

# JUDGMENTS IN VACATION

BY

HIS HONOUR JUDGE

EDWARD ABBOTT PARRY

*Author of "Dorothy Osborne's Letters," "Life of Macklin,"  
"The Scarlet Herring," "Katawampus: Its Treatment and Cure,"  
"Butterscotia," etc.*

LONDON

SMITH, ELDER, & CO., 15 WATERLOO PLACE  
MANCHESTER: SHERRATT & HUGHES, 34 CROSS STREET

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TO THE RIGHT HONOURABLE LORD ALVERSTONE

LORD CHIEF JUSTICE OF ENGLAND

THIS VOLUME IS

BY KIND PERMISSION

DEDICATED IN AFFECTION AND RESPECT

BY  
THE AUTHOR

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## PREFACE.

To a sane world one must offer some few words of excuse for writing judgments in vacation. One has heard of the emancipated slave who invested his savings in purchasing a share in another slave and of the historical bus-driver who made use of his annual holiday to drive a bus for a sick friend. And so it is with smaller men. One gets so used to giving judgments upon matters, the essence and properties of which one really knows very little about, that the habit remains after the sittings are over into the vacation. And on that rainy day, when golf and the more important pursuits of life are impossible, one finds oneself alone with pen, ink and paper, and thoughts that voluntarily move towards written judgments. And there is this excuse, that a Judge of a County Court can offer which would not be possible to his ermined brother—or should it be cousin, a poor relation had best be careful in claiming relationship—of the High Court. If we have any lurking desire to write our judgments, we shall not find leisure or opportunity to write them in term time. There is such a vast number of cases to try that judgments must be given forthwith, relying on authority perhaps rather than accuracy for the kindly manner of their reception. Well do I remember a great Judge giving a parting word of advice to a friend of mine on the Northern Circuit who preceded me to the County Court Bench: “Better be strong and wrong than weak and right.” The wisdom of the world is on the side of this epigram, and demands that all judgments of real importance should be given forthwith and spoken rather than written. Thus that most influential arbitrator in the larger affairs of Englishmen, the umpire in the cricket field, is never allowed to write his judgments.

It must be a pleasant thing to listen for many days to the learned arguments of the ablest minds at the bar, noting down here and there an added thought of your own which is to find a place in the ultimate judgment which some days hence you will write at leisure in your study surrounded by the reports

and text books necessary to give weight to your written word. A poor Judge of the County Court can have no such refinement of pleasure. Does Bill's cat trespass in Thomas's pigeon loft, at Lambeth or Salford?—the twenty-five shilling claim is argued in unison, certainly without harmony, until a skilful adjudication is planted right between the disputants in a breathless pause in their contest, and they are whirled out of Court speechless and astonished at the result to revive the wordy argument in the street or to join their voices in maledictions of the law and all her servants. How far otherwise in the High Court? Should some millionaire's malkin, some prize Angora of Park Lane, slay the champion homer of a pigeon-flying Marquis—what a summoning to the fray of Astburys and Carsons. How thoughtfully through the long days of the hearing would learned counsel "watch" on behalf of the London County Council. What ancient law concerning pigeons and cats would be disinterred by hard-working juniors and submissively quoted to the Bench by their leaders as matter "which I am sure your Lordship remembers." And then how interesting to write down the final just word of the Law of England on cats and pigeons, and to read it amid a reverent hush of learned approval, and finally to bring down the curtain on the comedy, justifying the hours and treasure that had been expended to obtain the judgment you had written, with some such tag of learning as:

*"Deliberare utilia mora utilissima est."*

I am by no means suggesting that these delays of the law would be useful in inferior Courts, or that Judges of the County Court have the wit and ability to write judgments in term time of value to the world. Inferior as they necessarily are in equipment of learning and worldly emolument to the Judges of the High Court, they can only take a humble pleasure in believing that they administer justice at least as indifferently.

But if you are driven to writing judgments in vacation, there is this to be said for it, that you can choose your own subject upon which you will deliver your words of wisdom, you are not forced to listen to arguments pro and con before retiring to

the study with the text books, and you are bound by no precedents governing your thoughts and driving your ideas along some mistaken lane that you know in your own heart leads to No Man's Land. Nor are you tied down to the narrow, courtly and somewhat pompous language in which it is the custom of the judiciary to publish their wisdom.

There is this further to be said about judgments written in vacation. No one is bound to listen to them, no shorthand writer has to strain his ear to take them down, no editor of the Law Reports has to disobey his conscience to include them in the authorised version of the law; and, best of all, no Court of Appeal can either reverse them or lessen their authority by approving them. Indeed, it is only in one attribute that judgments in vacation seem to me scarcely as satisfactory as judgments delivered in term time. With the latter costs follow the event.

Many of these papers have appeared in print before. The oldest of them, Dorothy Osborne, appeared in the *English Illustrated Magazine* as long ago as April 1886, and I have reprinted it in the belief that many of Dorothy's servants may like to read the little essay that led to my receiving from Mrs. Longe her copies of the original letters and her notes upon them, whereby the full edition was at length published. The quotations in it were taken from Courtenay's extracts in his "Life of Temple." In reprinting the article here I have only amended actual errors and misprints. In the paper on "An Elizabethan Recorder" the spelling has been modernized. In reproducing the article on "The Insolvent Poor" which was published originally in the *Fortnightly Review* in May 1898, it has not been thought necessary to modernize all the instances and figures that were then used. Unhappily the situation of the Insolvent Poor is no better to-day than it was in 1898, and the argument of that day remains unaffected by any reform. "Kissing the Book" was published before the recent alteration in the law, but even now the custom is not extinct, and the folk-lore of it may still be entertaining. I have to thank Messrs. Macmillan for leave to reprint the paper on "Dorothy Osborne," and my thanks are also due to the proprietors of the *Fortnightly Review*, *The Cornhill*, *The Manchester Guardian*,

*The Contemporary Review, The Pall Mall Magazine, and The Rapid Review*, for their leave to reprint other papers.

EDWARD A. PARRY.

## ‘THE BOX OFFICE.’

Ah! let not censure term our fate our choice,  
The stage but echoes back the public voice;  
The drama’s laws, the drama’s patrons give,  
For we that live to please must please to live.

—*Samuel Johnson.*

I have a vague notion that I wrote this paper on the Box Office in some former existence in the eighteenth century, and that it was entitled ‘The Box Office in relation to the Drama of Human Life,’ and that it was printed in the Temple of the Muses which was, if I remember, in Finsbury Square.

But it is quite worth writing again with a snappy, up-to-date modern title, and in a snappier, more up-to-date and modern spirit, for as I discovered, to my surprise, in talking the other day to a meeting of serious playgoers, the Box Office idea is as little understood to-day as ever it was. All great first principles want re-stating every now and then, and the Box Office principle is one of them, for, like many of the great natural forces which govern human action, it seems to be entirely unappreciated and misunderstood.

Speaking of the actor and his profession, I pointed out that the only real test of merit in an actor was the judgment of the Box Office, and that therefore an actor is bound to play to a Box Office and succeed with a Box Office if he wants to continue to be an actor.

The suggestion was received with contempt and derision. No artist, I was told, no man of any character would deign to think of so low a thing as the Box Office. All the great men of the world were men who had had a contempt for the Box Office, and the Box Office is, and must in its nature be, a lowering and degrading influence. This opinion seemed so widely held that I decided to hold an inquest upon my original suggestion, and the result of this, I need hardly say, was not only to confirm me in the view that I was entirely right, but to

convince me that my neighbours were sunk in the slough of a dangerous heresy, in which it was my duty to preach at them whilst they slowly disappeared in the ooze of their unpardonable error.

There is something essentially English in the very name of the institution—the Box Office. About the only thing an average Box Office cannot sell is boxes. When it begins to sell boxes the happy proprietor knows that, in American phrase, he has ‘got right there.’ But every sane manager, every sane actor, and all sane individuals who minister to the amusement of the people, close their ears to the wranglings of the critics and listen attentively to the voice of the Box Office. The Box Office is the barometer of public opinion, the machine that records the *vox populi*, which is far nearer the *vox Dei* than the voice of the expert witness.

Before discoursing of the Box Office in its widest sense, let us return for a moment to the case of the actor. Here the Box Office must, in the nature of things, decide his fate. It is the polling booth of the playgoer, and it is the playgoer and not the critic who decides whether an actor is great or otherwise. Why do we call Garrick a great actor? Because the Box Office of his time acclaimed him one. Davies tells us how his first performance of Richard III. was received with loud and reiterated applause. How his ‘look and actions when he pronounced the words,

Off with his head: so much for Buckingham,

were so significant and important from his visible enjoyment of the incident, that several loud shouts of approbation proclaimed the triumph of the actor and satisfaction of the audience.’ A modern purist would have walked out of the playhouse when his ear was insulted by Cibber’s tag; but from a theatre point of view it is a good tag, and I have always thought it a pity that Shakespeare forgot to set it down himself, and left to Cibber the burden of finishing the line. The tag is certainly deserving of this recognition that it was the line with which Garrick first captured the Box Office, and it is interesting that the best Richard III. of my generation, Barry

Sullivan, always used Cibber's version, for the joy, as I take it, of bringing down the house with 'so much for Buckingham.' Shakespeare was so fond of improving other folk's work himself, and was such a keen business man, that he would certainly have adopted as his own any line capable of such good Box Office results.

Throughout Garrick's career he was not without critics, and envious ones at that; but no one to-day doubts that the verdict of the Box Office was a right one, and it is an article of universal belief that Garrick was a great actor. Of course one does not contend that the sudden assault and capture of the Box Office by a young actor in one part is conclusive evidence of merit. As the envious Quin said: 'Garrick is a new religion; Whitfield was followed for a time, but they would all come to church again.' Cibber, too, shook his head at the young gentleman, but was overcome by that dear old lady, Mrs. Bracegirdle, who had left the stage thirty years before Garrick arrived. 'Come, come, Cibber,' she said, 'tell me if there is not something like envy in your character of this young gentleman. *The actor who pleases everybody must be a man of merit.*' The old man felt the force of this sensible rebuke; he took a pinch of snuff and frankly replied, 'Why faith, Bracey, I believe you are right, the young fellow is clever.'

In these anecdotes you have the critic mind annoyed by the Box Office success of the actor, and the sane simple woman of the world laying down the maxim 'the actor who pleases everybody must be a man of merit.' And when one considers it, must it not necessarily be so? An actor can only appeal to one generation of human beings, and if they do not applaud him and support him, can it be reasonably said he is a great actor? If he plays continually to empty benches, and if he never makes a Box Office success, is it not absurd to say that as an actor he is of any account at all?

So far in the proceedings of my inquest it seemed to me clear that in setting down the Box Office as the only sound test of merit in an actor, my position was indisputable. Of course, there were, and are, Box Offices and Box Offices. Cibber, Quin, Macklin, and Garrick appealed to different audiences from Foote. An actor to-day has a hundred different Box

Offices to appeal to, but the point and the only point is, does he succeed with the Box Office he attacks? Moreover, the more Box Offices he succeeds with and the greater the public he can amuse, the better actor he is. Garrick knew this when, in the spirit of a great artist, he said: 'If you won't come to Lear and Hamlet I must give you Harlequin,' and did it with splendid success.

How was it, then, when the thing seemed so clear to my mind, there should be so many to dispute this Box Office test? The more one studied the attitude of these unbelievers, the more certain it seemed that their unbelief arose in a great measure as Cibber's and Quin's had arisen, namely, from a certain spirit of natural envy. It is obvious that not every one of us can achieve a great Box Office success, and that many men who live laborious lives, without much prosperity of any kind, not unnaturally dislike the success that an actor appears to attain so easily. But the suggestion that Box Office success is or can be largely attained by unworthy means is, it seems to me, a curious delusion of the envious, insulting to the generation of which we are individuals, inasmuch as it suggests that we are easily deceived and deluded, and exhibiting unpleasantly that modern pessimism that spells—or should we more accurately say smells?—degeneration. Garrick's career is an eloquent example of the fact that a great Box Office success can only be attained by great attributes used with consummate power, and that pettiness and meanness, chicanery and bombast are not the methods approved of by the patrons of the Box Office.

Of course it will be said by the envious 'This man is a great success to-day, wait and see what the next generation think of him.' But why should a man act or paint or write for any other generation but his own? Common sense suggests that many men can successfully entertain their own generation, but that only the work of the rare occasional genius will survive in the future. Luckily for all artists of to-day, this is and always was a law of Nature; equally fortunate for artists of the future, that nothing that is being done to-day is in the least likely to interfere with the workings of that law in days to come.

There is undoubtedly a tendency—and probably there always has been a tendency—to infer that because a man is rich therefore he is lucky, and that a man who is successful is very likely a dishonest man; indeed, it seems a common belief that to gain the verdict of the Box Office it is necessary to do that which is unworthy. This idea being so widely spread, it appears interesting to study the Box Office in relation to other scenes in the human drama. What part does it play, for instance, in literature or art or politics?

Of course, a writer or painter is in a somewhat different position from an actor. He can, if he wishes, appeal to a much smaller circle, or, in an extreme case, he can refuse to appeal at all to the generation in which he lives and make his appeal to posterity. The statesman, however, is perhaps nearer akin to the actor. Let us consider how statesmen and politicians have regarded the Box Office, and whether it can fairly be said to have exercised a bad influence on their actions.

And as Garrick is one of the high sounding names in the world of the theatre, so Gladstone may not unfairly be taken as a type of English politician, and it is curious that the whole evolution of his mind is chiefly interesting in its gradual discovery of the fact that the Box Office is the sole test of a statesman's merit, that the *vox populi* is indeed the *vox Dei*, and that the superior person is of no account in politics as against the will of the nation. As in the theatre, so in politics, it is the people who pay to come in who have to be catered for. In 1838, Gladstone was as superior—'sniffy' is the modern phrase—about the Box Office as any latter-day journalist could wish. He complimented the Speaker on putting down discussions upon the presentation of petitions. The Speaker sagely said 'that those discussions greatly raised the influence of popular feeling on the deliberation of the House; and that by stopping them he thought a wall was erected—not as strong as might be wished.' Young Mr. Gladstone concurred, and quoted with approval an exclamation of Roebuck's in the House: 'We, sir, are, or ought to be, the *élite* of the people of England, for mind; we are at the head of the mind of the people of England.'

It took over forty years for Gladstone to discover that his early views were a hopeless form of conceit, and that the only test of the merit of a policy was the Box Office test. But when he recognised that the *élite* of the people were not in the House of Commons, but were really in the pit and gallery of his audiences, he never wearied of putting forward and explaining Box Office principles with the enthusiasm, and perhaps the exaggeration, of a convert.

Take that eloquent appeal in Midlothian as an instance:

We cannot (he says) reckon on the wealth of the country, nor upon the rank of the country, nor upon the influence which rank and wealth usually bring. In the main these powers are against us, for wherever there is a close corporation, wherever there is a spirit of organised monopoly, wherever there is a narrow and sectional interest—apart from that of the country, and desiring to be set up above the interest of the public, there we have no friendship and no tolerance to expect. Above all these and behind all these, there is something greater than these: there is the nation itself. This great trial is now proceeding before the nation. The nation is a power hard to rouse, but when roused, harder and still more hopeless to resist.

Now here is the Box Office test with a vengeance. Not in its soundest form, perhaps, because the really ideal manager would have found a piece and a company that would draw stalls and dress circle as well as pit and gallery. For Bacon says: 'If a man so temper his actions as in some of them he do content every faction, the music will be the fuller.' But Gladstone at that time had neither the piece nor the company for this, and, great artist as he was, his music did not in later years draw the stalls and dress circle; but having mastered the eternal Box Office principle, this did not disconcert him, for he knew that of the two the pit and gallery were sounder business for a manager who wanted to succeed in the provinces and was eager for a long run.

This recognition by Mr. Gladstone of the Box Office as supreme comes with especial interest when you consider that his education and instinct made it peculiarly difficult for him to appreciate the truth. Disraeli jumped at it more easily, as one might expect from a man of Hebrew descent, for that great race have always held the soundest views on questions of the

Box Office. As a novelist, the novels he wrote were no doubt the best he was capable of, but whatever may be their merits or demerits, they were written with an eye to the Box Office and the Box Office responded. His first appearance upon the political stage was not a success. The pit and gallery howled at him. But this did not lead him to pretend that he despised his audience, and that they were a mob whose approval was unworthy of winning; on the contrary, he told them to their faces that 'the time would come when they would be obliged to listen.' A smaller man would have shrunk with ready excuse from conquering such a Box Office, but Disraeli knew that it was a condition precedent to greatness, and he intended to be great. He had no visionary ideas about the political game. As he said to a fellow-politician: 'Look at it as you will, it is a beastly career.' Much the same may be said in moments of despondency of any career. The only thing that ultimately sweetens the labour necessary to success is the Box Office returns, not by any means solely because of their value in money—though a man honest with himself does not despise money—but because every shilling paid into the Box Office is a straight testimonial from a fellow-citizen who believes in your work. Disraeli's Box Office returns were colossal and deservedly so—for he had worked hard for them.

When you come to think of it seriously, the Box Office principle in the drama of politics is the right for that drama's patrons to make its laws, a thing that this nation has contended for through the centuries. Indeed, there are only two possible methods of right choice open: either to listen to the voice of public opinion—the Box Office principle—or to leave affairs entirely to the arbitrament of chance. With sturdy English common sense we have embodied both these principles in an excellent but eccentric constitution. We allow public opinion to choose the members of the House of Commons, and leave the choice of members of the House of Lords entirely to chance. To an outside observer both methods seem to give equally satisfactory results.

In political matters we find that for all practical purposes the Box Office reigns supreme. No misguided political impresario to-day would plant some incompetent young actor into a star

part because he was a member of his own family. We may be thankful that all parties openly recognise that any political play to be produced must please the pit and gallery, and that any statesman actor, to be a success, must play to their satisfaction. No one wants the stalls and dress circle of the political circus to be empty, but it would be absurd to let a small percentage of the audience exercise too great an influence on the productions of the management.

As in politics, so in business, for here no sane man will be heard to deny that the Box Office test is the only test of merit. If the balance sheet is adverse, the business man may be a man of culture, brain-power, intellect, sentiment and good manners, but as a business man he is not a success, and Nature kindly extinguishes him and automatically removes him from a field of energy for which he is unfitted. It is really unfortunate that one cannot have a moral, social, and literary Bankruptcy Court, where, applying the Box Office test, actors, authors, artists, and statesmen might file their petitions and be adjudged politically, or histrionically, or artistically bankrupt, as the case might be, and obtain a certificate of the Court, permitting them to open a fried-fish shop, to start a newspaper, or to enter upon some simpler occupation which, upon evidence given, it might appear they are really fitted for.

It is the vogue to-day for those claiming to possess the literary and artistic temperament to shrink with very theatrical emphasis from the Box Office. They point out how the Box Office of to-day overrules the Box Office of yesterday, forgetting that the Box Office of to-morrow may reinstate the judgment of the inferior Court. Even if the Box Office is as uncertain as the law, it is also as powerful as the law. Of course a painter or writer has the advantage over the actor—if it be one—of appealing to a smaller Box Office to-day, in the hopes of attracting a large Box Office to-morrow. A man can write and paint to please a coming generation, but a man cannot act, or bring in Bills in Parliament, or bake or brew, or make candlesticks for anyone else than his fellow living men. Not that, for myself, I think there have ever been many writers or artists who wrote and painted for future generations. On the contrary, they wrote and painted largely to please themselves,

but in so far as they cared for their wives and children, with an eye on the Box Office, and in most cases it was only because their business arrangements were mismanaged that their own generations failed to pay to come in. These failures were the exception. The greatest men, such as Shakespeare and Dickens, were immediate Box Office successes—others were Box Office successes in their own day, but have not stood the test of time. Nevertheless, it is something to succeed at any Box Office, even if the success be only temporary. Every man cannot be a Prime Minister, but is that any reason why he should not aspire to a seat on the Parish Council? When one turns to the lives of authors and artists, one does not find that the wisest and best were men who despised the test of the Box Office.

