, Jelks?"

"In hell, most of the time."

He ate rapidly, hungrily, and at length sat back in his chair with an exclamation of satisfaction.

"You must have expected me, Bern. You gave evidence against me last time——"

"I couldn't help it. They dragged me to the police——"

"I can guess. They made you talk, eh? They suspected you received stolen goods; but they did not know I placed all my stuff with you. Well, well! I've had some trouble keeping my names apart on the jobs, Bern. But you seem to remember me as Lorry Black, eh?"

"Of course I do, Lorry."

"Now, what about the insurance money on Lorry Black's life? It was lifted and handed to you to keep. A friend of mine gave it to you."

The Jew hesitated.

"That's right," he said at last, "but I didn't get it all."

"I know what you got. Four hundred pounds. I was insured for five. I want that four hundred."

"Aw, Lorry, I don't keep that much in the house. I put it all in my bank. I thought that if they found out later that Lorry Black wasn't dead——"

"But they never found out, Bern. I want that four hundred. By God! Bern, don't try to double-cross me! You see this bludgeon?"

Bern's eyes grew big with terror.

"I can't give you all that today, Lorry. But I'll send the rest on to you. I'll give you all I have, Lorry."

"How much have you?"

"About a hundred pounds, roughly."

"Notes?"

"Mostly."

"Not marked ones?"

"No, no. They are all right——"

"They've got to be all right. I'm leaving this country. I've got to."

He glanced at the bludgeon that lay beside him on the table. Bern followed his glance.

"You haven't been doing things with that, have you, Lorry? There's blood on it!"

Bern's voice ended in a note of alarm.

"Shut up, Bern!"

"But, Lorry—you ain't been—you ain't been murdering?" The gleam that leaped into the other's eyes was the answer, and Bern gave a cry. "Good God! Lorry Black!"

"You shut up! Don't yell. It isn't your blood. You'll do as I tell you, Bern. See?"

Bern nodded dumbly.

They stared at each other in silence.

"Where have you been since you broke prison, Lorry?"

"Huh! I had a pal who used to be in quod with me. He was a waiter by trade. Or is it a profession?" A sour smile creased his features. "Well, he got a job as night waiter at a club. I put him up to getting it. I wanted to use him. So I made straight for his place when I escaped. He lives in rooms. I have lived with him for the last two days."

Bern was rubbing his chin and gazing at the speaker, trying with difficulty to get the hang of the story.

"I wanted to take his job for one night," went on the other, "so I got him to buy some knockout drops. He didn't know what I wanted them for. What was the use telling him? I used one on him. I hired a second-hand dress suit and went up to take his place with a letter I had written saying he wasn't well. I was his substitute. I made a damned good waiter, I'll say that. And I got into an argument with the president of the club and—there you are!"

"My God! Lorry—or is it Adam?"

"Well?"

"You have so many names——"

"I had no name, only a number, in prison, Bern. I'll never have a name I might have had. Here, none of that. I've done it. You've got to be bold these days if you want to carry off a plan."

"It isn't like you," cried Bern. "To use a cudgel. It isn't like you. You were always bold, but this—this is different. Where did you get that cudgel?"

"Mind your own business!"

Bern closed his mouth suddenly, but he spoke a moment later, his voice charged with anxiety.

"They'll be on your trail, won't they? Did anybody follow you here?"

The other shook his head, smiling grimly.

"You're scared, aren't you, Bern? You think that you may be let in badly, don't you? But you needn't worry. Nobody saw me coming here—nobody that matters. The argument I had with the president

ended where it began."

"But the other folks in the place? Didn't they see you?"

"They were fast asleep. Didn't I tell you I had some knockout drops? I used the drops before the argument began. So after it was finished I came along to you. I need you, Bern."

Bern groaned.

"I can't help you much, Lorry——"

"Now then!"

The voice was sharp and cutting; warning too. The waiter's hand went to the bludgeon and his fingers closed over the handle.

"This is the best killing instrument I ever handled, Bern. It fits my grip like a glove."

"You wouldn't use it on me, Lorry?"

"Don't tempt me, Bern!"

There was a silence; tense and thrilling.

"I have a bargain to make with you, Bern. Are you ready to hear it?"

"A bargain?"

"Yes, you old Yid, a bargain. Listen. If you get me away safely and promise to send me the remainder of the money quickly—say within two days—I'll see that the police don't get to know all I might tell them about you."

Bern shrugged his shoulders.

"I gave up being a receiver after the last deal, Lorry. It was too risky. I gave it up."

"That doesn't matter much. There is a lot the cops would like to know—a lot that happened before the last deal. You are thinking that you can drive a better bargain because you have given up being a receiver?"

"No, no. I'm just telling you."

"It doesn't matter, Bern. Listen here. You are a tailor, or something like one. These clothes you have given me are not a good fit. They'd give me away anywhere. Maybe you know that. You'll do the necessary alterations, Bern. That's how you'll spend your Christmas. How many people are in this house?"

"My wife. Just my wife and a maid."