Goldsmith had the good sense to ‘heartily wish to be rich,’ but he scarcely went the right way about it. One remembers Dr. Johnson sending him a guinea, and going across to his lodgings to find that his landlady had arrested him for debt and that he had changed the guinea for a bottle of Madeira. Dr. Johnson immediately makes across to the bookseller and sells the ‘Vicar of Wakefield’ for sixty pounds. The Box Office test absolutely settled the merit of the book in its own generation, and from then until now. One may regret that Goldsmith reaped so poor a reward, and that is what so constantly happens, not that the Box Office test fails to be a true test at revealing merit, but that, owing to superior business capacity, a very inferior author will for a time reap a bigger reward than a better author. This is generally the result of bad business management, and the cases even of authors and artists who are not discovered in their own lifetime, and are discovered by future generations, are rarer than one would suppose. It is an amusing modern craze among the *cognoscenti* to assess the ability of a writer or an artist of to-day by the mere fact alone that he has few admirers of his own generation.

If one were to investigate the lives of great writers and painters, one would find, I think, that the majority wrote and painted for money and recognition, and that the one reward they really wished for was a Box Office success.

Dickens, who is perhaps the healthiest genius in English literature, writing of a proposed new publication, says frankly:

I say nothing of the novelty of such a publication, nowadays, or its chance of success. Of course I think them great, very great; indeed almost beyond calculation, or I should not seek to bind myself to anything so extensive. The heads of the terms which I should be prepared to go into the undertaking would be—that I be made a proprietor in the work, and a sharer in the profits. That when I bind myself to write a certain portion of every number, I am ensured *for* that writing in every number, a certain sum of money.

That is the wholesome way of approaching a piece of literary work from the Box Office point of view. But Dickens well understood the inward significance of Box Office success and why it is a thing good in itself. As he puts it in answering the letter of a reader in the backwoods of America:

To be numbered among the household gods of one's distant countrymen and associated with their homes and quiet pleasures; to be told that in each nook and corner of the world's great mass there lives one well-wisher who holds communion with me in spirit is a worthy fame indeed, and one which I would not barter for a mine of wealth.

Dickens's Box Office returns brought him a similar message from hundreds and thousands of his fellow-men to that contained in the letter from the backwoods of America, and though in the nature of things such messages can only come in any number through the Box Office, Dickens understood the meaning of a Box Office success, and had too honest a heart to pretend that he despised it.

Thackeray was of course absolutely dogmatic on the Box Office principle. He rightly regarded the Box Office as the winnowing machine separating chaff from wheat. He refused to whimper over imaginary men of genius who failed to get a hearing from the world. One of the first duties of an author, in his view, was that of any other citizen, namely, to pay his way and earn his living. He puts his cold sensible views into the mouth of Warrington reproving Pen for some maudlin observation about the wrongs of genius at the hands of publishers.

What is it you want? (asks Warrington). Do you want a body of capitalists that shall be forced to purchase the works of all authors who may present themselves, manuscript in hand? Everybody who writes his epic, every driveller who can and can't spell and produces his novel or his tragedy—are they all to come and find a bag of sovereigns in exchange for their worthless reams of paper? Who is to settle what is good, bad, saleable, or otherwise? Will you give the buyer leave in fine to purchase or not?... I may have my own ideas of the value of my Pegasus, and think him the most wonderful of animals, but the dealer has a right to his opinion, too, and may want a lady's horse, or a cob for a heavy timid rider, or a sound hack for the road, and my beast won't suit him.

One cannot have the Box Office principle more correctly stated than it is in that passage. Nearly all the great writers seem to be of the same opinion, and for the same reasons and without being such a 'whole-hogger' as Dr. Johnson, who roundly asserted that 'No man but a blockhead ever wrote except for money,' it seems undoubted that the motives of money and recognition have produced the best work that has been done.

Nor do we find that the painter is in this matter less sensible than his artistic brethren. The late Sir John Millais expresses very accurately the sensible spirit in which all great artists attend to the varied voices of critics as against the unanimous voice of the Box Office.

I have now lost all hope of gaining just appreciation in the Press; but thank goodness 'the proof of the pudding is in the eating.' Nothing could have been more adverse than the criticism on 'The Huguenot,' yet the engraving is now selling more rapidly than any other of recent time. I have great faith in the mass of the public, although one hears now and then such grossly ignorant remarks.

The artist then gives instances of public criticism in other arts with which he disagrees; but the only matter that I am concerned with is that in his own art, and for himself, he has arrived at the Box Office conclusion that the proof of the pudding is in the eating.

I have searched through many biographies in hopes of finding the writer or artist who was wholly uninfluenced by the Box Office. If he existed, or was likely to exist, he would be found, one would think, in large numbers among those well-to-do folk who had ample means and could devote their

lives to developing their genius and ability solely for the good of mankind. It must seem curious to those who despise the Box Office to find how little good work is achieved by men and women who are under no necessity of appealing to that institution for support.

If I had been asked to name any writer of my own time who was absolutely free from any truck with the Box Office, I should, before I had read his charming autobiography, have suggested Herbert Spencer. For indeed one would not expect to find a Box Office within the curtilage of a cathedral or a laboratory. Religion and science and their preachers have necessarily very little to do with the Box Office.

But Spencer was not only a great writer, but a keen scientific analyst of the facts of human life. He could not deceive himself—as so many of the literary folk do—as to his aims and objects. Looking back on the youthful valleys of his life from the calm mountain slopes that a man may rest on at the age of seventy-three, he asks himself

What have been the motives prompting my career? how much have they been egotistic, and how much altruistic? That they have been mixed there can be no doubt. And in this case, as in most cases, it is next to impossible to separate them mentally in such a way as to preserve the relations of amount among them. So deep down is the gratification which results from the consciousness of efficiency, and the further consciousness of the applause which recognised efficiency brings, that it is impossible for anyone to exclude it. Certainly, in my own case, the desire for such recognition has not been absent.

He continues to point out that this desire for recognition was ‘not the primary motive of my first efforts, nor has it been the primary motive of my larger and later efforts,’ and concludes, ‘Still, as I have said, the desire of achievement, and the honour which achievement brings, have doubtless been large factors.’

It is very interesting to note that a man like Herbert Spencer recognises what a large part the Box Office played in his own work—work which was rather the work of a scientist than the work of a literary man.

In the modern education and in the Socialist doctrines that are preached, emulation, competition and success are spoken

of almost as though they were evils in themselves. People are to have without attaining. Children and men and women are taught to forget that 'they which run in a race run all, but one receiveth the prize.' It is considered bad form to remember that there is a Box Office, that it is the world's medium for deciding human values; and that to gain prizes it is necessary to 'so run that ye may obtain.'

These old-world notions are worth repeating, for however we may wish they were otherwise, they remain with us and have to be faced. And on the whole they are good. Success at the Box Office is not only to be desired on account of the money it brings in, but because it means an appreciation and belief in one's work by one's fellow-men. In professions such as the actor's, the barrister's, the politician's, and to a great extent the dramatist's, and all those vocations where a man to succeed at all must succeed in his own lifetime, the Box Office is, for all practical purposes, the sole test of merit. The suggestion—a very common one to-day—that a man can only make a Box Office success by pandering to low tastes, or indulging in some form of dishonesty or chicanery, is a form of cant invented by the man who has failed, to soothe his self-esteem and to account pleasantly to himself for his own failure. A study of the lives of great men will show that they all worked for the two main things, popular recognition and substantial reward, that are summed up in the modern phrase Box Office.

It may be that in some ideal state the incentive to work may be found in some other institution rather than the Box Office. It is the dream of a growing number of people that a time is nearly at hand when the Box Office results attained by the workers are to be taken away and shared among those high-souled unemployables who prefer talking to toiling and spinning. Such theories are nothing new, though just at the moment they may be uttered in louder tones than usual. St. Paul knew that they were troubling the Thessalonians when he reminded them 'that if any would not work neither should he eat,' and he added, 'for we hear that there are some which walk among you disorderly, working not at all, but are busybodies.' St. Paul makes the sensible suggestion 'that with

quietness they work and eat their own bread.' To eat your own bread and not someone else's, you must work for it successfully and earn it. That really is the Box Office principle.

# THE DISADVANTAGES OF EDUCATION.

“A merry heart doeth good like a medicine:  
But a broken spirit drieth the bones.”

*Proverbs xvii., 22.*

The Professors of dry bones have broken so many spirits in their machine that they will not grudge me a laugh at their little failings. A mere “man in the street” like myself can do little more than call attention to some of the weaknesses of our educational system, well understanding that the earnest Schoolmaster knows far more about the disadvantages of education than anything he can learn from his surviving pupils. For my part I have never made any secret of the fact that from my earliest days I disliked education, and had a natural, and I hope not unhealthy, distrust of schoolmasters. Let it here be understood with the greatest respect to the sex that “schoolmaster” embraces “schoolmistress.” Most school-boys that I remember have had that attitude of mind, but many remained so long in scholastic cloisters that the sane belief of their youth, that the schoolmaster was their natural enemy, became diminished and was ultimately lost altogether. Indeed, there are few minds that undergo the strain of years of toil among scholastic persons without becoming dulled into the respectable belief that schoolmasters are in themselves desirable social assets, like priests and policemen and judges. Now no small boy with a healthy mind believes this. He knows that the schoolmaster and the policeman are merely evidences of an imperfect social system, that no progress is likely to be made until society is able to dispense with their services, and though he cannot put these ideas into words he can and does act upon that assumption, and continues to do so until his natural alertness is destroyed and he is dragooned into at all events an outward observance of the official belief in the sanctity of schoolmasters.

Personally I have always regarded it as a matter of congratulation that I escaped from school at a comparatively early age, nor can I honestly say that I remember to-day anything that I formerly learnt at school, or that if I did remember anything I learnt, there,—except perhaps a few irregular French verbs—that it would be of the slightest use to me in the everyday business of life.

If I were, for instance, to model my methods of trial in the County Court upon the proceedings of Euclid, who spent his life in endeavouring to prove by words, propositions that were self-evident even in his own very rudimentary pictures, I should be justly blamed by a commercial community for wasting their time. Yet how many of the most precious hours of the best of my youth have been wasted for me by schoolmasters, who were so dull as not to perceive that Euclid, like Edward Lear and Lewis Carroll, was the writer of a book of nonsense? Not nonsense that can possibly appeal to the child of to-day, but nonsense that will always have its place in the library of those to whom the Absurd is as precious in life as the Beautiful.

If you believe at all in evolution and progress, and the descent of man from more primitive types, with its wonderfully hopeful corollary, the ascent of man to higher things, you must acknowledge at once that education has necessarily been, and always must be, a great set back to onward movement. A schoolmaster can only teach what he knows, and if one generation only learns what the last generation can teach there is not much hope of onward movement.

Schoolmasters are apt to believe that the hope of the younger generation depends upon their assimilating the ideas of their pastors and masters, whereas the true hope is that they will not be so long overborne by authority, as to make their young brains incapable of rejecting at all events some of the false teaching that each generation complacently offers to the next.

We need not accept the new generation entirely at its own valuation, nor need we disturb ourselves about the exaggerated

under-estimate with which one-and-twenty sets down for naught the wisdom of fifty. But unless we pursue education as a preparation for the betterment of the human race we are beating the air. And the responsibility is a great one. For the mind of a child, as Roger Ascham says, is “like the newest wax, most able to receive the best and fairest printing!” But, alas! it is equally able to receive printing of an inferior type. Every one of us, I should imagine, half believes something to-day that he knows to be untrue because it was impressed on the wax of his child-mind by some well-meaning but ignorant schoolmaster.

One of the gravest disadvantages about education is the way it thwarts progress by teaching young folk that which, to say the least of it, is uncertain. If education were to be strictly confined by the schoolmaster to the things he really knew, what a quantity of lumber could be trundled out of the schoolroom to-morrow. Teaching should be kept to arts, accomplishments and facts—opinions and theories should have no place whatever in the schoolroom.

Open any school book of a hundred years ago and read its theories and opinions, and remember that these were thrust down the throats of the little ones with the same complacent conceit that our opinions and theories of to-day are being taught in the schools. And yet we all know that theories and opinions in the main become very dead sea-fruit in fifty or a hundred years, whilst the multiplication table remains with us like the Ten Commandments, a monument of everlasting truth.

This chief disadvantage of education will probably continue with us for many generations, until it is recognised as immoral and wicked to warp a child’s mind by teaching things to it as facts which are at the best only conjectures, in the hope that in after life it may take some side in the affairs of the world, which the teacher, or the committee of the school, is interested in. The true rule should of course be to teach children, especially in State Schools, only ascertained facts, the truth of which all citizens, who are not in asylums, agree to be true.

My view of the ideal system of education is much the same as Mr. Weller senior’s. You will remember that he said to Mr.

Pickwick about his son Sam, “I took a great deal of pains with his eddication, sir! I let him run in the streets when he were very young and shift for his self. It’s the only way to make a boy sharp, sir.” I could not ask any body of schoolmasters to adopt this principle, though it is one that seems to me thoroughly sound. Put into other and more scholastic words, it may be made a copy-book sentiment. Emerson says much the same thing as old Tony Weller, when he writes, “That which each can do best only his Maker can teach him,” and the spirit of the Maker of the Universe seems to me at least as likely to be met with in Market Street as in a committee room of the Manchester Town Hall, where the destinies of our national education are so ably managed by citizens of respectability and authority.

Some such preface as this is needed if I am to make it clear to you why I choose the disadvantages of education rather than the advantages, as the subject matter of my essay. One should always try to speak on something one really believes in heartily and thoroughly. The advantages of education have been spread before us during the last fifty years by every writer of importance—a writer of no importance may fairly give an idle hour to the other side of the picture.

In any commercial country it should not be necessary to apologise for the endeavour to make a rough balance-sheet describing the liabilities of education; even if we are all convinced that the assets of education are more than enough to meet the liabilities and that we are educationally solvent. Nor am I really stating anything very new or startling, for all thinkers and writers on education seem beginning at last to discover that education is only a means to an end, and that when you have no clear idea of what end you hope to arrive at it is not very probable that you will choose the right means.

If a man wanted to travel to Blackpool and was so ignorant as to imagine that Blackpool was in the neighbourhood of London, he would probably in the length of his journey lose many beautiful hours of the sea-side and spend them in the stuffy atmosphere of a railway train. This would be of little importance to the community if it was only the case of an individual man—a schoolmaster for instance. But what if the

man had taken a party of children with him? thereby losing for them wonderful hours of digging on the sand, or seeing Punch or Judy, or listening to a Bishop preaching—that indeed would be a serious state of things for everyone.

One of the great disadvantages of modern education is that few of its professors and teachers, and fewer of its elected managers, have the least idea where they are going to. The authorities shoot out codes and prospectuses and minutes and rules and orders, and change their systems with the inspired regularity of a War Office.

Another of the disadvantages of education to-day is that there is too much of it, and that what there is is in the hands of well-meaning directors, who are either middle-aged and ignorant, or, what is worse, middle-aged and academic. If we cannot reach the ideal of Tony Weller and let the child shift for himself, let us at all events unshackle the schoolmaster and allow him to shift for himself. The head master of a great English school is a despot. He has at his back—and I use the phrase “at his back” with deliberate care, not meaning “upon his shoulders”—he has at his back a powerful board of citizens of position who are wise enough and strong enough to leave the question of education to the man at the wheel, and to remember that it is dangerous to speak to him whilst he is steering the ship. Any system of education that is to be of any avail at all must be a personal system in a great measure, and the elementary head master should be in the same position as the head master of our great public schools. The boards and committees should interfere as little as possible with the schoolmasters they employ. A schoolmaster, of all workmen, wants freedom and liberty to do his work his own way. And who can teach anything, worth teaching, who is being constantly worried and harassed by inspectors and committees? Education is not sewage, and you cannot judge of its results by a chemical analysis of the mental condition of the human effluent that pours out of the school gates into the rivers of life.

I have expressed my distrust of schoolmasters quite freely, but I must confess that my detestation of boards and committees amounts almost to a mania, though when I notice

the pleasure and delight so many good citizens have in sitting on a committee and preventing business from being done, I fairly admit it is quite possible I am wrong about the matter. It may well be that there is some hidden virtue in these boards and committees, some divine purpose in them that I cannot see. I have sometimes thought that in the course of evolution they will arrive at a condition of permanent session without the transaction of any business whatever. Then possibly the golden age will have arrived, and then the individual servant, no longer hampered by their well meant interference, will have a chance to do his best work. But for my part, so oppressed am I by the futility of committees that I am tempted sometimes to doubt the personality of the Evil One, in the sure belief that the affairs of his territory would be governed more to his liking by a large committee elected on a universal suffrage of both sexes. Who are our ideal schoolmasters in the history of the profession? Roger Ascham, who, learned man that he was, impressed on youth the necessity of riding, running, wrestling, swimming, dancing, singing and the playing of instruments cunningly; Arnold, of Rugby, whose whole method was founded on the principle of awakening the intellect of every individual boy, and who was the personal guide and friend of those of the scholars who could appreciate the value of his friendship; Edward Thring, of Uppingham, who thought “the most pitiful sight in the world was the slow, good boy laboriously kneading himself into stupidity because he is good,” and who stood firm for the individual master’s “liberty to teach.” Are any of these schoolmasters men who could or would have tolerated any interference in their life’s work from an unsympathetic inspector or a prosy town councillor? The work of the committees should be devoted to choosing a good man or woman to be head master of a school and then to leaving him or her alone. The inspectors should be pensioned—and turned off on the golf-links.

Having dealt with these serious disadvantages to education, let me hasten to say a little more about that grave disadvantage to education, the schoolmaster himself. The schoolmaster is generally a man who, having learnt to teach, has long ago ceased to learn. It is the past education of the schoolmaster that generally stands in his way. He believes in education, and

thinks it a good thing in itself; he believes in rules and orders and lessons as desirable, whereas they are only the necessary outcome of Adam's misconduct in the Garden of Eden. I cannot quite agree with Tolstoi's suggestion that all rules in a school are illegitimate, and that the child's liberty is inviolable. I do not think anarchy in a school is more possible to-day than anarchy in a state. But I do think that the schoolmaster of to-day should rule as far as possible by the creation of a healthy public opinion among his scholars and make the largest use of that public opinion as a moral and educational force. Looking back on my own experience, it is not what I learnt from my schoolmasters but what I learnt from my companions that has been of any real value to me in after life.

A child should go early to some good kindergarten presided over by some delightfully bright and pleasant lady, merely to learn the lesson that there are other children in the world besides itself. How important it is in life to learn to sit cheerfully next to someone you cordially detest without slapping him or her. And yet such a lesson, to be really mastered, should be learnt before five or seven at the latest. After that it can only be learned by much prayer and—dining out. At dinner parties, and particularly public dinners, one can get the necessary practice in this kind of self-control, but it is better to learn it whilst you are young, when alone it is possible to master the great lessons of life thoroughly and with comparatively little pain. Men have reached the position of King's Counsel without attaining this simple moral grace.

If you come to think of it, all the really important things in life must of necessity be self-taught. I suppose schoolmasters, being experts in education, have never given serious thought to the fact that the child teaches itself, with the aid of a mother, all the best and necessary lessons of life in the first few years of its being. It learns to eat, for instance. I have watched a baby struggling to find the way to its mouth with a rusk, with intense interest and admiration. How it jabs itself in the eye with the soft end of the biscuit and bedaubes its cheeks and clothes with the debris, and kicks and fights in disgust and loses the biscuit in a temper and if not assisted by an over indulgent mother, finds the biscuit after infinite search and

goes at it again with renewed energy on its way, and at length is rewarded by success. What a smile of victory, what a happy relapse into the dreamless sleep of the successful. The child has learned a lesson it will never forget. It has found its way to its mouth. One never learns anything as good as that from a schoolmaster. And indeed if you think of it the baby is learning useful things on its own every day of its life, and working hard at them. It learns to talk, and that in spite of its father and mother, who insist on cooing at it, and talking a wild baby language that must greatly irritate and impede a conscientious self-educating baby endeavouring to master the tongue of the land of its adoption. It learns to walk, too, not without tumbles, and tumbles which inspire it to further effort. I have very little doubt that some monkey schoolmaster of primeval days checked some bright monkey scholar who endeavoured to walk into the first primeval school on his hind legs, and threw back the progress of mankind some thousands of years in the sacred name of discipline. If you think of a child teaching itself those wonderful pursuits eating, walking, and talking, are there any bounds to what it might continue to learn if there were no schoolmaster?

If you were to abolish the schoolmaster what would happen? I think the answer is that the Burns, the Milton and the Sam Weller of a nation would profit by the stimulus to self-education. The child whose father was a musician or a carpenter or a ploughman who loved his art or craft, would be found striving to become as good an artist or craftsman as his father, and perhaps in the end bettering the paternal example. The school and the schoolmaster can do little but hinder the evolution of any worker in any art or craft. The real worker's work must be the result of self-education, and he must live from early childhood among the workers. Read, for instance, the delightful account given by Miss Ellen Terry of her early days in "The Story of My Life." "At the time of my marriage," she writes, "I had never had the advantage—I assume it is an advantage—of a single day's schooling in a real school. What I have learned outside my own profession I have learnt from environment. Perhaps it is this that makes me think environment more valuable than a set education and a stronger agent in forming character even than heredity." Lives there

even the schoolmaster who believes that there was any school or schoolmistress in Victorian days that could have done anything but hinder Miss Terry in the triumph of her artistic career? A born actress like Miss Terry could not be aided by Miss Melissa Wackles, with her “English grammar, composition and geography,” even though in that day of lady’s education it was tempered by the use of the dumb-bells.

In the same way, if we could assure to a boy or girl an apprenticeship from early days to a craftsman or farmer, it would probably be better for the children and the State than any other form of education they receive to-day. It is quite unlikely the world will ever see the minor arts and crafts ever restored to their former glory, unless it encourages parents who are themselves good craftsmen to keep their children away from the schoolmaster in the better atmosphere of a good workshop.

We talk largely about the melancholy increase of unemployment, but how much of this is caused by the education of masses of people in useless subjects. The bad boy who gets into trouble and has the good fortune to be put in a reformatory and there learns a trade has a much better chance of a useful and pleasurable life than the good boy who gains a County Council prize in geography.

I came across a servant in Cumberland whose education had resulted among other things in a knowledge of the catechism and a list of the rivers on the East coast of England, but who did not know the name of the river she could see from the window and who had not the least idea how to light a fire. What is the good of learning your duty to your neighbour when you cannot light a fire to warm him when he is wet through, without wasting two bundles of sticks and a pint of paraffin oil?

One must not however blame the girl, nor indeed her schoolmistress, for probably she too could not light a fire, and both regarded the lighting of a fire as a degrading thing to do. No doubt if you had pursued your educational researches in Cumberland to the source of things, you would have found that the committee could not light fires, and the inspector of

schools could not light fires—it may be the Minister of Education himself cannot light a fire—and though there is plenty of material for fires in every board room there is nothing in the code about teaching children to make use of it. Yet I can conceive nothing a child would like better, in his or her early days in school, than being a fire monitor and having charge of the fire and learning to light and look after it. I have made much of this little incident because it is typical of the school education of to-day.

In the old days of family life boys and girls, and especially the latter, learnt in a good home a great deal of domestic work, and the boys could help in their father's shop or farm or inn as the case might be, and learnt thereby many things that you cannot learn in schools. Mr. Squeers, though not a moral character, was possessed of a practical mode of teaching. "C-l-e-a-n clean, verb active to make bright, to scour. W-i-n win, d-e-r der, winder a casement. When the boy knows this out of a book he goes and does it." And if you come to think of it, it is far more important that a boy should know how to keep a window clean than that he should know how to spell it.

The schoolmaster of an elementary school therefore should be a man of good domestic tastes, who wishes to see his home neat and clean and well kept and tidy, who insists on having his food well cooked, and prefers that his wife and daughter should be well dressed at the smallest possible cost to himself. These virtues he should be urged to put before scholars as being the first duties of life and the chiefest honour of a good citizen. The false notion that reading and writing are in themselves higher attainments than carpentering, cooking and sewing should be sternly discouraged, and only teachers should be chosen capable of some technical excellence in the practical work of crafts. For the same reasons teachers should never be chosen for any academic degree they possess, for every day it becomes more certain that the man who obtains these degrees is the man who has deliberately failed to make himself a master of any one subject. He is a man who has wasted precious hours in getting a smattering of many useless branches of learning, and has been forced by the sellers of degrees to abandon all hope of having sufficient leisure to

study music or painting or the workmanship of a craft, or even to have read widely of English literature. In the education of the young the man who can play the piano, or better still, the fiddle, is more important to my purpose than the man who can make Latin verses; and the man who can model a toy boat with a pocket-knife whilst he is telling you a fairy tale is, from the standpoint of real education, a jewel of rare price. The schoolmaster of to-day is one of the disadvantages of education because he is interested mainly in subjects of smaller importance and is not really a sound man in any one real pursuit, such as music or drawing.

Another disadvantage of English elementary education is that it places the school course and literary things above the playing fields and physical things. All men who have thought about education at all, and who had any capacity for thinking wisely, have recognised that in training a child to make and keep his body a healthy body we are proceeding upon lines that experience tells us are right and sound lines. Here we can teach something we know. Plato tells us that the experience of the past in his day had discovered that right education consisted in gymnastics for the body and music for the mind. I do not know that we can say with certainty that we have ascertained to-day much more about education than Plato knew. In our day I should put the arts and crafts of home life and the practice—not preaching—of its virtues, first in the programme, and secondly, to use Plato's word, gymnastics. These should include cricket, football, running, jumping, wrestling, dancing, fives, tennis, and all manly and womanly associated games which exercise and develop the body, and have by the public opinion of the players to be played with modesty and self-restraint, and with a reasonable technical skill that can only be arrived at by taking pains. All these things are far more useful than any subjects that can be taught in a schoolroom. One of the great advantages of middle-class public school life is that these things are taught, and that the boys work at them in a healthy spirit of emulation and a magnificent desire to succeed that would turn the whole nation into a Latin-speaking race, if by any misfortune its motive power were diverted into the schoolroom.

Elementary education and its schoolmasters have but small opportunities to foster this natural healthy training of the body in which all young people are willing and ready to co-operate with their teachers. Unfortunately, the men who obtain positions on educational committees are too often men who have amassed wealth at the expense of their livers, and who would look askance at the ideas of Plato, Roger Ascham, or Tolstoi. Still, I think a day is coming when playing-fields and playgrounds will be attached to every elementary school, and used not only by existing scholars, but by the old boys and girls, who will thereby keep in touch with the school and its good influences.

But, you will say, nothing has been said hitherto about any lessons. Are reading, writing, and arithmetic to be considered wholly as disadvantages? It would be easy to take up such a position and hold it in argument but it is not necessary. The advantages of educating the masses in the three R's are obvious and on the surface, but the grave disadvantages are also there. It is no use teaching a person anything that he is likely to make a bad use of, and experience tells us that many people are ruined by learning to read. Since the Education Act of 1870, a mass of low-class literature and journalism has sprung up to cater for the tastes of a population that has undergone a compulsory training in reading. Betting and gambling have been greatly fostered by the power of reading and answering advertisements. In the same way quack remedies for imaginary ailments must have done a lot of harm to the health of the people, and the use of them is the direct result of teaching ignorant people to read and not teaching them to disbelieve most things they may happen to read. Writing in the same way by being made popular and common has become debased. One seldom sees a good handwriting nowadays and spelling is a lost art. Writing, however, must in a few years go out in favour of machine writing. Penmanship will hardly be taught some years hence when everyone will have a telephone and typewriter of his own. I cannot see that the universal habit of writing has done very much for the world. The great mass of written matter that circulates through the post, the vast columns of newspaper reports that are contradicted the next day—these things are the fruits of

universal writing. There is no evidence that in the past anything worth writing ever remained unwritten. But there is strong evidence that since 1870 much has been written that had better have remained unwritten, and would have so remained but for State encouragement through its system of education. As to arithmetic—if you saw the books of the small shopkeepers in the County Court—you would recognise its small hold on the people. One chief use of it by the simpler folk seems to be the calculations of the odds on a horse race. In France and other more civilised countries this is done more honestly by a machine called a totaliser, and gambling is thereby kept within more reasonable limits. Elementary arithmetic has been profitable to the bookmaker—but to how many besides? If you teach a boy cooking or carpentering he is very unlikely to make an evil use of these accomplishments in after life because they naturally minister to the right enjoyment of life. Whereas if you teach a boy reading, writing, and arithmetic, the surroundings of youth being what they are, he is at least as likely to misuse these attainments as to use them to the benefit of himself and his fellow creatures. Once recognise this and you must admit not that the three R's should be discontinued, but that much more should be done to teach the young persons to whom you have imparted these pleasant arts how to make use of them legitimately and honourably. It is no use teaching young people any subject unless you see that in after life they are to have opportunities of using their attainment for the benefit of the State. Our fathers and grandfathers were all for education as an end. We are face to face with the results of a national system of elementary education with no system whatever of helping the educated to make good use of their compulsory equipment. It is as though you gave a boy a rifle and taught him to shoot and turned him out into the world to shoot at anything he felt inclined. Such a boy would be a danger to the community, whereas if you placed him in a cadet corps when he left school he and his rifle might be a national asset.

That learning without a proper outlet for its use may be a grave danger to the individual and to the community is seen in the present state of India, and Lord Morley of Blackburn, one of the greatest supporters of education himself, called attention

to the necessity of a community which provides an education to a certain class allowing the citizens so educated a proper opportunity of exercising the faculties it has developed. As he said in the House of Lords, "I agree that those who made education what it is in India are responsible for a great deal of what has happened since." And what is true of India is equally true of England.

It is in providing healthy outlets and uses for the educational power that has been created that the Boards and Committees who govern these matters will have to turn immediate attention if they wish to justify their existence.

I know that these detached remarks of mine on education must necessarily appear heretical—and they are to some extent intentionally so. I do not agree with Mr. Chesterton that the heretic of old was proud of not being a heretic, and believed himself orthodox and all the rest of the world heretics. If he did he was indeed a madman. But there is a place in the world for the utterer of heresies if only to awaken the orthodox from slumber and to make him look around and see if there is any reform that can be made without destroying the whole edifice. Reforms come slowly and we, for our part, shall only see the dawn of a better era whose sunshine will gladden the lives of our grandchildren. I am not a pessimist about the English school though I have chosen to speak of its disadvantages. I think, to use an American phrase, it is a "live" thing.

If you go into an English village you find three great public institutions, the Church, the Inn, and the School. Each is licensed to some extent by the State and each is burdened by the connection. You find as a rule that the Church has voluntarily locked its doors and put up a notice that the key may be found at some old lady's cottage half a mile away. You go into the Inn and find it struggling to make itself hospitable in spite of the mismanagement of brewers and the unsympathetic bigotry of magistrates. But from the door of the School troop out merry children, who some day will look back to that time of their life as the happiest of all, and who will recognise the debt of gratitude they are under to the schoolmaster, who in spite of the limitations of his system and

himself encourages his pupils to effort and self-reliance and teaches them lessons of duty, reverence, and love.

I am not greatly interested in the Church or the Inn, both of which institutions seem well able to guard themselves from the disestablishment they are said to deserve. But I am interested in the School—and I wish to see it housed in fairer and more ample buildings with larger playing fields around them. And I want to see a race of schoolmasters not only better paid—but worth more. Men and women to whom the State can fairly give a free hand, knowing that their object in education would be to mould their pupils into self-reliant citizens rather than to teach them scholastic tricks. “The schoolmaster is abroad,” said Lord Brougham, “and I trust to him armed with his primer.” For my part, a schoolmaster armed with a primer is an abomination of desolation standing in a holy place. I differ from a Lord Chancellor with a very natural diffidence but his Lordship was wrong. The schoolmaster of 1828 was not abroad, he was in the same predicament as the schoolmaster of 1911—at sea.

If I were Minister of Education, I would write over the door of every school in the country the beautiful words, “Suffer little children and forbid them not to come unto Me: for of such is the Kingdom of Heaven.” Let us beware lest we forbid them by dogmas and creeds that lead only to hatred, malice, and all uncharitableness; let us take heed lest we forbid them by lessons and learning dull for to-day and dangerous for to-morrow. Let us at least teach them as our grandmothers taught children when there were no schools in the land, the simple duties of life that we all know the meaning of, and the Christian duty of unselfishness which we none of us practise. And in this, as in all things, let us strive to teach by example rather than by word. And if we are to teach by the Christian rule, then how great, how noble, how enduring is to be the work of the schoolmaster in continuing the greatness of our nation. And the man or woman we shall choose shall not be a pedant, whose long ears are decorated by degrees, but an honest, simple person of any creed whatsoever, who will humbly and reverently teach the children of his or her school the few simple facts of life, and add to that something of its

arts and its crafts and so much or little of its learning as can be a service and not a hindrance to the child's career.

## COOKERY BOOK TALK.

*Arviragus.* How angel-like he sings!

*Guiderius.* But his neat cookery! he cut our roots in characters,  
And sauc'd our broths as Juno had been sick  
And he her dieter.

*Cymbeline* iv. 2.

In this passage Shakespeare exalts cookery above songs that are merely angel-like, and anyone who has dined at a modern restaurant with “music off” as part of the stage directions will agree with Guiderius that it is impertinent to consider the merit of song at moments that should be given to the praise of cookery. Incidentally, too, the passage has a value for the cuisinologist of an antiquarian turn of mind by pointing out that the decoration of dishes with alphabetical carrots and turnips, “roots cut in characters,” was a commonplace of the Shakespearean table.

And if in a detached passage from a dramatic writer we can find so much culinary thought, how much more remains to be sought after in those masterpieces of kitchen literature given to the world by the great artist cooks of bygone centuries.

It has always been a matter of considerable surprise to me that so few people really read their Cookery Book with any diligence and attention. There is no subject of conversation so popular as Cookery Book. It blends together all persons in a common chorus of talk irrespective of rank, age, sex, religion and education. The dullest eye lights up and a ripple crosses the most stagnant mind when the dying embers of formal conversation are called into brilliant flames by a few pages from the Cookery Book. Every one lays claim to take a hand at Cookery Book talk, no one is too bashful or ignorant in his own seeming, and yet how few really bring to the discussion a sound literary knowledge of even Mrs. Beeton and Francatelli, and how many prate of cookery to whom Mrs. Glasse and

John Farley are unknown names. No one will talk of Shakespeare and the musical glasses without at least a slight knowledge of Charles Lamb's delightful nursery tales and the study of an article on the theory of music in "Snippy Bits." But if Cookery Book is mentioned—and in ordinary society the subject is generally reached in the first ten minutes after the introduction—the humblest and most ignorant is found laying down the law with the misplaced confidence of a county magistrate. And yet with Cookery Book as with lower forms of learning one can never tell whence illumination may spring. True indeed is it that out of the mouths of babes and sucklings strength is ordained.

I remember a beautiful and remarkable instance of this which occurred but recently. I was privileged to dine at the family table of a great artist and there were present besides myself several others of sound learning and religious education from whom might be expected stimulating and rational conversation. We began I remember with the Pre-Raphaelites and ox-tail soup. Albert Durer started with the fish but "failed to stay the course," as a sporting friend of my host remarked. He it was who brought the conversation round to the haven and heaven of all conversation—Cookery Book. He told a story of a haggis which drew from my host—an ardent Scotsman—a learned and literary defence of the haggis, which in common with the thistle, the bagpipes and Burns poetry it is a matter of patriotism for a Scotsman to uphold in the company of aliens. There was no doubt that my friend broke down in cross-examination as to the actual contents of the haggis, but as to the necessity of drinking raw whisky at short intervals during its consumption he was eloquent and convincing. When he had finished—or maybe before—I began to describe the inward beauties of a well-grilled mutton chop, and to detail an interesting discussion I had had the week before with a Dean of the Church of England on the respective merits of Sam's Chop House in Manchester and the South Kensington Museum Grill Room. Listening is I fear a lost art for my entertaining reminiscences were broken into by a babel of tongues. Every one named his or her particular and favourite dish which was discussed rejected, laughed at and dismissed by the rest of the company. So loud was the clash of

tongues that you might have imagined you were taking part in a solemn council at Pandemonium, when suddenly the shower of Cookery Book talk dried up and there was a pause, a lull—a silence. At that moment the youngest son of the house whose little curly head—like one of those heads of Sir Joshua’s angels—rested on his hands as he listened to the earnest converse of his grave elders—this child threw down before us a pearl of simple wisdom—“Surely you have forgotten bread sauce and chicken!” And so we had. The artist also remembered that we had left out sucking pig. The conversation started with renewed force. The whole question of onions in bread sauce was exhaustively debated and a happy evening was spent in congenial and intellectual conversation.

But how seldom it is that you find yourself among persons capable of discussing with knowledge any of the nicer problems of the kitchen. At my own table the other day a graduate of Cambridge actually asked my wife whether she put maraschino or curaçoa in the Hock cup. Yet in educational affairs this man passes for a rational and highly cultivated man. Colossal ignorance of this type is but too common. I have stayed—but never for more than one week-end—with families of the highest respectability to whom tarragon vinegar is unknown, and I once entertained a Judge of the High Court who did not know the difference between Nepaul and Cayenne pepper,—yet in his daily life he must have been called upon to decide differences of graver importance.

I wish I had the pen and the inspiration of one of the early prophets to rouse my countrymen to urge upon Education Committees, schools and universities their duty in dealing with this national ignorance. But one may at least make a practical suggestion. Why should not “What to do with the Cold Mutton” be read as a first reader in our elementary schools? It touches on no points of doctrine and teaches truths that both Anglican and Nonconformist could discuss pleasantly at a common board.

Once the young mind has tasted of the delight of the literary side of cookery a demand would spring up for the republication of many earnest, eloquent and scientific Cookery books of olden time. The eighteenth century was a golden age

in the literature of cookery, and the works of Charlotte Mason, Sarah Harrison's "Housekeeper's Pocket Book," and Elizabeth Marshall's "Young Ladies' Guide in the Art of Cookery,"—these are books that should be in every polite library. For myself I prefer what may be called the Archæology of Cookery and the study of "The Proper New Book of Cookery, 1546," or Partridge's "Treasury of Commodious Conceits and Hidden Secrets, 1580?" will have a charm for all who like to pierce the veil that hides the old world from us. We have moved on since then it is true, but for my part I like to learn how to "pot a Swan" or "make an Olio Pye," though such learning is no longer practical.

To those who have not access to the original editions of the classics, let me commend that charming volume of the Book Lovers' Library, Mr. W. Carew Hazlitt's "Old Cookery Books." Problems are there touched upon that when we have a serious business Government untrammelled by party ties will be solved by Royal Commissions dealing with the various aspects of cookery which, as an old writer says, is "The Key of Living." It was Tobias Venner, as long ago as 1620, who endeavoured to dissuade the poor from eating partridges, because they were calculated to promote asthma. Many Poor Law Commissions have sat since then, but the truth of Venner's theory has never yet been subjected to modern scientific criticism, and every year from September to February the poor continue to remain under the shadow of asthma. The Government give us volumes of historical records, but I search in vain among them for the way to make Mrs. Leed's Cheesecakes and "The Lord Conway, His Lordship's receipt for the making of Amber Pudding." Thus are we trifled with by our rulers, few of whom I think could tell us without research why the porpoise and the peacock no longer grace the tables of Royal persons.

But see how Nature supplements the mistakes of mankind. True it is that Governments do nothing for our greatest art, sadly true it is that the great masterpieces of culinary writing remain on the shelves, and disgracefully true it is that among the idle rich of our universities there is not one Professor of Cookery—though there be many ignorant critics of the Art at

high tables. And yet, round every board, simple or noble, with the steam that rises from the cooked meats comes the heartfelt praise of mankind rejoicing to lift up the voice in that Cookery Book talk, which is the oral tradition that carries on the religion of the “Key of Living.”

Indeed, there is only one human being who does not talk about Cookery, and that is the high Priestess herself—the Cook. This I have on the evidence of a policeman.

# A DAY OF MY LIFE IN THE COUNTY COURT.

“We take no note of time  
But from its loss.”

*Young's Night Thoughts.*

It is a difficult task to describe to others the everyday affairs of one's own life. The difficulty seems to me to arise in discovering what it is that is new and strange to a person who finds himself for the first time in a place where the writer has spent the best part of the last twenty years. The events in a County Court are to me so familiar that it is hard to appreciate the interest shown in our daily routine by some casual onlooker whom curiosity, or a subpoena, has brought within our walls. Still, in so far as the County Court is a poor man's Court, it is a good thing that the outside world should take an interest in its proceedings, for much goes on there that has an immediate bearing on the social welfare of the working classes, and a morning in the Manchester County Court would throw a strong light on the ways and means of the poor and the fiscal problems by which they are surrounded.