"Send the maid away for the day."

"But, Lorry, she wasn't to get this holiday. She doesn't keep Christmas——"

"Send her away. She can keep this Christmas for once even if she isn't a Christian."

And, seeing the look of resentment on Bern's face, he jumped to his feet and lifted the bludgeon, his face convulsed with passion.

"You'll do as I say, Bern, or I'll kill you too!"

Bern shrank from him.

"I'll do anything, Lorry Black! I'll do anything you like! Anything at all!"

It was done. Bern left the room and came back in a short time with the information that the maid was being sent off and that his wife would be down soon. Then the two sat gazing at the fire, each thinking his own thoughts.

The maid had gone when the man who had thus forced himself on the household spoke finally.

"I want a sleep while you do the alterations to this suit, Bern. Better take my measure right away. You can give me a spare bedroom, can't you? I'm tired."

He was taken upstairs and shown into a bedroom, and when he was half undressed he turned to Bern.

"You'll do the alterations in this room, Bern. I sleep lightly and I'll have my cudgel under my pillow."

He turned into bed and lay stretching himself with an expression of satisfaction.

Bern did as he was bid. He lit the gas fire and brought his materials into the room, and while the other looked on he started to the work of altering the suit. The morning was well spent when he had it finished.

"What more do you want, Lorry?" he asked, grudgingly.

"Nothing just now. You can go and let me sleep. Wake me at supper. I'll want a good meal before I go."

Bern went out of the room and the caller locked the door after him. Five minutes later he was sleeping peacefully.

But he did not wait for Bern to awake him. The dullness of night was descending when he arose and dressed. The suit now fitted him well enough to appear his own clothing. He had a bath and dressed carefully; then he went downstairs and walked into the parlor.

Bern was sitting near the fire, alone. He had a pair of earphones on and was listening to the broadcast program of the day; but he laid down the earphones as soon as he saw his unwelcome visitor.

"The wife is making a meal for you, Lorry. We heard you in the bathroom. Will you be going as soon as it is dark?"

"Just as soon as it is dark, Bern, and as soon as you hand over that money."

"Here it is—all I have in the house."

He handed over a package which the other examined, counting the notes leisurely and with keen interest. He put the package into his pocket. Bern watched him and gave a nod as the other smiled.

"Fetch the grub, Bern."

The Jew brought a loaded tray from the kitchen; he was afraid of this man and he was trembling as he placed the tray on the table.

"The wife made a good meal for you, Lorry. There's a bit of turkey, and sauce, and roast potatoes, and sausages, and plenty of stuffing, and Christmas pudding. All the best, Lorry. It will be a while before you get your next meal, eh?"

"That depends on you, Bern."

"On me?"

"Yes, I've been thinking. You've got to help. You have friends all over the country, I know. I want to go somewhere I might get a ship. Come on, think quickly. You've got to provide the address where you'll send the rest of the money to me. See? I'm on the run. One of your friends must give me shelter."

"One of my friends?"

"You bet! A receiver of stolen goods like you has friends everywhere, especially at shipping ports."

Bern remained silent, finger on chin.

"What about Plymouth?" he asked at last. "I have a friend there. Maybe he'd help. Think you can get there?"

"I'll get anywhere. A safe address is what I need, Bern."

Bern handed over a sheet of paper and a pencil and dictated an address in Plymouth. The other wrote it down, put the paper into his pocket, grinned knowingly, and then sat down to the food. He looked now and then at Bern, who was huddled over the fire, his palms together, his hooked nose and clipped beard sharply defined against the red glow.

"What are you thinking, Bern?"

The Jew sat up, straightening his shoulders.

"It'll be a hard job for you, Lorry, to get away. They've discovered the judge."

"What's that?"

"They've discovered the judge lying dead on the floor of the Clue Club. The members discovered him when they recovered from their doped drink."

"Who told you all this?" demanded the other, putting down his knife and fork quickly.

"I heard it over the wireless. Not half an hour ago."

"Well?"

"There isn't any clue—so far. They have interviewed the real waiter."

"And what does he say?"

"He says that he, too, was drugged. He says that somebody sent him a bottle of beer and he drank it, and that's all he knows."

"Does he say who sent him this bottle of beer?"

"No. He says it came to his room with a note from a friend. But he can't remember what he did with the note. He won't give you away, Lorry."

There was a short, quick laugh.

"No, he won't give me away, Bern. They won't find a clue. I'm all right."

"You must have covered your prints well, Lorry. You always were good at covering a trail."

"Not so bad, Bern."

"All the same, Lorry, you'll have to be careful. You can't go out and walk along the street openly. The cops will be on the lookout. If you were seen under a lamp, say, it would be all up, wouldn't it?"

"It might—but on the other hand, it might not."

"It is too big a risk, Lorry."

"Can you suggest a way to lessen the risk?"

"I've been thinking. Yes, I've been thinking. Maybe I can. You'll need another overcoat. Supposing the cops have an idea it was you—they'll be watching for every chance to get you. You've got a new suit. You'll need a new overcoat. I have an old one that might fit you."