An urban County Court is a wholly different thing from the same institution in a country town. Here in Manchester we have to deal with a large number of bankruptcy cases, proceedings under special Acts of Parliament, cases remitted from the High Court, and litigation similar in character to, but smaller in importance than the ordinary civil list of an Assize Court. Cases such as these are contested in much the same way as they are in the High Court, counsel and solicitors appear—the latter having a right of audience in the County Court—and all things are done in legal decency and order. The litigants very seldom desire a jury, having perhaps the idea that a common judge is as a good tribunal as a common jury, whereas a special judge wants a common jury to find out the

everyday facts of his case for him. I could never see why juries are divided into two classes, special and common, and judges are not. It is a fruitful idea for the legal reformer to follow out.

The practice in Manchester is to have special days for the bigger class of cases, and to try to give clear days for the smaller matters where most of the parties appear in person. The former are printed in red on the Court Calendar, and the latter in black, and locally the days are known as red-letter days and black-letter days. On a black-letter day counsel and solicitors indeed often appear—for it is a practical impossibility to sort out the cases into two exact classes—but the professions know that on a black-letter day they have no precedence, and very cheerfully acquiesce in the arrangement, since it is obvious that to the community at large it is at least as important that a working woman should be home in time to give her children their dinner as that a solicitor should return to his office or a barrister lunch at his club.

Let me try, then, to bring home to your mind what happens on a black-letter day.

We are early risers in Manchester, and the Court sits at ten. I used to get down to my Court about twenty minutes earlier, as on a black-letter day there are sure to be several letters from debtors who are unable to be at Court, and these are always addressed to me personally. Having disposed of the correspondence there is generally an “application in chambers” consisting of one or more widows whose compensation under the Workman’s Compensation Act remains in Court to be dealt with for their benefit. I am rather proud of the interest and industry the chief clerks of my Court have shown in the affairs of these poor women and children, and the general “liberty to apply” is largely made use of that I may discuss with the widows or the guardians of orphans plans for the maintenance and education of the children, and the best way to make the most of their money.

You would expect to find the Court buildings geographically in the centre of Manchester, but they are placed almost on the boundary. Turning out of Deansgate down Quay Street, which, as its name implies, leads towards the river Irwell, you come

across a street with an historic name, Byrom Street. The name recalls to us the worthy Manchester doctor and the days when even Manchester was on the fringe of a world of romance, and John Byrom made his clever epigram:

God bless the King, I mean the faith's defender,  
God bless—no harm in blessing—the Pretender.  
But who Pretender is, and who the King,  
God bless us all—that's quite another thing.

It is a far cry from Jacobites to judgment debtors, but it is a pleasant thought to know that one lives in an historic neighbourhood, even if the building you work in is not exactly fitted for the modern purpose for which it is used.

At the corner of Byrom Street and Quay Street is the Manchester County Court. It is an old brick building with some new brick additions. Some architect, we may suppose, designed it, therefore let it pass for a house. It was built, as far as I can make out, in the early part of last century, when the brick box with holes in it was the standard form of the better class domestic dwelling house. Still it is an historic building. In 1836 it was No. 21 Quay Street, the residence of Richard Cobden, calico printer, whose next door neighbour was a Miss Eleanora Byrom. Cobden sold it to Mr. Faulkner for the purposes of the Owens College, so it was the first home of the present Victoria University. It is now a County Court. *Facilis descensus*. It still contains several very fine mahogany doors that give it the air of a house that has seen better days.

You will see groups of women making their way down to the Court, many with a baby in one arm and a door key slung on the finger. The wife is the solicitor and the advocate of the working class household, and very cleverly she does her work as a rule. The group of substantial-looking men chatting in the street are debt-collecting agents and travelling drapers discussing the state of trade. These are the Plaintiffs and their representatives, the women are the Defendants. Here and there you will see a well-dressed lady, probably summoned to the Court by a servant or a dressmaker. There will always be a few miscellaneous cases, but the trivial round and common task of

the day is collecting the debts of small tradesmen from the working class.

I have no doubt that a County Court Judge gets an exaggerated view of the evils of the indiscriminate credit given to the poor. They seem to paddle all their lives ankle-deep in debt, and never get a chance of walking the clean parapet of solvency. But that is because one sees only the seamy side of the debt-collecting world, and knows nothing of the folk who pay without process. At the same time, that indiscriminate credit-giving as practised in Manchester is an evil, no one, I think, can doubt, and it seems strange that social reformers pay so little attention to the matter.

The whole thing turns, of course, upon imprisonment for debt. Without imprisonment for debt there would be little credit given, except to persons of good character, and good character would be an asset. As it is, however, our first business in the morning will be to hear a hundred judgment summonses in which creditors are seeking to imprison their debtors. There are some ten thousand judgment summonses in Manchester and Salford in a year, but they have to be personally served, and not nearly that number come for trial. We start with a hundred this morning, of which say sixty are served. It is well to sit punctually, and we will start on the stroke of ten.

A debt collector enters the Plaintiff's box, and, refreshing his memory from a note book, tells you what the Defendant's position is, where he works, and what he earns. The minute book before you tells you the amount of his debt, that he has been ordered to pay 2s. a month, and has not paid anything for six months. His wife now enters into all the troubles of her household, and makes the worst of them. One tries to sift the true from the false, the result being that one is generally convinced that the Defendant has had means to pay the 2s. a month, or whatever the amount may be, since the date when the order was made. The law demands that the debtor should be imprisoned for not having paid, but no one wants him to go to prison, so an order is made of seven or fourteen days, and it is suspended, and is not to issue if he pays the arrears and fees, say in three monthly instalments. The wife is satisfied that the

evil day is put off and goes away home, and the creditor generally gets his money. He may have to issue a warrant, but the Defendant generally manages to pay by hook or by crook, rather than go to Knutsford Gaol, where the debtors are imprisoned, and as a matter of fact only a few actually go to gaol. Of course, the money is often borrowed or paid by friends, which is another evil of the system. The matter is more difficult when, as often happens, the Defendants do not appear. It is extraordinary how few people can read and understand a comparatively simple legal notice or summons. Mistakes are constantly made. A collier once brought me an official schedule of his creditors, in which in the column for "description," where he should have entered "grocer," "butcher," etc., he had filled in the best literary description he could achieve of his different creditors, and one figured as "little lame man with sandy whiskers." There are of course many illiterates, and they have to call in the assistance of a "scholar." An amusing old gentleman came before me once, who was very much perturbed to know if, to use his own phrase, he was "entitled to pay this 'ere debt." The incident occurred at a time when the citizens of Manchester were being polled to vote on a "culvert scheme" of drainage, which excited much popular interest.

"I don't deny owing the debt," he said, "and I'll pay reet enow, what your Honour thinks reet, if I'm entitled to pay."

I suggested that if he owed the money he was clearly "entitled" to pay.

"Well," he continued, "I thowt as I should 'ave a summons first."

"But you must have had a summons," I said, "or how did you get here?"

"E towd me case wor on," he said, pointing to the Plaintiff, "so I coom."

I looked up matters and discovered that service of the summons was duly reported, and informed the Defendant, who seemed much relieved.

“You see,” he said, “I’m no scholard, and we got a paaper left at our ’ouse, and I took it up to Bill Thomas in our street, a mon as con read, an’ ’e looks at it, an’ says as ’ow may be it’s a coolvert paaper. ‘I’m not certain,’ ’e says, ‘but I think it’s a coolvert paaper.’ So I asks him what to do wi’ it, and he says, ‘Put a cross on it, and put it in a pillar box,’ and that wor done. But if you say it wor a summons, Bill must a bin wrong.”

One can gather something from this poor fellow’s difficulties of the trouble that a summons of any kind must cause in a domestic household, and one can only hope for the day when England will follow the example of other civilised countries and at least do away with the judgment summons and imprisonment for debt.

The hundred judgment summonses will have taken us until about eleven o’clock, and meanwhile in an adjoining Court the Registrar has been dealing with a list of about four hundred cases. The bulk of these are undefended, and the Registrar enters up judgment and makes orders against the Defendant to pay the debt by instalments at so much a month. A small percentage—say from five to ten per cent. of the cases—are sent across to the Judge’s Court for trial, and small knots of folk come into Court to take the seats vacated by the judgment debtors and wait for the trials to come on.

The trial of a County Court action on a black-letter day, where Plaintiff and Defendant appear in person, where neither understands law, evidence, or procedure, and where the main object of each party is to overwhelm his opponent by a reckless fire of irrelevant statements, is not easy to conduct with suavity and dignity. The chief object of a County Court Judge, as it seems to me—I speak from many years’ experience—should be to suffer fools gladly without betraying any suspicion that he considers himself wise. Ninety-nine per cent. of the cases are like recurring decimals. They have happened, and will happen again and again. The same defence is raised under the same circumstances. To the shallow-witted Defendant it is an inspiration of mendacity, to the Judge it is a commonplace and expected deceit. All prisoners in a Police Court who are found with stolen goods upon them tell you that they have bought them from a man whose name they do not

know. There is no copyright in such a defence, and it sounds satisfactory to each succeeding publisher of it. No doubt it is disappointing to find that the judge and jury have heard it before and are not disposed to believe it. In the same way in the County Court there are certain lines of defence that I feel sure students of folk-lore could tell us were put forward beneath the oak trees when the Druids sat in County Courts in prehistoric times. The serious difficulty lies in continuing to believe that a Defendant may arise who actually has a defence, and in discovering and rescuing a specimen of a properly defended action from a crowded museum of antique mendacities. Counter-claims, for instance, which of course are only filed in the bigger cases, are very largely imaginative. The betting against a valid counter-claim must be at least ten to one. It is, of course, in finding the one that there is scope for ingenuity. It is the necessity for constant alertness that makes the work interesting.

The women are the best advocates. Here, for instance, is a case in point.

A woman Plaintiff with a shawl over her head comes into the box, and an elderly collier, the Defendant, is opposite to her. The action is brought for nine shillings. I ask her to state her case.

“I lent yon mon’s missus my mon’s Sunday trousers to pay ’is rent, an’ I want ’em back.”

That seems to me, as a matter of pleading, as crisp and sound as can be. If the trousers had been worth five hundred pounds, a barrister would have printed several pages of statement of claim over them, but could not have stated his case better. My sympathies are with the lady. I know well the kindness of the poor to each other, and, won by the businesslike statement of the case, I turn round to the Defendant and ask him why the trousers are not returned and what his defence may be.

He smiles and shakes his head. He is a rough, stupid fellow, and something amuses him. I ask him to stop chuckling and tell me his defence.

“There’s nowt in it all,” is his answer.

I point out that this is vague and unsatisfactory, and that the words do not embody any defence to an action of detinue known to the law.

He is not disturbed. The lady gazes at him triumphantly. He is a slow man, and casually mentions “The ’ole street knows about them trousers.”

I point out to him that I have never lived in the street, and know nothing about it. He seems to disbelieve this and says with a chuckle, “Everyone knows about them trousers.”

I press him to tell me the story, but he can scarcely believe that I do not know all about it. At length he satisfies my curiosity.

“Why yon woman an’ my missus drank them trousers.”

The woman vociferates, desires to be struck dead and continues to live, but bit by bit the story is got at. Two ladies pawn the husband’s trousers, and quench an afternoon’s thirst with the proceeds. The owner of the Sunday trousers is told by his wife a story of destitution and want of rent, and the generous loan of garments. Every one in the street but the husband enjoys the joke. The indignant husband, believing in his wife, sues for the trousers and sends his wife to Court. The street comes down to see the fun, and when I decide for the Defendant there is an uprising of men, women, and babies, and the parties and their friends disappear while we call the next case. These are the little matters where it is easy to make a blunder, and where patience and attention and a knowledge of the ways and customs of the “’ole street” are worth much legal learning.

One must learn to sympathise with domestic frailties. I was rebuking a man, the other day, for backing up his wife in what was not only an absurd story, but one in which I could see he had no belief.

“You should really be more careful,” I said, “and I tell you candidly I don’t believe a word of your wife’s story.”

“You may do as yer like,” he said, mournfully, “but I’ve got to.”

The sigh of envy at the comparative freedom of my position as compared with his own was full of pathos.

A case of a workman who was being sued for lodging money gave me a new insight into the point of view of the clever but dissipated workman. His late landlady was suing for arrears run up when, as she said, he was “out of work.”

The phrase made him very angry.

“Look ’ere,” he said, “can that wumman kiss the book agen? She’s swearin’ false. I’ve never been out o’ wark i’ my life. Never.”

“Tummas,” says the old lady, in a soothingly irritating voice. “Think, Tummas.”

“Never been out o’ wark i’ my life,” he shouts.

“Oh, Tummas,” says the old lady, more in sorrow than in anger. “You remember Queen’s funeral. You were on the spree a whole fortnet.”

“Oh, ay!” says Thomas unabashed; “but you said out o’ wark. If you’re sayin’ on the spree I’m with yer, but I’ve never been out o’ wark i’ my life.”

It was a sad distinction for a clever working man to make, but a true one and to him an important one, and I rather fancy the nice old lady knew well what she was doing in her choice of phrase and hoped to score off Thomas by irritating him into an unseemly exhibition by the use of it.

A class of case that becomes very familiar arises out of the sale of a small business. A fried-fish shop is regarded by an enterprising widow who does not possess one as a mine of untold gold. She purchases one at a price above its value, fails from want of knowledge to conduct it successfully, and then brings an action for fraudulent misrepresentation against the seller. Of course, there are cases of fraud and misrepresentation; but, as a rule, there is nothing more than the natural optimistic statements of a seller followed by incompetence of the purchaser and the disgust of old

customers. In a case of this sort, in which up to a point it was difficult to know where the truth lay, owing to the vague nature of the evidence, a graphic butcher gave a convincing account of the reason of the failure of the new management. He had come down to the Court in the interests of justice, leaving the abattoir—or as he called it “habbitoyre”—on his busiest morning.

“Yer see,” he said, “I knew the old shop well. I was in the ’abit of takin’ in a crowd of my pals on Saturday neet. So when the old Missus gave it up, I promised to give it a try wi’ the new Missus. Well, I went in twice, an’ there wor no sort o’ choice at all. There worn’t no penny fish, what there wor, wor ’a-penny fish, and bad at that, an’ the chips wor putty.”

It was obvious that the Plaintiff had started on a career for which Nature did not intend her, and that the cause of the failure of the business was not the fraud of the Defendant, but the culinary incompetence of the Plaintiff.

It is amazing how, apart altogether from perjury, two witnesses will give entirely different accounts of the same matter. No doubt there is a great deal of reckless evidence given and some perjury committed, but a great deal of the contradictory swearing arises from “natural causes,” as it were. A man is very ready to take sides, and discusses the facts of a case with his friend until he remembers more than he ever saw. In “running down” cases, where the witnesses are often independent folk and give their own evidence their own way, widely different testimony is given about the same event. One curious circumstance I have noticed in “running down” cases is that a large percentage of witnesses give evidence against the vehicle coming towards them. That is to say, if a man is walking along, and a brougham is in front of him and going the same way as he is, and a cab coming in the opposite direction collides with the brougham, I should expect that man to give evidence against the cab. I suppose the reason of that is that to a man so situated the brougham appears stationary and the cab aggressively dangerous, but whatever the reason may be the fact is very noticeable.

On the whole the uneducated man in the street is a better witness of outdoor facts than the clerk or warehouseman. The outdoor workers have, I fancy, a more retentive memory for things seen, and are more observant than the indoor workers. They do not want to refresh their memory with notes.

A story is told of a blacksmith who came to the farriery classes held by the Manchester Education authorities. The clerk in charge gave him a notebook and a pencil.

“Wot’s this ’ere for?” asks the blacksmith.

“To take notes,” replied the clerk.

“Notes? Wot sort o’ notes?”

“Why, anything that the lecturer says which you think important and want to remember, you make a note of it,” said the clerk.

“Oh,” was the scornful reply, “anything I want to remember I must make a note of in this ’ere book, must I? Then wot do you think my blooming yed’s for?”

It is the use and exercise of the “blooming yed” that makes the Lancashire workman the strong character he is. May it be long before the mother wit inside it is dulled by the undue use of the scholastic notebook.

Witnesses are often discursive, and the greatest ingenuity is devoted to keeping them to the point without breaking the thread of their discourse. Only long practice and a certain instinct which comes from having undergone many weary hours of listening can give you the knack of getting the pith and marrow of a witness’s story without the domestic and genealogical details with which he—and especially she—desires to garnish it.

I remember soon after I took my seat on the bench having an amusing dialogue with a collier. He had been sued for twelve shillings for three weeks’ rent. One week he admitted, and the week in lieu of notice, which leads to more friction between landlord and tenant than any other incident in their contract, was duly wrangled over and decided upon. Then came the third week, and the collier proudly handed in four

years' rent books to show nothing else was owing. The landlord's agent pointed out that two years back a week's rent was missing, and sure enough in the rent book was the usual cross instead of a four, showing that no rent had been paid for that week.

"How did that week come to be missed?" I asked the collier.

"I'll never pay that week," he said, shaking his head stubbornly. "Not laikely."

"But," I said, "I'm afraid you'll have to. You see you admit it's owing."

"Well, I'll just tell yer 'ow it was. You see we wor 'aving rabbit for supper, an' my wife——"

He looked as if he was settling down for a long yarn, so I interposed: "Never mind about the rabbit, tell me about the rent."

"I'm telling yer. Yer see we wor 'aving rabbit for supper, an' my wife 'ad got a noo kettle, an' we don't 'ave rabbit every ——"

"Oh, come, come," I said impatiently, "just tell me about the rent."

He looked at me rather contemptuously, and began again at the very beginning.

"I'm telling yer, if yer'll only listen. We wor 'aving rabbit for supper, an' my wife 'ad got a noo kettle, an' we don't 'ave rabbit every neet for supper, an' my wife 'ad just put the kettle, the noo kettle——"

"Oh, never mind about the kettle, do please get to the rent," I said, and was immediately sorry I had spoken.

"I'm getting to it, ain't I?" he asked, rather angrily. "We wor 'aving rabbit for supper"—I groaned inwardly and resolved to sit it out without another word—"an' my wife 'ad got a noo kettle, an' we don't 'ave rabbit every neet for supper, an' my wife 'ad just put the kettle—the noo kettle with the rabbit—on to th' fire, when down coom chimley an' aw into middle o' room. Was I going to pay rent for that week? Not laikely!"

It turned out that I was wholly in the wrong, and that the destruction of the rabbit was a kind of equitable plea in defence to the action for rent. When I am tempted now to burst in too soon upon an irrelevant story, I think of the rabbit and am patient. Of course all rabbit stories are not even equitable defences, but the diagnosis of what is purely domestic and dilatory and of what is apparently anecdotal but in reality relevant gives a distinct charm to one's daily work.

One day of my life every month is given up to the trial of Yiddish cases. The Yiddisher is a litigious person, and his best friend would not describe him as a very accurate witness. One ought to remember, however, that he has not had generations of justice administered to him, that he is a child and beginner in a court of law, and that the idea of a judge listening to his story and deciding for him upon the evidence is, in some cases from personal experience and in all cases from hereditary instinct, an utterly unfamiliar thing. The fact, too, that he speaks Yiddish, or very broken English, and never answers a question except by asking another, always gives his evidence an indirect flavour. One strong point about a Yiddisher is his family affection, and he swears in tribes, so to speak. A Christian in a family dispute will too often swear anything against his brother, and is often wickedly reckless in his sworn aspersions. A Yiddisher, on the other hand, will swear anything for his brother, and most Yiddish evidence could be discounted by an accurate percentage according to the exact relationship by blood or marriage of the witness to the Plaintiff or Defendant.

It is needless to say a foreign-speaking race such as this gives one some anxiety and trouble in a small-debt court. One of my earliest Yiddish experiences was a case in which two Yiddishers each brought his own interpreter. A small scrap of paper cropped up in the case with some Hebrew writing on it. One interpreter swore it was a receipt, the other that it was an order for a new pair of boots. Without knowing anything of Hebrew, it occurred to me that these divergent readings were improbable. The case was adjourned. I applied to some of my friends on that excellent body, the Jewish Board of Guardians, a respectable interpreter was obtained, and the Hebrew

document properly translated. There is now an official interpreter attached to the Manchester Court, and I think I can safely congratulate the Yiddish community on a distinct improvement in their education in the proper use of English law courts.