"Yes?"

"And I was thinking that there is a train passes the suburban station in about an hour or so. It is the first newspaper train bound for Devon way. First editions, I think. They take on some return milk churns at the station. It's a slow train, but it gets to Devon early in the morning. Now if you could get aboard it?"

"I'll get aboard it. Will the ticket office be open? Are passengers taken by that train?"

"Oh yes. There will be passengers. It calls at a lot of small stations. A slow train. There are always passengers with it. If you cared you could take that train a bit down the line and then change and catch the later night express——"

"I think not. I'll take the slow train. That's a good idea, Bern. But how can I get to the station from here? The river runs beyond your garden——"

"The river is frozen over, Lorry. You can make a short cut that way. It's hard frost outside. Been freezing all day. You can't go along the main road, anyway."

"Why?"

For answer Bern motioned his visitor to the window and drew aside the blind.

"Look!"

An occasional pedestrian was to be seen walking swiftly along the white street. But the main object was a figure who stood under a street lamp a little way down on the opposite side. The figure was that of a policeman wrapped in his greatcoat.

"He may be watching this house, Lorry. I don't know. But you can't risk it. Think of me, Lorry. You can't go that way."

"Thinking of yourself, Bern, eh? All right. What about it?"

"I'll take you down the garden, Lorry, and let you out by the gate at the bottom. It's a straight walk across the spare bit of land to the river bank. Cross the river and you're safe. The railway is less than half a mile from the other side. There's a path up to the platform. What do you say?"

"Sounds all right. Get me your overcoat."

He put it on when Bern brought it and pulled his cap over his eyes.

"It's a good thing for you the river is frozen, Lorry," said Bern, slily. "It's a short cut, isn't it? And they said over the broadcast that the killing of the judge must have been the work of a desperate criminal."

"Never mind what they said, Bern. You and I sink or swim together, old Yid."

"But, Lorry, I'm out of the receiving business now. I told you——"

"Aw, that doesn't cut any ice with me, Bern. There's your past. I'm going to live on your past, Bern. I need your past, believe me. If I'm caught so are you."

He twirled the cudgel in his hand.

"Come on, Bern. Show me the way."

They went out by the back door and down the long garden. A gate led on to a narrow piece of spare land. Beyond this strip was the frozen river. Bern pointed to the railway on the other side.

"That's your way, Lorry. So long. Safe journey, Lorry."

"Just before I go, Bern, let me say this. I killed that judge unknowingly. I was arguing with him about that old Jewish law that says a killer should be killed. I said it wasn't correct, or just. And he

tried to kill me. So I happened to hit him and he died. Maybe you know the bit of the old Mosaic law. Anyway, it was only retaliation—his death."

"I know the law, Lorry. I know what you mean. *He that smiteth a man so that he die shall surely be put to death*. And the next verse says—what is it that it says? I remember something about it——"

"So long, Bern!"

Bern was fingering his chin in an effort to remember the text of the old law.

The man who had killed the judge was on the river bank when Bern recollected the words he sought. He began to repeat them half aloud.

"*And if a man lie not in wait, but God deliver him into his hand; then I will appoint thee a place whither he shall flee——*"

"That's me, Bern," came the voice from the bank. "I'm fleeing, and you appointed me a place!"

The Jew continued to quote from his memory. But he saw the fugitive put his foot on the ice of the frozen river to test it. The surface creaked, but held. The fugitive stepped forward and strode boldly toward the opposite bank. He was out of earshot now, but Bern was still muttering.

"I used to know all that chapter, Lorry. Ach, yes. *And he that smiteth his father, or his mother, shall be surely put to death. And he that stealeth a man, and selleth him——*"

He raised his eyes and looked at the figure that was moving dimly across the ice.

"You tried to sell *me*, Lorry Black! You tried to sell *me*!"

And Bern watched intently through lowered eyelids.

The fugitive had reached the center of the river when he gave a shout. The ice cracked under him. His feet went through. He tried to recover, his arms above his head, the bludgeon waving in the air.

Crack! Crack! Splinter!

The ice broke beneath his weight. He fell. It smashed all around him.

Bern watched and listened.

He heard the smothered cry and saw the ice heave as it broke into fragments. The figure of the fugitive disappeared with a splash. Bern stood still, looking; not moving a muscle.

A large black patch of water lay like a blot on the white river. Bern shrugged his shoulders.

"The fool didn't know that the river runs too swiftly in the middle to freeze hard," he muttered. "That was the part of the bargain he overlooked. It was him or me. Maybe I'll never get my bank notes back, but I'll make a complaint of burglary."

He walked back to his house, and as he laid his hand on the door to enter he cast a glance at the river.

"And he wanted to dictate terms to me—to us that have lived by bargaining for thousands of years!"

The bludgeon of Kartarus, the barbarian, was lying once more in the black sludge of the river bed.

THE END

Colophon

Only Seven Were Hanged
Stuart Martin

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