That some of them have the very vaguest notions of the principles on which we administer justice may be seen from the following story which happened some years ago. A little flashy Yiddish jeweller who spoke very bad English, had taken out a judgment summons against an old man who appeared broken down in health and pocket. I asked the little man for evidence of means which would justify me in committing the debtor to prison.

“Vell,” he says, “I vill tell you. He ish in a very larsh vay of pizness indeed. He has zree daughters vorking for him and several hands as vell, and zare is a great deal of monish coming into ze house.”

The old man told a sad story of ill-health, loss of business, and said that his daughters had to keep him. It turned out that there was a Yiddish gentleman in Court, Mr. X., who knew him, and Mr. X. corroborated the defendant’s story in every particular. He had had a good business, but was now being kept by his daughters, having broken down in health.

I turned to the little jeweller and said: “You have made a mistake here.”

“It ish no mishtake at all,” he cried excitedly. “Mr. X. ish a very bad man. He and the Defendant are both cap makers, and are vot you call in English a long firm.”

This was too much for Mr. X.—a most respectable tradesman—and he called out: “My Lorts, may I speak?” Without waiting for leave, he continued very solemnly: “My Lorts, I have sworn by Jehovah that every vord I say ish true, but I vill go funder than that. I vill put down ten pounds in cash, and it may be taken away from me if vot I say ish not true.”

The offer was made with such fervour and sincerity that I thought it best to enter into the spirit of the thing.

Turning to the little man, I asked: “Are you ready to put down ten pounds that what you say is true?”

He looked blank and lost, and, shaking his head, murmured sadly, “No, it ish too motch.”

I pointed out to him how his attitude about the ten pounds went to confirm the evidence for the Defendant, and seeing his case slipping away from under his feet, he cried out, as if catching at the last straw, “My Lorts thish ish not mine own case, thish ish mine farder’s case, and I vill put down ten pounds of mine farder’s monish that vot I say ish true.”

The offer was not accepted, and the Defendant was not committed. But the story throws light on the rudimentary ideas that some Yiddishers have of the administration of justice.

And now we have finished the list of cases, but there are a few stragglers left in Court. Some of them have been in the wrong Court, or come on the wrong day; some have applications to make, or advice to ask. I always make a point now of finding out what these folk want before leaving the bench. I remember in my early days a man coming before me the first thing one morning, and saying he had sat in my Court until the end of yesterday’s proceedings.

“Why didn’t you come up at the end of the day,” I asked, “and make your application then?”

“I was coming,” he replied, “but at the end of last case you was off your chair an’ bolted through yon door like a rabbit.” I think his description was exaggerated, but I rise in a more leisurely way nowadays, though I am still glad when the day’s work is over.

I do not know that what I have written will convey any clear idea of the day of my life that I have been asked to portray. I know it is in many respects a very dull grey life, but it has its brighter moments in the possibilities of usefulness to others. I am not at all sure that the black-letter jurisdiction of a big urban County Court ought not to be worked by a parish priest rather than by a lawyer. I know that it wants a patience, a sympathy, and a belief in the goodness of human nature that we find in those rare characters who give up the good things in

this world for the sake of working for others. I am very conscious of my own imperfections; but I was once greatly encouraged by a criticism passed upon me which I accidentally overheard, and which I am conceited enough to repeat. I was going away from the Court, and passed two men walking slowly away. I had decided against them, and they were discussing why I had done so.

“Well, ’ow on earth ’e could do it I don’t see, do you, Bill?”

“’E’s a fool.”

“Yes, ’e’s a fool, a —— fool, but ’e did ’is best.”

“Ay. I think ’e did ’is best.”

After all, coming from such source or indeed from any source, the suggestion contained in the conversation was very gratifying. I have often thought that one might rest beneath an unkindier epitaph than this:

HE WAS  
A —— FOOL,  
BUT  
HE DID HIS BEST.

## DOROTHY OSBORNE.

*Iachimo.* Here are letters for you.

*Posthumus.* Their tenor good, I trust.

*Iachimo.* 'Tis very like.

*Cymbeline* ii. 4.

They had set (it is years ago now) the Period of the Restoration as subject for the Historical Essay Prize at Oxbridge. I had been advised to read Courtenay's *Life of Sir William Temple*. It would give me an insight into the times, and a thorough knowledge of the Triple Alliance.

It was in my uncle's library that I found the book—two octavo volumes of memoirs bound in plain green cloth, with mouldy yellow backs. I remember it well, and the circumstances surrounding it.

I threw open the windows, piled all the red cushions into one window seat, placed a chair for my feet, and took up the volumes. I cast my eyes over the contents of Vol. I.: a portrait of Temple—a handsome fellow—engraved by one Dean, after Sir Peter; a genealogical table. Ugh! And twenty chapters of negotiations to follow. My uncle was right, it was undoubtedly a dull book.

The second volume looked more interesting; there was something in it about Swift. Memory asserting herself, I remembered Temple to be Swift's first patron, and Stella, I fancy, was Lady Temple's maid. Happy Stella! At that moment a piece of paper fluttered out of the volume in my hand on to the floor, driving the Dean and his affairs out of my head. I picked it up. An old paper, brown at its edges and foldings, singed by time. On it were some verses—a sonnet. It ran thus:

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“TO DOROTHY OSBORNE,

“Why has no laureate, in golden song,  
Wreathed rhythmic honours for her name alone,  
Who worships now anear a purer throne?  
And chosen, from that lovely, loyal throng  
Of wantons ambling devilward along  
At beck of God’s Anointed, one to praise,  
Of brightest wit, yet pure through works and days,  
Constant in love, in every virtue strong.  
Dorothy, gift of God, it was not meant,  
That thy bright light should shine upon the few,  
Within the straitened circle of thy life;  
Failing to reach mankind and represent  
His own ideal, manifest in you,  
Of holy woman and the perfect wife.”

I was a sonneteer myself, and therefore critical. This effort (was it my uncle’s?) did not seem to me of portentous genius. I hate your sonneteer who has more than two rhymes in his octett. It proves him a coward at the measure, one who is burdened by those shackles in which he should move as skilfully and lightly as a clever dancer bound to the knees on stilts. Those two subdominant rhymes were misplaced; so was the sudden stop in the sixth line, the violent *cæsura* in the sense, sending a cold shiver through the cultured mind. I did not admire the sestett either in its arrangement, but much liberty has always been allowed in the management of the sestett. For an amateur sonnet, I had read, nay, I will be just, I had written worse.

But whom does this sonnet describe? Dorothy Osborne, who is she? Lady Temple, answers Courtenay, and says little more. But she has written her own life, and painted her own character, as none else could have done it for her, in letters written to her husband before marriage. When I had read these, I pitied the unknown, and forbore to criticise his sonnet. I, too, could have written sonnets, roundels, ballads by the score to celebrate her praise. But I remembered Pope’s chill warning about those who “rush in where angels fear to tread,” and, full of humility I did not apply it to my friend the sonneteer, but—to myself.

These letters of Dorothy Osborne were, at one time, lying at Coddendam Vicarage, Suffolk. Forty-two of them has Courtenay transferred to an appendix, without arrangement or any form of editing, as he candidly confesses, but not without misgivings as to how they will be received by a people thirsting to read the details of the negotiations which took place in connection with the Triple Alliance. Poor Courtenay! Did he live to learn that the world had other things to do than pore over dull excerpts from inhuman state papers? For the lighting of fires, for the rag-bag, or, if of stout paper or parchment, for the due covering of preserves and pickles, much of these Temple correspondences and treaties would be eminently fitted, but for the making of books they are all but useless; book-making of such material is not to be achieved by Courtenay, nay, nor by the cunningest publisher's devil in Grub Street. Here, beneath poor blind Courtenay's eye, were papers and negotiations, not about a triple alliance between states, but concerning a dual alliance between souls. Here, even for the dull historian, were chat, gossip, the witty portrayal of neighbours, the customs, manners, thoughts, the very life itself, of English human beings of that time, set out by the living pen of Dorothy Osborne. Surely it was within his power at least to edit carefully for us those letters? Alas, no! All that he can do is to produce a book in two unreadable octavo volumes, and to set down in an appendix, not without misgivings but forty-two of these charming letters.

But I will dare to put it to the touch to gain or lose it all. I cannot, I know, make her glorious by *my* pen, but I can let her own pen have free play, and try to draw from her letters, and what other data there are at hand, some living presentment of a beautiful woman, pure in dissolute days, passing a quiet domestic existence among her own family; a loyalist, leading, in Cromwell's days, a home-life of which those who draw their history from the pleasant pages of Sir Walter's historical novels can have little idea. To confirmed novel readers it will be, I think, an awakening to learn that there was ever cessation of the "clashing of rapiers" and "heavy tramp of cavalry" in the middle of the seventeenth century.

Dorothy Osborne, born in 1627, was the daughter of Sir Peter Osborne, Lord Treasurer's Remembrancer (an inherited office) and Governor of Guernsey in the days of James I. and Charles his son. She was the only daughter now (1650) unmarried, and had been named after her mother, Dorothy, without further addition. Much more could be collected of this sort from the lumber in Baronetages and Herald's manuals; but to what purpose? William Temple was born in 1628.

It was in 1648, when the King was imprisoned at Carisbrook, in Colonel Hammond's charge, that Dorothy first met her constant lover. They met in the Isle of Wight. She and her brother were on their way to St. Malo. Temple was starting on his travels. A little incident, almost a Waverley incident, took place here, worth reciting, perhaps. The Osbornes and Temple were loyalists. Young Osborne, more loyal than intelligent, remained behind at an inn where they had halted, that he might write on a window pane with a diamond "And Haman was hanged upon the gallows he had prepared for Mordecai." This attack on Colonel Hammond, and the audacity of a cavalier daring to apply the Scriptures after the Puritanical method, caused the whole party to be arrested by the Roundheads, and a very pretty adventure was spoilt by the ready wit of our Dorothy taking the offence upon herself, when, through the gallantry of the Roundhead officer, the whole party was suffered to depart. "This incident," says Courtenay, on good authority, "was not lost upon Temple." Indeed, I think with Courtenay; but would add that much else besides was not lost upon him. Travelling with her and her brother, staying with her at St. Malo, is it to be wondered that Temple was attracted by the bright wit, clear faith and honesty of Dorothy; or that the brilliant parts and seriousness of Temple—a great contrast to many of the bibulous, rowdy cavaliers whom she must have met with—made her find in him one worthy of her friendship and her love? That Temple at this time openly declared his love I doubt. Love grew between them unknown to either. Years afterwards Dorothy writes:—

"For God's sake, when we meet let us design one day to remember old stories in, to ask one another by what degrees our friendship grew to this height 'tis at. In earnest I am at a

loss sometimes in thinking on't; and though I can never repent of the share you have in my heart, I know not whether I gave it you willingly or not at first. No; to speak ingenuously, I think you got an interest there a good while before I thought you had any, and it grew so insensibly, and yet so fast, that all the traverses it has met with since, have served rather to discover it to me than at all to hinder it."

The further circumstances necessary to the understanding of Dorothy's letters, are shortly, these: Dorothy lived at Chicksands Priory, where her father was in ill-health, and there she received suitors at her parent's commands. The Osbornes, it seemed, disliked Temple, and objected to him on the score of want of means; whilst Temple's father had planned for his son an advantageous match in another quarter. Alas! for the frowardness of young couples! They held their course, and waited successfully.

Hardly can we do better than you may picture Dorothy and her mode of life clearly to yourself, than copy this important letter for you at length:

"You ask me how I pass my time here. I can give you a perfect account, not only of what I do for the present, but of what I am likely to do this seven years if I stay here so long. I rise in the morning reasonably early, and before I am ready I go round the house till I am weary of that, and then in the garden till it grows too hot for me. About ten o'clock I think of making me ready; and when that's done I go into my father's chamber; from thence to dinner, where my cousin Molle and I sit in great state in a room and at a table that would hold a great many more. After dinner we sit and talk till Mr. B. comes in question, and then I am gone. The heat of the day is spent in reading or working, and about six or seven o'clock I walk out into a common that lies hard by the house, where a great many young wenches keep sheep and cows, and sit in the shade singing of ballads; I go to them, and compare their voices and beauty to some ancient shepherdesses that I have read of, and find a vast difference there; but, trust me, I think these are as innocent as those could be. I talk to them, and find *they want nothing to make them the happiest people in the world but the knowledge that they are so*. Most commonly, while we are in

the middle of our discourse, one looks about her, and spies her cows going into the corn, and then away they all run as if they had wings at their heels. I, that am not so nimble, stay behind, and when I see them driving home their cattle I think 'tis time for me to retire too. When I have supped I go into the garden, and so to the side of a small river that runs by it, where I sit down and wish you with me (you had best say this is not kind, neither). In earnest, 'tis a pleasant place, and would be more so to me if I had your company. I sit there sometimes till I am lost with thinking; and were it not for some cruel thought of the crossness of our fortune, that will not let me sleep there, I should forget there were such a thing to be done as going to bed."

Truly a quiet country life, in a quiet country house; poor lonely Dorothy!

Chicksands Priory, Bedfordshire, is a low-built sacro-secular edifice, well fitted for its former service. Its priestly denizens were turned out in Henry VIII's monk-hunting reign (1538). To the joy or sorrow of the neighbourhood: who knows now? Granted then to one, Richard Snow, of whom the records are silent; by him sold, in Elizabeth's reign, to Sir John Osborne, Knt. (Dorothy's brother was first baronet); thus it becomes the ancestral home of our Dorothy. There is a crisp etching of the house in Fisher's Collections of Bedfordshire. The very exterior of it is Catholic, unpuritanical, no methodism about the square windows set here and there, at undecided intervals, wheresoever they may be wanted. Six attic windows jut out from the low-tiled roof. At the corner of the house a high pinnacled buttress rising the full height of the wall; five buttresses flank the side wall, built so that they shade the lower windows from the morning sun, in one place reaching to the sill of an upper window. Perhaps Mrs. Dorothy's window; how tempting to scale and see. What a spot for the happier realisation of Romeo and Juliet, or of Sigismonde and Guichard, if this were romance. In one end of the wall are two Gothic windows, claustral remnants, lighting now, perhaps, the dining-hall, where cousin Molle and Dorothy sat in state; or the saloon, where the latter received her servants. There are old cloisters attached to the house; at

the other side of it may be. Yes! a sleepy country house, the warm earth and her shrubs creeping close up to the very sills of the lower windows, sending in morning fragrance, I doubt not, when Dorothy thrust back the lattice after breakfast. A quiet place, “slow” is the accurate modern epithet for it, “awfully slow.” But to Dorothy, a quite suitable home at which she never repines.

This etching of Thomas Fisher, of December 26th, 1816, is a godsend to me, hearing as I do that Chicksands Priory no longer remains to us, having suffered martyrdom at the bloody hands of the restorer. For through this, partly, we have attained to a knowledge of Dorothy’s surroundings, and may now safely let Dorothy herself tell us of the servants visiting her at Chicksands during those long seven years through which she remains constant to Temple. See what she expects in a lover! Have we not here some local squires hit off to the life? Could George Eliot have done more for us in like space?

“There are a great many ingredients must go to the making me happy in a husband. First, as my Cousin Franklin says our humours must agree, and to do that he must have that kind of breeding that I have had, and used that kind of company. That is, he must not be so much a country gentleman as to understand nothing but hawks and dogs, and be fonder of either than of his wife; nor of the next sort of them, whose aim reaches no farther than to be Justice of Peace, and once in his life High Sheriff, who reads no books but statutes, and studies nothing but how to make a speech interlarded with Latin, that may amaze his disagreeing poor neighbours, and fright them rather than persuade them into quietness. He must not be a thing that began the world in a free school, was sent from thence to the university, and is at his furthest when he reaches the Inns of Court, has no acquaintance but those of his form in those places, speaks the French he has picked out of old laws, and admires nothing but the stories he has heard of the revels that were kept there before his time. He must not be a town gallant neither, that lives in a tavern and an ordinary, that cannot imagine how an hour should be spent without company unless it be in sleeping, that makes court to all the women he sees, thinks they believe him, and laughs and is laughed at

equally. Nor a travelled Monsieur, whose head is feather inside and outside, that can talk of nothing but of dances and duels, and has courage enough to wear slashes, when everybody else dies with cold to see him. He must not be a fool of no sort, nor peevish, nor ill-natured, nor proud, nor courteous; and to all this must be added, that he must love me, and I him, as much as we are capable of loving. Without all this his fortune, though never so great, would not satisfy me; and with it a very moderate one would keep me from ever repenting my disposal.”

These negative needs doubtless excluded many of the neighbours who were ready to throw themselves at her feet. But, from far and near, came many suitors, Cromwell’s son, Henry, among others; who will be “as acceptable to her,” she thinks, “as anybody else.” He seems almost worthy of her, if we believe most accounts of him, and allow for the Presbyterian animosity of good Mrs. Hutchinson. However, Henry Cromwell disappears from the scene, marrying elsewhere; whereby English history is possibly considerably modified. Temple is ordered to get her a dog, an Irish greyhound. “Henry Cromwell undertook to write to his brother Fleetwood, for another for me; but I have lost my hopes there; whomsoever it is that you employ, he will need no other instruction, but to get the biggest he can meet with. ’Tis all the beauty of those dogs, or of any, indeed, I think. A mastiff is handsomer to me than the most exact little dog that ever lady played withal.” Temple, no doubt, procured the biggest dog in Ireland, not the less joyfully that “she has lost her hopes of Henry Cromwell.”

There is another lover worthy of special mention—a widower—Sir Justinian Isham, of Lamport, Northamptonshire, pragmatism enough in his love suit, causing Mrs. Dorothy much amusement. She writes of him to Temple under the nickname “The Emperor.” This is the character she gives him: “He was the vainest, impertinent, self-conceited, learned coxcomb that ever yet I saw.” Hard words these!

The Emperor, it appears, caused further disagreement between Dorothy and her brother. Like the kettle in the *Cricket on the Hearth*, the Emperor began it. “The Emperor and his

proposals began it; I talked merrily on't till I saw my brother put on his sober face, and could hardly then believe he was in earnest. It seems he was; for when I had spoke freely my meaning, it wrought so with him, as to fetch up all that lay upon his stomach. All the people that I had ever in my life refused were brought again upon the stage, like Richard the III's ghosts to reproach me withal, and all the kindness his discoveries could make I had for you was laid to my charge. My best qualities, if I have any that are good, served but for aggravations of my fault, and I was allowed to have wit, and understanding, and discretions, in all other things, that it might appear I had none in this. Well, 'twas a pretty lecture, and I grew warm with it after a while. In short, we came so near to an absolute falling out that 'twas time to give over, and we said so much then that we have hardly spoken a word together since. But 'tis wonderful to see what curtseys and legs pass between us, and as before we were thought the kindest brother and sister, we are certainly now the most complimentary couple in England. 'Tis a strange change, and I am very sorry for it, but I'll swear I know not how to help it."

It is doubtless unpleasant to be pestered by an unwelcome suitor; however Dorothy has this compensation, that the Emperor's proposals and letters give her mighty amusement.

"In my opinion, these great scholars are not the best writers (of letters I mean, of books perhaps they are); I never had, I think, but one letter from Sir Jus, but 'twas worth twenty of anybody's else to make me sport. It was the most sublime nonsense that in my life I ever read, and yet I believe he descended as low as he could to come near my weak understanding. 'Twill be no compliment after this to say I like your letters in themselves, not as they come from one that is not indifferent to me, but seriously I do. All letters, methinks, should be free and easy as one's discourse; not studied as an oration, nor made up of hard words like a charm. 'Tis an admirable thing to see how some people will labour to find out terms that may obscure a plain sense, like a gentleman I know, who would never say 'the weather grew cold,' but that 'winter began to salute us.' I have no patience at such coxcombs, and cannot blame an old uncle of mine that threw the standish at

his man's head, because he writ a letter for him, where, instead of saying (as his master bid him) 'that he would have writ himself but that he had gout in his hand,' he said, 'that the gout in his hand would not permit him to put pen to paper.'"

The Emperor, it seems, this much to his credit, is much enamoured of Mrs. Dorothy; and does not take a refusal quietly. Or is she playing the coquette with him?

"Would you think it, that I have an ambassador from the Emperor Justinian, that comes to renew the treaty? In earnest 'tis true, and I want your counsel extremely what to do in it. You told me once that of all my servants you liked him the best. If I could so too, there were no dispute in't. Well, I'll think on't, and if it succeed I will be as good as my word: you shall take your choice of my four daughters. Am not I beholding to him, think you? He says he has made addresses, 'tis true, in several places since we parted, but could not fix anywhere, and in his opinion he sees nobody that would make so fit a wife for himself as I. He has often inquired after me to know if I were not marrying: and somebody told him I had an ague, and he presently fell sick of one too, so natural a sympathy there is between us, and yet for all this, on my conscience we shall never marry. He desires to know whether I am at liberty or not. What shall I tell him, or shall I send him to you to know? I think that will be best. I'll say that you are much my friend, and that I am resolved not to dispose of myself but with your consent and approbation; and therefore he must make all his court to you, and when he can bring me a certificate under your hand that you think him a fit husband for me, 'tis very likely I may have him; till then I am his humble servant, and your faithful friend."

But, at length Sir Justinian marries some other fair neighbour, and vanishes from these pages; leaving, however, other lovers in the field seeking Dorothy's hand. "I have a squire now," she writes, "that is as good as a knight. He was coming as fast as a coach and six horses could bring him, but I desired him to stay till my ague was gone, and give me a little time to recover my good looks, for I protest if he saw me now he would never desire to see me again. Oh, me! I cannot think how I shall sit like the lady of the lobster, and give audience at

Babram; you have been there, I am sure, nobody at Cambridge 'scapes it, but you were never so welcome thither as you shall be when I am mistress of it." Also there comes to woo her "a modest, melancholy, reserved man, whose head is so taken up with little philosophical studies, that I admire how I found a room there." A new servant is offered to her: "who had £2000 a year in present, with £2000 more to come. I had not the curiosity to ask who he was, which they took so ill that I think I shall hear no more of it." Thus in one way or another, she gets rid of them all. But they are very importunate, these "servants," as they style themselves, requiring wit and determination to send them about their business. Dorothy is determined to marry where she loves. "Surely," she says, "the whole world could never persuade me (unless a parent commanded it) to marry one that I had no esteem for." It is doubtful if a parent's command would suffice, did Dorothy come face to face with such.

Here is a sharp refusal dramatically given to one importunate servant, Mr. James Fish by name (fancy Dorothy Osborne as Mrs. Fish), who would fain have become master. "I cannot forbear telling you the other day he made me a visit; and I, to prevent his making discourses to me, made Mrs. Goldsmith and Jane sit by all the while. But he came better provided than I could have imagined. He brought a letter with him, and gave it me as one that he had met with, directed to me; he thought it came out of Northamptonshire. I was upon my guard, and suspecting all he said, examined him so strictly where he had it, before I would open it, that he was hugely confounded, and I confirmed that 'twas his. I laid it by, and wished then that they would have left us, that I might have taken notice on't to him. But I had forbid it them so strictly before, that they offered not to stir further than to look out of window, as not thinking there was any necessity of giving us their eyes as well as their ears; but he, that thought himself discovered, took that time to confess to me (in a whispering voice that I could hardly hear myself), that the letter (as my Lord Broghill says) was of great concern to him, and begged I would read it, and give him my answer. I took it up presently, as if I had meant it, but threw it sealed as it was into the fire, and told him (as softly as he had spoke to me) I thought that

the quickest and best way of answering it. He sat awhile in great disorder without speaking a word, and so rose and took his leave. Now what think you; shall I ever hear of him more?" We think not, decidedly. He, like the others, recovers, doubtless to marry elsewhere.

But Temple's father, Dorothy's brother, and her solicitous servants, are not the only obstacles these lovers meet with. There are long separations at great distances when the lovers can hear but little of each other. Few meetings, and these at long intervals, break the monotony of Dorothy's life of love.

'Tis not the loss of love's assurance,  
It is not doubting what thou art,  
But 'tis the too, too long endurance  
Of absence, that afflicts my heart.

Thus would Dorothy have written, perhaps, had she rhymed her thoughts in these days.

Now and again, indeed, Mrs. Dorothy is in London, "engaged to play and sup at the Three Kings," or at Spring Gardens, Foxhall; enjoying for the time, as gay a life as is possible, in these Puritan days. But this is not the life for our Dorothy. "We go abroad all day," she writes, "and play all night, and say our prayers when we have time. Well, in sober earnest, now, I would not live thus a twelvemonth, *to gain all that the king has lost, unless it was to give it him again.*" No! Dorothy's life is at Chicksands tending her father, writing to her lover, reading romances sent to her by him, and crying real tears over the miseries of their poor pasteboard heroines. In those days Fielding was not, and the glories of fiction were unknown and quite unconceivable. Mr. Cowley's verses reach her (in MS. Courtenay thinks), and occasional news of political matters. Here, set down in this dull priory house, she lives a calm domestic life without repining, without sympathy in her troubles. Is not this difficult; impossible to most, and worthy of a heroine? But, though her life is at Chicksands, her heart is far away with Temple; though her eyes are brimming with tears for the sorrows of Almanzar, it is because they mirror her troubles in their own weak fashion; and, whilst her soul is longing to commune with her lover, is it marvellous

that by some mesmeric culture, she, quite untrained in literary skill, so portrays her thoughts that not only were they clearly uttered for Temple, but remain to us, clothed in the power of clear intention, honesty of expression, and kindly wit?

Perhaps, in these seven long apprentice years to matrimony, Dorothy had no trouble causing her more real anguish than her fears concerning Temple's religious belief. Gossiping Bishop Burnet, in one of his more ill-natured passages, tells us that Temple was an Epicurean, thinking religion to be fit only for the mob; and a corrupter of all that came near him. Unkind words these, with just perhaps those dregs of truth in them, which make gossip so hard to bear patiently. Temple, I take it, was too intelligent not to see the hollow, noisy, drum nature of much of the religion around him; preferred also, as young men will do, to air speculative opinions rather than consider them; hence the bishop's censure. Was it true, as Courtenay thinks, that jealousy of King William's attachment to Temple, disturbed the episcopal equipoise of soul, rendering his Lordship slanderous, even a backbiter? To us, brother servants of Dorothy, this matters not. Sufficient pity is it, that Dorothy is forced to write to her lover in such words as these: "I tremble at the desperate things you say in your letter: for the love of God, consider seriously with yourself what can enter into comparison with the safety of your soul? Are a thousand women or ten thousand worlds worth it? No, you cannot have so little reason left as you pretend, nor so little religion; for God's sake let us not neglect what can only make us happy for a trifle. If God had seen it fit to have satisfied our desires, we should have had them, and everything would not have conspired thus to cross them; since He has decreed it otherwise (at least as far as we are able to judge by events) we must submit, and not by striving make an innocent passion a sin, and show a childish stubbornness. I could say a thousand things more to this purpose if I were not in haste to send this away, that it may come to you at least as soon as the other.

Adieu."

Thus, you see, Dorothy is not without her fears; but, though she can write thus to her lover, yet, when he is attacked by her brother, she is ready to defend him; having at heart that real

faith in his righteousness, without which there could be no love. "All this," she writes in another letter, "I can say to you; but when my brother disputes it with me, I have other arguments for him, and I drove him up so close t'other night, that for want of a better gap to get out at, he was fain to say that he feared as much your having a fortune as your having none, for he saw you held my Lord S.'s principles; that religion and honour were things you did not consider at all; and that he was confident you would take any engagement, serve in any employment, or do anything to advance yourself. I had no patience for this: to say you were a beggar, your father not worth £4,000 in the whole world, was nothing in comparison of having no religion, nor no honour. I forgot all my disguise, and we talked ourselves weary; he renounced me again, and I defied him."

There is no religious twaddle in Dorothy's letters; her religion grew from within herself, and was not the distorted reflection of Scriptural beliefs coloured by modern sympathies and antipathies. She does not satisfy her tendency towards righteousness by the mock humility of constant self-abasement, or by the juggling misapplication of texts of Scripture. Indeed, the depth of her faith and belief is not to be seen on the surface of these letters—hardly, indeed, to be understood at all, I think, except from the charitable tendency of her thoughts, her deep silences and self-restraint. Dorothy, it appears, sees with her clear smiling eyes quite through the loudly-expressed longings for the next world, which had helped to put some prominent men of the time in high places in this. "We complain," she writes, "of this world and the variety of crosses and afflictions it abounds in and yet for all this who is weary on't (more than in discourse), who thinks with pleasure of leaving it or preparing for the next? We see old folks that have outlived all the comforts of life desire to continue it and nothing can wean us from the folly of preferring a mortal being, subject to great infirmity and unavoidable decays, before an immortal one, and all the glories that are promised with it. Is this not very like preaching? Well, 'tis too good for you—you shall have no more on't. I am afraid you are not mortified enough for such discourses to work upon, though I am not of my brother's

opinion neither, that you have no religion in you. In earnest, I never took anything he ever said half so ill, as nothing is so great an injury. It must suppose one to be the devil in human shape.”

Seven long years! Which of you, my readers, has waited this time without a murmur and without a doubt? Was not this an acting of faith far higher than any letter writing of it? Let us think so, and honour it as such. Here is a letter, written when doubt almost overwhelmed, when the *spleen* (a disease as common now as then, though we have lost the good name for it) was upon her, when the world looked blank, and life a drifting mist of despair.

“Let me tell you that if I could help it I would not love you, and that as long as I live I shall strive against it, as against that which has been my ruin, and was certainly sent me as a punishment for my sins. But I shall always have a sense of your misfortunes equal if not above my own; I shall pray that you may obtain quiet I never hope for but in my grave, and I shall never change my condition but with my life. Yet let not this give you a hope. Nothing can ever persuade me to enter the world again; I shall in a short time have disengaged myself of all my little affairs in it and settled myself in a condition to apprehend nothing but too long a life, and therefore I wish you to forget me, and to induce you to it let me tell you freely that I deserve you should. If I remember anybody ’tis against my will; I am possessed with that strange insensibility that my nearest relations have no tie upon me, and I find myself no more concerned in those that I have heretofore had great tenderness of affection for, than if they had died long before I was born; leave me to this, and seek a better fortune: I beg it of you as heartily as I forgive you all those strange thoughts you have had of me; think me so still if that will do anything towards it, for God’s sake so, take any course that may make you happy, or if that cannot be, less unfortunate at least than

Your friend and humble servant,

D. OSBORNE.”

Such letters are, happily, not numerous. Here is another, of a quite different nature, in which you can read the practical

English sense of our Dorothy, and her thoughts about love in a cottage:—

“I have not lived thus long in the world, and in this age of changes, but certainly I know what an estate is; I have seen my father’s reduced better than £4,000 to not £400 a year, and I thank God I never felt the change in anything that I thought necessary. I never wanted, and am confident I never shall. But yet I would not be thought so inconsiderate a person as not to remember that it is expected from all people that have sense that they should act with reason; that to all persons some proportion of fortune is necessary, according to their several qualities, and though it is not required that one should tie oneself to just so much, and something is left for one’s inclination, and the difference in the persons to make, yet still within such a compass; (a little incoherent this, meaning, I think, that Dorothy does not believe that even the world would have you choose by money and goods alone), and such as lay more upon these considerations than they will bear, shall infallibly be condemned by all sober persons. If any accident out of my power should bring me to necessity though never so great, I should not doubt with God’s assistance, but to bear it as well as anybody, and I should never be ashamed on’t if He pleased to send it me; but if by my own folly I had put it upon myself, the case would be extremely altered.” But this is Dorothy in her serious strain; often (how often?) she plays the lover, and though I disapprove of peeping into such letters, doubting if Cupid recognises any statute of limitations in these affairs, yet to complete the fabric we must play eavesdropper for once.

“It will be pleasier to you, I am sure, to tell you how fond I am of your lock. Well, in earnest now, and setting aside all compliment I never saw finer hair, nor of a better colour; but cut no more of it. I would not have it spoiled for the world; if you love me be careful of it; I am combing and curling and kissing this lock all day, and dreaming of it all night. The ring, too, is very well, only a little of the biggest. Send me a tortoiseshell one to keep it on, that is a little less than that I sent for a pattern. I would not have the rule absolutely true without exception, that hard hairs are ill-natured, for then I

should be so; but I can allow that all soft hairs are good, and so are you, or I am deceived as much as you are, if you think I do not love you enough. Tell me, my dearest, am I? You will not be if you think I am not yours.”

Space! space! how narrow, how harsh, and ungallant thou art; not ready to give place, even to Dorothy herself. We must hasten to the end. Dorothy, it appears, unlike some of her sex, does not like playing the Mrs. Bride in a public wedding. “I never yet,” she writes, “saw anyone that did not look simply and out of countenance, nor ever knew a wedding well designed but one, and that was of two persons who had time enough I confess to contrive it, and nobody to please in’t but themselves. He came down into the country where she was upon a visit, and one morning married her. As soon as they came out of the church, they took coach and came for the town, dined at an inn by the way, and at night came into lodgings that were provided for them, where nobody knew them, and where they passed for married people of seven years’ standing. The truth is I could not endure to be Mrs. Bride in a public wedding, to be made the happiest person on earth; do not take it ill, for I would endure it if I could, rather than fail, but in earnest I do not think it were possible for me.”

But her father is now dead. Her brother, Peyton, is to make the treaty for her. Here is the letter, dated for once (Oct. 2, 1654), inviting Temple to come, and she will name the day; at least, Courtenay tells us, that in this interview the preliminaries were settled. “After a long debate with myself how to satisfy you, and remove that rock (as you call it) which in your apprehensions is of no great danger, I am at last resolved to let you see that I value your affection for me at as high a rate as you yourself can set it, and that you cannot have more of tenderness for me and my interests than I shall ever have for yours. The particulars how I intend to make this good, you shall know when I see you, which, since I find them here more irresolute in point of time (though not as to the journey itself) than I hoped they would have been, notwithstanding your quarrel to me, and the apprehensions you would make me believe you have that I do not care to see you—pray come hither, and try whether you shall be welcome or not.”

And now one moment of suspense. A last trial to the lover's constancy. The bride is taken dangerously ill. So seriously ill that the doctors rejoice when the disease pronounces itself to be small-pox. Alas! who shall now say what are the inmost thoughts of our Dorothy? Does she not now need all her faith in her lover, in herself, ay, and in God, to uphold her in this new affliction. She rises from her bed, her beauty of face destroyed; her fair looks living only on the painter's canvas, unless we may believe that they were etched in deeply bitten lines on Temple's heart. But this skin beauty is not the firmest hold she has on Temple's affections; this was not the beauty that had attracted her lover, and held him enchained in her service for seven years of waiting and suspense; this was not the only light leading him through dark days of doubt, almost of despair, constant, unwavering in his troth to her. Other beauty, not outward, of which I may not write, having seen it but darkly, only through these letters; knowing it indeed to be there, but quite unable to visualise it fully, or to paint it clearly on these pages; other beauty it is, than that of face and form, that made Dorothy to Temple and to all men, in fact, as she was in name—the gift of God.

They are wedded, says Courtenay, at the end of 1654; and thus my task ends. Of Lady Temple there is little to know, and this is not the place to set it down. She lies on the north side of the west aisle at Westminster, with her husband and children.

“Her body sleeps in Capel's monument,  
And her immortal past with angels lives.”

You, reading for yourself, will perhaps gaze upon the darkened tablet, with new interest; and may, perhaps, thank him who has shown you this picture. Yes, thank him, not as author or historian, but as a servant holding a lamp, but ill-trimmed may be, before a glowing picture, careful that what light he holds, may not glisten on its shining surface, and hide the painting from sight; or as a menial, drawing aside with difficulty the heavy, dusty curtain of intervening ages which has veiled from human eyes the beautiful figure of Dorothy Osborne. She herself is the picture, and the painter of it; the

historian of her own history. But not even to her are the real thanks due; these must be humbly offered to Him from whom she came to represent

“A holy woman and the perfect wife.”

## THE DEBTOR OF TO-DAY.

“He that dies pays all debts.”

*Tempest* iii., 2.

The debtor is a slave. In the nature of things he always has been and must be a slave. The debtor of to-day is not such a direct slave as his ancestor of remote ages, but he is, in political phrase, a relic of barbarism living under servile conditions. As he has no organisation, and as, in the picturesque analogy of the man in the street, he is a bottom-dog in every sense of the word, no one worries about him. Eleven thousand of him go to gaol every year, and process is issued against three or four hundred thousand, but there is no party capital to be made out of the subject, no one statesman can abuse any other statesman for neglecting the question, and the churches and chapels are so keen about fighting over the technicalities of catechisms that they have no time to worry over the sorrows of the debtor of to-day.

It was not always so. Elisha the Prophet thought it worth while to perform a miracle on one well-known occasion in order to pay the bailiffs out. The creditor, if you remember, had come to the widow's house “to take unto him my two sons to be bondmen.” In those days you took in execution not only the debtor himself, but his wife and family. Elisha was indignant. He orders the widow to borrow her neighbour's vessels and fills them miraculously with oil. Then he says: “Go, sell the oil and pay thy debt, and live thou and thy children of the rest.” One does not expect miracles from our clergy of to-day, but a consideration of the subject, and the discussion of its social aspects, would be a following out of Elisha's example. I for one have never yet heard a sermon on imprisonment for debt, but the texts are plentiful, and to any intending preacher I will willingly supply the references.

As in Hebrew times, so in the days of Greece and Rome, you find the slavery of the debtor continue, and what seems to be wanting in the legislator of to-day, an anxiety to relieve his condition. Solon, the Greek law-giver, had sounder notions of the matter than any modern Home Secretary whose views I have come across. It would be interesting to trace the evolution of our poor unfortunate County Court debtor of to-day across the spacious pages of history, through the various degrees of ignominy, slavery, and misery that the debtor has been made to suffer, until we see him what he is to-day—not a very ill-used martyr, perhaps, but the victim of an utterly out-of-date system, the remnant of the cruel laws of the Middle Ages.

To Charles Dickens must be awarded a great portion of the honour that is due to those who abolished the horrible incidents of the imprisonment for debt that existed in his day.

The picture of the old debtor dying in the Fleet after twenty years of captivity must have haunted even the most callous official the Circumlocution Office ever produced. Great reforms followed, but in the usual English way, in scraps and portions by means of compromise and amendment, and by degrees. At last, in 1869, came the start of the present system of imprisonment for debt which abolished a great deal of imprisonment, but left the very poorest still under threat of the gaol if they did not pay their debts. There were many great reformers of that day who saw that the time was even then ripe for total abolition, and that the House of Commons was legislating on too conservative lines.

Jessel, a great lawyer and a sound law-giver, laid down the principle that has always been to me a statement of the true gospel on this question. “In no case,” he says, “should a man suffer penal imprisonment because he failed to pay a certain sum of money on a private contract with which the public had nothing to do.” When we have legislated to that effect we shall get rid of this relic of the barbarous ages that is still with us—imprisonment for debt.

And a word to explain what the system means. It must be remembered that the smaller debts in County Courts are generally ordered to be paid by instalments. Where a debt or

instalment is in arrear, and it is proved to the satisfaction of the Court that the person making default either has, or has had since the date of the order or judgment, the means to pay the sum in respect of which he has made default, and has refused or neglected to pay, the Judge may commit him to prison for a period of not more than forty-two days. In practice the wind is very much tempered to the shorn lamb, and a period of twenty-one days is generally the maximum imprisonment ordered. In practice, also, debtors will beg, borrow, and perhaps do worse rather than go to prison, and the result is that the percentage actually imprisoned is small. This, to my mind, has very little bearing on the question whether the system is a wise one in the interests of the State and of the working-man. For it must not be forgotten that the system is in practice a system of collecting debts from the wage-earning class, and the wage-earning class only. It is, of course, incidentally used against small tradesmen and others, but the bulk of those against whom orders are made are working-men. As the late Mr. Commissioner Kerr said in 1873, "The rich man makes a clean sweep of it, and begins again, and the poor man has a miserable debt hanging round his neck all his life."

For the rich bankrupt is really rather a pampered creature. Here you have the younger son of a duke whose creditors are mostly money-lenders and tradesmen, whose downfall is due to betting, and who has known of his insolvency for a long period, owing £36,631, and his assets are £100. The Official Receiver drops a silent tear of pity over the statement of affairs, and, like the tear of the recording angel, it blots out the record and the younger son goes forth ducally to prey upon a new generation of creditors. Here, again, you have a bankrupt, an ex-Army officer, living on his wife's income, and betting, and winding up with debts £27,741, and assets £667. These are not fancy cases, they come out of the stern, dull reports of the Inspector-General of Bankruptcy. And as long as such men are allowed to live without fear of imprisonment day by day, we cannot sit down and say with a clear conscience that we have only one law for rich and poor.

The chief evil of the present system of imprisonment for debt is the undesirable class of trade and traders that it

encourages: the money-lenders, the credit drapers, the “Scotchmen,” the travelling jewellers, the furniture hirers, and all those firms who tout their goods round the streets for sale by small weekly instalments, relying on imprisonment for debt to enable them to plant their goods out on the weaklings. The law as it stands assists the knave at the expense of the fool. I was discussing with a rather slow-minded working-man and his wife why he had purchased a showy and unsatisfactory sideboard wholly beyond his means. It had been seized and sold for rent, and he had this burden of a few pounds debt to clear off as best he might.

“Why buy it?” I asked.

“My wife would have it,” he replied.

“Why did she want it?” I asked.

“She didn’t want it, but yon man (the shopman) seemed to *instil* the sideboard into her.”

The shopman was a clever salesman, no doubt, but does anyone suppose he would have *instilled* a sideboard into the workman’s wife if it had not been for imprisonment for debt. To a working-man on small weekly wages no credit can be given in any commercial sense. His only asset is character, and there are many retail traders who never come near the County Court at all, because they make it a rule only to give credit after inquiry.

Constantly one finds goods taken by women, and immediately pawned, the proceeds being spent on drink. How can a workman prevent this? He probably never hears of the matter until a judgment summons is served on him. I asked such a man the other day if his wife had had the goods, mentioning the date when they were said to be delivered.

“I don’t doubt she had the goods. Indeed, she must have got some goods that day,” he admitted.

I asked why.

“Because that day she got locked up for being drunk and disorderly, and I never knew until now where she got the money.”

This is by no means an isolated case. I have been several times applied to by quite respectable men whose wives had run up debts with as many as twelve to nineteen different drapers for relief under the power permitting of small bankruptcies. One man told me he was putting a nail in the wall, and on moving a picture he found some County Court summonses. I asked him what he did.

“I upbraided my wife,” he replied, in a rather melancholy tone, “and she ran away, and I have never seen her since.”

A creditor corroborated the fact, and it was clear that debt had destroyed that household. The man had no idea that there were any debts owing, they had been hidden from him, but he thought it right to arrange honestly enough to pay them all off. Many a man removes, or has his house sold over his head, or his wife leaves him through misunderstanding arising out of credit recklessly given for useless articles, and the law as it stands encourages this kind of thing.

Nor can it be said that the wife is always to blame. The husband finds that his wife can obtain credit at any grocer’s for the week’s food, and the necessity of carrying home his wages to the chancellor of his domestic exchequer is less apparent. The temptation to spend wages on drink or gambling is distinctly encouraged in the debtor of to-day by a system that makes credit so readily obtainable by the unthrifty and unfit.

There was a story illustrating this aspect of the matter told me by a member of a relief committee during the late war. The committee were paying women half wages whilst the men were at the front. The wife of a working-man refused a sovereign saying, “That ain’t half my man’s wages.”

It was explained that he earned forty shillings.

The honest woman shook her head. “Nay, he didn’t,” she said. “Nowt o’ sort. He never earned more than twenty-five. Twenty-three he give me, and two shillings spending money.”

After some time and examination of the books, the good lady was convinced that she was entitled to a sovereign, and she went away aghast at her husband’s deceit, and murmured, “Eh, but if yon Boers don’t kill him, wait till I get him back!”

One reason why imprisonment should be abolished in relation, at all events, to amounts under forty shillings is the dangerous and slippery paths of evidence along which a Judge has to walk in dealing with small cases. Some witnesses have not the remotest idea of their duties and responsibilities. On one occasion a low-class Jewish workman was sufficiently impressed with his responsibilities to make the following demand after he was sworn.

“My lort, I cannot be a vitness in this case.”

“Why not?” I asked. “Don’t you know anything about it?”

“Oh, yes, I know all about it, but I don’t vant to speak.”

After a good deal of trouble I obtained from him the reason of his reticence.

“You see,” he said, “Moses (the plaintiff) is mine brother-in-law, and little Isaac (the defendant) he is mine vife’s nephew, and if I speak about this case, vy, I must give vun of them away.”

I condoled with him about his family difficulties, and tried to persuade him that his duty was to speak the truth, but my only recollection of his evidence is that it was of no service to anyone, and that he certainly succeeded in giving himself away.

In a family dispute the greatest care must be taken to accept nothing as true that can possibly be prompted by hatred or malice. To do justice to the Jews they do not, as a rule, bring family disputes into court. A cynical registrar once told me that a Jew would swear anything for his brother, and a Christian anything against his brother. Without endorsing this epigrammatic exaggeration, I must sorrowfully admit that a downright North Country fight between blood relations over club money or the cost of a funeral tea or the furniture of a deceased parent is one of the saddest exhibitions of uncharitableness that I know.

The recklessness with which good ladies of unblemished character will commit what technical-minded lawyers might be inclined to consider perjury, and on occasion even stoop to

something like forgery, would surprise anyone who was not conversant with it. In ordinary matters these good people are honest citizens enough, but in a family dispute honour requires that no iniquity must be left undone in order to gain the day. I remember in my early days a fat old dame of cheerful countenance suing her son-in-law, a young workman, for £2 17s. 9d. The odd shillings and pence were admitted, but the £2, which figured through two or three greasy books as “ballanse of account,” could not be traced to any particular source.

The old lady swore it was a grocery account. The young man denied it with emphasis, and said it was spite. Sarah, the old lady’s elder daughter, remembered some of the items of it, and with a great relish swore to them in detail. The young wife, who had been keeping a very lively baby quiet, and trying in between whiles to give evidence from the body of the court, at last got into the witness-box. Flinging the baby into her husband’s arms, and kissing the book with a smack, she shot out the following testimony at her mother and myself: “Look ’ere, mother, you know reet enow what that there balance is; it ain’t no balance at all—it’s my ’at and the wedding-dress, and the shoes to match, and the pair o’ greys what druv us to church, which I paid for when I was in service for three years, putting by ’arf-a-crown a month, which mother kep’ for me, and well she knows it, which it’s Sarah’s spite as ain’t got married yet.”

What was the real truth may be doubtful, but I was clear the “ballanse of account” was not groceries, and struck it out; yet, had the mother succeeded, she would have pursued her son-in-law to prison in an endeavour to collect the money.

For my part I think it is bad business for the community that homes should be broken up in order that a creditor may collect a trumpery debt that should never have been incurred, and it is because I believe it is the interest of the State to keep together the home of the working-man, and to deliver him from temptation, that I hope to see imprisonment for debt diminished, if not abolished altogether. An intelligent landlord wishing to preserve game kills off birds of prey and puts down poachers. An intelligent State, if it wishes to preserve the home of the working-man and his wife and children, should make it

illegal for him to mortgage his future earnings, and to place his liberty in jeopardy in order to possess for the moment some shoddy piece of jewellery or drapery for which he has no real use.

# THE FOLK-LORE OF THE COUNTY COURT.

“To those athirst the whole world seems  
A spring of water in their dreams.”

*From the Arabic.*

Being snowed up in a library, well stocked with modern scientific folk-lore, I began a serious study of the subject. I started with enthusiasm. I saw myself propounding a new theory for every variant text, and pictured myself triumphantly riding through the otherworld on the Ossianic cycle. After a few days of it, however, I found that, wonderful as the science was, it was not made for me. I ran into a thick German fog, I got mixed up with *sagzug* and *märchen*, I failed to appreciate the true differences between those holy men, Zimmer and Rohde, and I wandered aimlessly among parallels and analogues of varying age and *provenance*. When I emerged from the German fog I found myself staggering about a bleak Irish moor in company with a fellow named Cormac—or was it Finn? We were studying the *Dinnshenchas*, or playing with an *Agallamh* or looking for a *Leprechaun*. It was worse than political economy, or logic, or the lost tribes. The fiscal problem is merriment compared to folk-lore. I finished my holiday with Trollope and have put folk-lore on my index *expurgatorius*.

One thing, however, haunts me still. I seem to have escaped from the learned confusions of this dismal science with a belief that the world is certainly not progressing. They took a lot of trouble at school to persuade me that the world kept going round. Since I have dipped into folk-lore I find this to be only part of the truth. The fact seems to be that the world does nothing else but go round and round and round, reiterating its old ideas in a very tiresome way indeed. The things we do and gossip and preach about to-day are much the same as the

things they worried over in the ages of caves and mammoths and flint implements. I feel sorry that I cannot explore folk-lore further, for there are evidently great possibilities in it. But folk-lore is like collecting stamps, or keeping gold-fish or guinea-pigs. It is a “fancy,” and if you don’t fancy it you cannot be of the “fancy.” The slang of the science is too difficult for most of us, and if you cannot master the technical terms of a game, how can you hope to play it? Even football would be dull if you had no elementary conception of “off-side,” and it is easier to get “off-side” at folk-lore than it is at football. Then these scientists are so solemn. Euclid has his pictures and occasionally admits that things are absurd; but the smiles of folk-lore are in the otherworld, and even their ghosts do not appear to the latter-day student.

I should never have troubled further about folk-lore had not I met one of its greatest professors. To him I unburdened myself and told my trouble. “Folk-lore books,” he explained, “are not made to read. They are written to amuse the writer. You write about folk-lore—then you will begin to enjoy it.” I remembered that Lord Foppington held similar views when he said: “To mind the inside of a book is to entertain one’s self with the forced product of another man’s brain. Now, I think a man of quality and breeding may be much amused with the natural sprouts of his own.” An idea held in common by a peer and a professor must be precious indeed.

I modestly murmured that I knew nothing about folk-lore. To which the Professor encouragingly remarked that I should “approach the subject with an open mind.” “There is one royal road to success,” he said, as we parted, “have a theory of your own, and whatever happens, stick to it.”

Now curiously enough, I had a theory about folk-lore. It was the simple common idea that comes to many children even in their earliest school-days. The schoolmasters were all wrong. The professors of folk-lore were teaching it upside down. Instead of beginning with ancient legends and working back towards to-day, they should begin with to-day and march forward into the past. I wired to the Professor about it—reply prepaid. His answer was encouraging. “Theory probably Celtic origin; stick.”

As my business is to preside over a County Court, I went down to my work full of my theory and determined at all costs to stick to it. I know that to the pathologist a County Court is merely a gathering-place for microbes, and a centre point of infection; that the reformer sees in it only a cumbrous institution for deciding unnecessary disputes, whilst the facile reporter comes there to wash from its social dirt a few ounces of golden humour for his latest headline. These are but surface views. I went there like the poet, “whose seed-field is Time,” to find folk-lore, and I was overwhelmed.

No sooner did I enter the Court, as I had done many and many a hundred times, than the High Bailiff, rising in his place, called out, as he, too, had done many a hundred times, “Oh yes! Oh yes! Oh yes! All persons having business in the Manchester County Court draw near and give attention.” At once I knew that the place I was in belonged to the old days of fairies and knights, and ladies and giants, and heroes and dragons. The “Oyez! Oyez! Oyez!” struck my certain ear and told me I was in the presence of folk-lore. The creeping voice of the old world came stealing across the ages, calling upon me “Oyez!” “Hear!” and if you can “Understand!” It seemed to bring its message with a sly chuckle as if to say, “There you are, my modern, up-to-date, twentieth century judicial person, beginning your day’s work with the same old cry that has called men together to listen to official wisdom for centuries of time.”

My friend the High Bailiff has not, I am sure, the least notion that he is, from a folk-lore point of view, a man of parallels and analogues, or that the “fancy” would undoubtedly classify him along with that most beautiful of human fritillaries, the Herald. For indeed, in everything but glory of costume, he is one of those delightful figures of the middle ages who carried challenges and messages of peace and war, and set out the lists in jousts and tournaments, and witnessed combats and wagers of battle—which my friend sits and watches to-day—and recorded the names of those who did valiantly, and remembered the dead when the fight was over—which to-day he leaves to the reporters. Here in this dingy court in a Manchester back street students of folk lore may see

a real Herald calling out “Oyez! Oyez!” announcing that the lists are open, and that anyone may come prancing into Court and throw down his glove—with the post-heroic gloss of a treasury hearing fee upon it—and that if the challenge be taken up, the fight may proceed according to the custom of County Courts.

I would inaugurate a movement to apparel the High Bailiff in scarlet and gold lace, and I would have him ride into Court on a white palfrey, sounding a trumpet, but that I fear it would lead to jealousy among Registrars. Besides, some envious German Professor will, I know, point out that as a crier my High Bailiff is more akin to the *Praeco* of a Roman auction, and that the village town crier is his poor relation. The answer to this is that his auctioneering tendencies really belong to his bailiff cycle, as the “fancy” would say. And as a bailiff we could, did time permit, trace him in dry-as-dust glossaries and abridgments, through a line of sheriffs of counties, and stewards of manors, and in various forms of governors and superintendents, until we lose sight of him as a kind of tutor to the sons of emperors in the twilight of the gods.

Let the High Bailiff call on the first case, and say with Richard Plantagenet, Duke of York:

This is the day appointed for the combat,  
And ready are the appellant and defendant,  
The armourer and his man to enter the lists;  
So please your Highness to behold the fight.

It seems a real pity that we no longer follow the rubric of the Second Part of Henry VI., and that we cannot see Horner enter with his neighbours “bearing his staff with a sand-bag fastened to it,” on the other side, “Peter with a drum and a sand-bag.” Horner and Peter to-day would make a much better fight of it, thumping each other with sand-bags, than they do “barging” at each other with tongues, and they would be better friends afterwards. With a small charge for admission, too, and two houses a night, the County Courts might be self-supporting.

But we have not got very far away from the wager of battle after all. The hired champion is still with us from the house of

the old Knights Templars, but he breaks his wit against his adversary instead of a lance. In another hundred years or so our methods of settling disputes may seem as laughable and melodramatic to our more reasonable great grandchildren as our grandfathers' romantic methods seem to us. They may think that fees paid to eminent counsel, dressed in antique shapes, to exhibit their powers before packed galleries, according to the ancient and musty rules of a game that is wholly out of date, is an absurd way of endeavouring to reconcile human differences. The whole thing must before long, one would think, tumble into the dustbin of history and become folk-lore. But the legendary charm of the absurdity will always remain. Sir Edward Clarke or Mr. Rufus Isaacs, appearing for an injured ballet-girl in a breach of promise case against a faithless and wicked peer, is only a new setting of the story of Perseus and Andromeda, with the golden addition of a special fee. Perhaps there is even a parallel for the special fee in the old myth, for may it not be said that in a sense Perseus was moved to leave his usual circuit, and appear against the dragon by the tempting special fee of Andromeda herself? Could such a glorious figure be marked on the brief of to-day, what eloquence we should listen to.

The longer one stays in a County Court, the more does the atmosphere seem charged with folk-lore. Sagas seem to float in the air with the soot of our smoky chimneys, and wraiths of old customs swim in the draughty currents of cold that whistle under our doors. No sooner does a witness step into the box than one perceives that he too is an eternal type, and our methods of dealing with him as everlasting as the forms of the waves. The Greeks with all their noble ideals were a practical people, and the exactitude of their terminology is beyond praise; with a true instinct they described their witness as *μάρτυς*, a martyr. For, in the Golden Age, and equally I take it, in the Bronze, Stone, and Flint Chip period, the only way to stimulate your witness to truth was by blood or fire. These rough, kind-hearted, jovial, out-of-door fellows had not considered the superior and more subtle torture of cross-examination. The rack and the stake were good enough for them. Yet I feel sorry for the Greeks. How an Athenian mob would have enjoyed the intellectual entertainment of Mr.

Hawkins, Q.C., administering one of those searching cross-examinations so lovingly described in Lord Brampton's "Book of Martyrs." Many others I have heard greatly skilled in this truly gentle art, but no one who played the game with such sporting strictness or approached his task with such loving joy. To see a witness in his hands made one feel almost jealous of the victim. To say this is only to say that to be a great advocate you must also be a great sportsman. How many moderns could handle a witness after the manner of Master Izaak Walton dealing with his frog? "I say, put your hook, I mean the arming-wire, through his mouth and out at his gills, and then with a fine needle and silk sew the upper part of his leg, with only one stitch, to the arming-wire of your hook; or tie the frog's leg above the upper joint to the armed wire; and, in so doing, use him as though you loved him, that is, harm him as little as you may possibly that he may live the longer." Alas! Lord Brampton's arming-wire is laid on the shelf, and the pike in his pool mourns for Master Izaak—but what sportsmen they were. Really, when I think of the sorrows of the human frog in the witness-box, I begin to think the hour is coming to start a Witness Preservation Society with a paid secretary and a London office. It would be a charity—and there is a lot of money in charity nowadays.

Some day I will write a book the size of a Wensleydale cheese on the folk-lore of evidence. It should be written in German, but unfortunately I am such a bigoted Imperialist that I have patriotically avoided the study of the tongue. It should perhaps be published in several cheeses, and the biggest cheese should be all about the Oath. It was the flood of folk-lore on this subject that overwhelmed me when I first began to consider the matter.

In our County Court we administered two oaths.<sup>[1]</sup> The Scotch oath, with uplifted hand, and the English oath, with its undesirable ceremony of kissing the Book. The Scotch form is incomparably the older, and though some maintain that the hand of the witness is lifted to show he has no weapon about him, there seems no doubt that the sounder view is that both Judge and witness are really each lifting his hand in appeal to the Deity. In this way did the Greeks lift their hands at the

altars of their gods when they made sacrifice. In similar fashion was the oath to Wodin administered in the Orkneys by two persons joining their hands through the hole in the ringstone of Stennis. So also Aaron "lifted up his hand toward the people." And it is no stretch of imagination to suppose the lifting of the hands to the sun to have been one of the most natural and solemn attitudes of early man. In the Scotch form of oath we seem to have a ceremony that has been with us from the earliest dawn of humanity. I have seen this oath administered in a Scotch Court, and it certainly still retains many of the solemn incidents of a religious ceremony, and compares very favourably from a serious dramatic point of view with the English oath as administered here. The fact that the Judge administers the oath himself, standing with hand uplifted, is impressive, at all events to those to whom it is not made stale by custom. To me it seems a very appropriate ceremony in an old-world system of law such as prevails in Scotland, where there are numerous judges and not too much work to do. In a busy English urban County Court, it would render the life of a Judge uninsurable.

Our English oath is a much younger branch of the family. I have made my own theory of its incidents, and remembering my professor's advice, I propose to stick to it. It is a quite modern idea that the oath should be taken on the New Testament. Sir Geoffrey Boleyn, writing to John Paston in 1460, says that the late Sir John Falstafe in his place at Suffolk, "by his othe made on his primer then granted and promitted me to have his manner of Gunton." Even as late as 1681, Coke's "Institutes" print a form of oath with the Roman Catholic adjuration, "So help you God and all Saints." An Irish woman in Salford County Court quite recently objected to kiss the Book, and desired to kiss a crucifix. But the "kissing" idea is very modern. In 1681 it seems clear that kissing the Book was not a necessary official act. All that was necessary was to place the hand upon the Bible. "It is called a corporall oath," writes Coke, "because he toucheth with his hand some part of the Holy Scripture."

The efficacy of the "touch" runs through all the old legends, and we have an amusing survival of it to-day when a

punctilious Crier insists upon a nervous lady struggling out of her glove before he will hand her the Book, and again, in the peremptory order constantly given by a clerk when handing the Book to a witness, "Right hand, if you please." For these demands there is as far as I know no legal sanction, and I take them to be echoes of the social system of these islands that prevailed some time prior to the building of Stonehenge.

Touching a sacred object seems a world-wide method of oath-taking. The Somali—who are not yesterday's children—have a special sacred stone, and observe a very beautiful ceremony. One party says, "God is before us, and this stone is from Amr Bur," naming a fabulous and sacred mountain. The other party receiving the stone says, "I shall not lie in this agreement, and therefore take this stone from you." Let us hope that what follows is more satisfactory than are my everyday experiences.

The exact origin of kissing the Book in English Courts, though modern, is obscure. It is not, I should say, a matter of legal obligation, but seems to be merely a custom dating from the middle or end of the eighteenth century. If a witness claims to follow the law according to Coke, and to take his "corporall oath" by touching the Book, who shall refuse him his right? The "kissing" act seems akin indeed to what the "fancy" call, somewhat unpleasantly, a saliva custom, which in modern western life exists in very few forms, though many of the lower classes still "spit" on a coin for luck. The subject is a very large one, but the fundamental idea of all customs relating to saliva seems to have been a desire for union with divinity, and if the Book were always kissed in our Courts with that aspiration, the custom might well be retained.

Unfortunately, the practical value of an oath depends in almost exact ratio upon the depth of superstition of the person to whom it is administered. The moral man will speak truth for practical moral reasons. The immoral man will lie for practical immoral reasons. The latter in the old days was hindered by the oath from lying, because he firmly believed in the practical evil effects of breaking the oath. The perjurer of old was certainly "looking for trouble." This is not a phrase of the "fancy," but it exactly describes the oath-breaker's position.

Some of the few minor *sequelæ* of perjury were such domestic troubles as a curse which ran on to the seventh generation, or the perjurer's death from lingering disease in twelve months, or that he would be turned into stone, or that the earth might swallow him up and that after death he would wander round as a vampire. These simple beliefs, which were no doubt part of the cave-dwellers' early religious education, must have done a great deal to render the evidence of early man more trustworthy and accurate than that of his degenerate younger brother.

Though in an occasional burst of atavism an uneducated man may kiss his thumb instead of the Book, the bulk of humanity take any oath that is offered without any deep feeling of religious sanction, nor any particular fear of supernatural results. It is not altogether a matter of regret that this should be so. Our ceremony of oath-taking is really a Pagan one. Our very verb "to swear" takes us back to the pre-Christian days when man's strength and his sword were the masters, and peace and goodwill had come to conquer the earth. To swear was a vow to Heaven upon a sword. When we offer the Book to a witness to swear upon, we really tender him, not a Christian thought, but the old Pagan oath which, splendid as it was, is no longer of force. It was a fine thing in its day when a knight vowed upon his sword "to serve the King right well by day and night, on field, on wave, at ting, at board—in peace, in war, in life or death; so help him Thor and Odin, likewise *his own good sword*." It is no use replacing the sword by the Book if you retain the spirit of the sword in the old Pagan ceremony. The word "to swear" is very closely related to the word "sword," and the very essence of swearing, deep down in the root form of the thing and the word itself, is to take one's sword in one's right hand, and fight for one's own side with an energy that will make the Pagan gods shout with joy in the Valhalla. Medical witnesses and land surveyors are real Vikings in this respect, especially as it seems to me those of Celtic origin.

But of a truth it is not only the oath and the witnesses that want amendment. For when I suggest that it would be well in Court if we obeyed the command, "Swear not at all," and that

the outward use of the Book in the County Court is undesirable, it is because I feel that some such thing as a Court on the lines of the teaching of the Book ought not to be wholly impossible after 1,900 years of endeavour. You must drive out of the Court all the folk-lore with its Pagan notions of fighting and hired champions and oaths, and witnesses and heralds, and above all you must get rid of the anachronism of a Judge, and appoint in his place a peace-maker or official reconciler. The idea is not wholly Quixotic. Lord Brougham, a very practical reformer, had hopes of constructing Courts of Reconciliation in this country seventy years ago. We shall not close the courts of litigation and replace them by courts of reconciliation in a day. But I am optimist enough to hope that I may go down to my work one morning to find that we have been taken over by a new department called the Office of Peace, and that under the Royal Arms is our new official motto, "Blessed are the Peacemakers."

## CONCERNING DAUGHTERS.

“As is the mother so is the daughter.”

*Ezekiel xvi., 44.*

I am far from thinking Ezekiel knew much about it. True he was a married man and a householder, but I remember no evidence of his being the father of daughters. At all events if he thought that the education and bringing up of daughters was an inferior thing because of the authority of mothers, I think he was gravely mistaken. When the daughters of the middle ages were part of the household plant their mothers turned them out with certain practical qualities that made them a valuable asset to the comfort of mankind.

It was when unthinking fathers began to meddle in the affair and to consider the subject of the education of their daughters that the trouble began. The fathers—particularly the middle class Early Victorian father—discovered that it was a desirable thing to be a gentleman. Remembering and misapplying one of the catch words of his own education that things which are equal to the same thing are equal to one another, he thought it was equally important to the success of his family that as his sons were to be gentlemen his daughters should be gentlewomen.

And this is where he missed it. The word “gentlewoman” is obscure, but it is certainly not the grammatical feminine of gentleman. True it has a narrow technical dictionary meaning, but it is used popularly to signify the result of a well-to-do middle class father’s education of his daughters, as in the phrase “Gentlewoman’s Employment Association” the name of an excellent society for helping daughters of the well-to-do father when he is deceased or has ceased to be well-to-do.

Concerning daughters then, and to help their fathers to bring them up as gentlewomen I take upon myself as one who has given grave personal consideration to the subject, to offer a

few suggestions of a practical nature; for I have found the gentleman father in the matter of the education of girls—like his namesake the gentleman farmer in matters of agriculture—to be an enthusiastic and amiable, but eccentric amateur.

And remember my dear sir, that there are two main objects to be kept in view in the education of a daughter. The first is to fit her for the ultimate ownership of a well-to-do husband, the second is to guard her from acquiring any knowledge or capacity that might take her out of the ranks of the unemployable.

And first of marriage. Charlotte Lucas when she has made up her mind to the inevitable Mr. Collins, “was,” writes Jane Austen, “tolerably composed. She had gained her point and had time to consider it. Her reflections were in general satisfactory. Mr. Collins, to be sure, was neither sensible nor agreeable: his society was irksome and his attachment to her must be imaginary. But still he would be her husband. Without thinking highly of either man or of matrimony, marriage had always been her object; it was the only honourable provision for well educated young women of small fortune, and however uncertain of giving happiness must be their pleasantest preservative from want.”

How refreshing in these neurotic days is Charlotte’s old-fashioned commonsense. And once recognising that marriage is the “pleasantest preservative from want” a father may be wise to leave the affair to mothers and daughters and chance. Holding, as I do, the extreme doctrine that anything that a mother does is of necessity absolutely right, I do not propose to enlarge upon this branch of the subject. There is a belief, however, among social naturalists that the solvent son-in-law is fast becoming extinct. This may be from the fact that he has been hunted with too great rigour in the past. The handsome but non-solvent variety though ornamental in the house is vastly expensive. Then there is the larger question of grandchildren. Here, too, sentiment finds itself again opposed by considerations of economy.

The problem of training one’s daughters to become in Charlotte Lucas’s phrase “well educated” or as Miss Austen

and Miss Edgeworth so constantly word it “gentlewomen” is a far easier matter, and may therefore be the more safely left in the hands of a father. Still in this, as in the more serious amusements of life, there are principles to be followed.

The main object of such education to-day should be to give girls what their brothers describe as “a good all round time.” Avoid anything that hints of serious work, eschew “grind,” choose a multitude of accomplishments rather than any one serious study, encourage the collection of useless objects and the manufacture of much fancy-work, and by this means there will be little fear of your girls attaining any real knowledge of affairs. So may your daughter be as one of the polished corners of the Temple, in the world and of the world, and in her you will see reflected the delightful patterns of the society by which she is surrounded.

But to descend to particulars. In early life commence with home-training. Beware of kindergartens. They are too often taught by women trained from early life in habits of work. They are apt to instil ways of industry, and to cultivate a socialistic tendency towards unselfishness, and might even at an early age suggest to the girl baby that the mission of women is to work as well as to weep. The poet must not however be taken too literally about this. Men *must* work and women *must* weep, but intervals ought clearly to be allowed for joint amusement, and the length of these is for one’s own decision. In her young days then let the girl be taught that she alone exists in the world, and that other human beings are mere dream persons. The difference, never to be bridged over, between herself and the household servants, ought to be constantly insisted upon. A nursery governess is a suitable companion. Some of these neither know nor desire to know how to scrub a nursery, and teaching is not their mission. Obtain one if possible, who is a nursery governess only in name, she will be cheap, and what is more important to you—ladylike. In a few years a school becomes a necessity; partly from the irksomeness of constant association with a spoiled child, but more immediately in the real interests of the girl herself. Choose by all means a school that you cannot well afford. Here your daughter will meet with companionship that

must fill her young mind with ideals of life and society that cannot possibly be attained by her in after life. Be careful, too, not to thwart her expenditure in dress or amusement. Shun the modern craze—sprung up now I fear even among the wealthiest—for instruction in such subjects as cookery, dressmaking, and the like. A camera is a necessity. It enables inaccurate representations to be produced without skill or labour, and checks that desire for detailed information, which might easily develop into scientific study. The presence of a camera has saved many a young person from serious attention to art. It is an excellent plaything. By all means let your daughter learn French, for it is the language of the *menu*, and there is no great harm in a little Latin, but let it be ladylike. Whenever you are in difficulties, Mrs. Malaprop—who is always with us—will be only too glad to tell you in further detail what kind of education becomes a young woman, and the school where it can be found.

If you are “carriage people”—and by all means be “carriage people” if your wealthier neighbours are—then of course your daughter will not learn to cycle, but will rather learn to regard the cyclist as the curse of the highway, which was obviously built for her pleasure. The omnibus or tramcar will, I hope, always be regarded as impossible. Remember that people who nowadays possess motor-cars are not necessarily “carriage people.” It is becoming daily more difficult to diagnose “carriage people” by the symptoms of their outward circumstances.

When your daughter leaves school, if your income is less than £x, and you are spending more, you should certainly have your daughter presented at Court. She will naturally desire it, and it may for the moment go far towards appeasing your creditors who, I take it, will by this time be pressing you after the vulgar fashion of such people.

Bring out your daughter at a ball, similar in cost and style—but especially the former—to that given by Mrs. Goldberg Dives, when your daughter’s dear school friend, Aurora “came out,” as the saying is. You remember that on that occasion young Dives brought home Lord Bareacre’s youngest son from Oxford, and the marriage that ensued, was followed by that

entertaining case so recently decided in the third division of the Probate and Admiralty Court. Who knows what good fortune your daughter may have if you follow these high examples.

But if during the prolonged pursuit of pleasure—which after her careful education your daughter ought now to be able to plan and carry out for herself—no son-in-law solvent or insolvent appears, then when you have departed to another sphere leaving behind assets insufficient to meet your worldly liabilities, or—as we may hope will be your case, dear reader,—when you have called together the callous creditors into an upper chamber of some persuasive accountant who can explain to them cheerily the true inwardness of your estate, and tender, with fitting apology, the pence that now represent the pound that was,—think not with the austere moralist that this costly education of your daughter has been a rash and hazardous speculation. Let us be thankful that the world is not at one with the Inspector-General of Bankruptcy with his sallow views of the possibilities of life. True your daughter will know nothing, and be fit for nothing, true it will take her years of misery to make herself capable of the meanest employment. She has eaten dinners she cannot cook, she has worn dresses she cannot make, she has lived in rooms she cannot sweep, and she has grumbled at the service of others she could not herself perform, but at least you can say that she has been brought up as other gentlewomen are, and that shall be your boast.

# THE FUTURE OF THE COUNTY COURT.

“Had I God’s leave, how I would alter things!”

—*Robert Browning.*

The County Court like the poor in whose interests it was invented is always with you if you have one of those perverted minds that wastes its moments on dreams of legal reform. Seventeen years ago I studied the question with earnest enthusiasm under the strange hallucination that it was a real business question ripe for a business solution. It seemed to me nearer to the lives of people than the Veto, or Tariff Reform or the Ornaments Rubric. That is the result of leading a narrow self-centred life. In a word, without knowing it, I must have been a Whig, for, as Sir Walter Scott remarks, “Whigs will live and die in the heresy that the world is ruled by little pamphlets and speeches, and that if you can sufficiently demonstrate that a line of conduct is most consistent with men’s interest you have therefore and thereby demonstrated that they will at length after a few speeches adopt it of course.” Thus for many years I have pegged away with papers and speeches and like a true Whig find myself still hopefully at it, playing the same game perhaps but with slightly increased handicap. To-day I have learned by experience that the future of the County Court is not to come in my time and to doubt if I shall ever climb into some sufficiently high place to see the promised land that I shall certainly never enter.

I have come to regard the question with the same child-like affection and belief in its possibility, but also in a sense archæologically, as becomes one whose first childhood is but a dream and who feels himself pausing on the threshold of a second. Had I any political foresight seventeen years ago I should have recognised that the reform of the County Court system is not a party matter, it is eminently a matter of greater

interest to the poor than to the rich, to the business man than to the man of leisure. Now, more and more, Parliament has become a machine for registering the decrees of the prevailing party and one cannot find that the poor are in any way directly represented in Parliament and business men only in a small degree, whilst the interests of the rich and of men of leisure have an overwhelming representation. Moreover Legal Reform has to fight for its hand against that band of brothers, the lawyers in Parliament, who from generation to generation we find stalwart and faithful in their clear-sighted optimism that all is well with the law—and lawyers.

The story of the evolution of the County Court is not without entertainment for those who are interested in the practical affairs of the community. In its struggle for existence we find a warfare being carried on between the business man and the lawyer in which, foot by foot, the business man gains and places his pet tribunal in a more secure position whilst he takes breath for a new encounter. Still, although the building up of the County Court to its present story of usefulness has been the work in the main of business men, yet few realise that the County Court of to-day with its £100 jurisdiction is only a belated attainment of the ideals of Lord Brougham in 1830. It was in that year that Brougham brought in a Bill in the Commons—he was then member for Yorkshire—to establish “Local District Courts,” with a jurisdiction limited to £100 in contract, £50 in injury to person or property, and an unlimited jurisdiction by consent. It has taken us seventy-five years to arrive at the position that was thought practicable by a great reforming Chancellor in 1830. And yet there are many Englishmen in daily terror lest we should reform anything too hurriedly. Lord Brougham’s ruling idea was free law. He was in a sense a legal socialist. Law to him was one of those things that every member of an ideal community should have without paying for it individually, like fresh air and sunshine, and the Church of England and the British Museum, and gaslight (in urban streets), and roads, and the police, and the education of your children—all which things an English citizen is entitled to have to-day without the payment of any fees. He admitted the over-ruling necessity of fees in his day, owing to the poverty of the Exchequer, but he said, “he must enter his

protest against the principle, and insist that any tax no matter what, for the purpose of drawing the payment from the public rather than from the suitor would be better than fixing it on legal proceedings.” Free law is, of course, a grand ideal, and may again attract legal reformers; but, without attaining that ideal, it might be possible to abandon in a great measure the fees collected from poor suitors. Law, like medicine and surgery, might be free to the poor—not merely to paupers, but to all who are unable to pay fees and costs without running into debt. It will take a Savonarola to convert the Treasury to this view, but it is an enticing subject for a youthful legal missionary full of ardent zeal and possessed of what the insurance world calls “a good life.”

The dramatic duel between Lord Brougham and Lord Lyndhurst over the former’s Bill in 1833 is full of historical interest, but Lord Brougham was unsuccessful, and it remained for Lord Cottenham in 1847 to establish County Courts with a jurisdiction of £20. These are the Courts that we use to-day, with an enlarged jurisdiction up to £100 in common law, £500 in equity matters, and the added jurisdictions given by the Workmen’s Compensation Acts and many other statutes which have chosen for their tribunal the County Court.

Throughout the country we are face to face with two statistical facts which, if our reforms were moved by scientific considerations, would lead the legal reformer to turn his serious consideration to the County Court. We find in the great centres of population in the north and the midlands, firstly, that there is a slight shrinkage or perhaps only stagnation in the world of the High Court, and secondly, that there is a continuous increase of business keeping pace with the growth of population in the County Courts. I am far from saying that all the expansion of County Court work is progress—much of it is the reverse and in order to understand how far it is good and how far it is bad, it is worth while trying to understand what the County Courts do.

These Courts lead as it were a double life. They have extended their energies along two different branches of business. Each Court has become a huge debt-collecting machine for minor tradesmen and at the same time has

developed into an important and trusted tribunal for deciding disputes between citizens. Both these functions are important ones, but the two branches have nothing to do with each other. In the debt-collecting branch the cases are, for the most part, undefended; in the other branch the cases are nearly all fought out. In the first branch the judicial work is unimportant, the machine works automatically; in the second branch the vitality of the Court depends almost entirely on the quality of the judicial work.

In considering the future of the debt-collecting branch of the Court it will be necessary to consider the whole question of imprisonment for debt, which is the ultimate sanction of the business. The point to be considered is, I think, How far is it right for the State to provide a machine to collect the class of debts that are, in fact, collected by the County Courts? The point is a practical one, for if imprisonment for debt were abolished or mitigated, a great deal of the work of the County Courts would undoubtedly fall away, leaving reasonable time at the disposal of the Courts to try cases under the present extended jurisdiction, and possibly making room for a further extension, if that were thought desirable.

Let me try and describe the present system in a few words. A grocer, draper, or jeweller hands over to a debt-collector a large number of debts to collect; the customers are, from a business point of view, the "undesirables." The debt-collector makes some effort to collect the debts outside the Court, and then issues a batch of summonses against all who are or pretend to be impecunious. It is no uncommon thing for one collector to issue a few hundred summonses in one day. On the day of trial the cases are either undefended, or the wife appears and consents to judgment, and an order is made of so many shillings a month. The defended cases are, I should say, less than five per cent. of the total summonses issued, and those successfully defended are a negligible quantity. In Manchester and Salford, where we used to divide this class of work from real litigation, the lists were seldom less than 400 cases a day. When the judgments are obtained, the duty of the defendant is to pay the monthly instalment into Court, and a ledger account is opened, the Court becoming a sort of banker for the purpose

of collecting and paying out the money. Whenever the debtor fails to pay an instalment, the collector is entitled to take out a judgment summons, calling on the debtor to show cause why he should not be committed to prison for non-payment. On proof that the debtor has means to pay, or has had means since the judgment, the judge's duty is to commit him to prison.

Two things are clear about this system. It is not a system of deciding disputes, but a system of collecting debts, and in the cases of workpeople without property it could never be carried out without imprisonment for debt. When the legal reformer looks at the figures relating to imprisonment for debt, he will see at a glance that if he could get rid of a large quantity of the debt-collecting, there would be more time for the real litigation. Many people still seem to think that imprisonment for debt is abolished. In France and the United States and in most civilised countries I believe it is, but in England it is not only not abolished, but is greatly increased. The actual number of debtors imprisoned has recently decreased, owing no doubt to the fact that Judges are more and more inclined to temper the wind of the statute to the shorn lamb. But the number of summonses issued and heard increases, and there is no doubt the credit habit grows upon the working classes, and is encouraged by the system of imprisonment for debt. In 1909, the last year of statistics before me, no less than 375,254 summonses were issued. It is the commercial and domestic waste which lies hid in these figures that distresses me. They reduce me to the despair of those two immortals, the Walrus and the Carpenter, who

“Wept like anything to see  
Such quantities of sand.  
'If this were only cleared away,'  
They said, 'it would be grand.'”

But ought it to be cleared away? In the main I think it should. One might lay down the principle that where the debt was not necessarily incurred the State should not assist the creditor to collect it by imprisoning the debtor. For the system is used, in the majority of cases, by a very undesirable class of creditor. I analysed a list of 460 summonses heard by me in one day.

There were 284 drapers and general dealers. These include all the instalment and hire system creditors. There were sixty jewellers, thirty-five grocers, twenty-four money-lenders, and ten doctors. Now, with the exception of the doctors, and possibly in a few instances the grocers, it was not in the least desirable, from the point of view of the State, that these debts should be collected at all. Why should taxes be imposed and work done at the public expense to enable a jeweller to persuade a man to buy a watch he does not want? Why should the State collect the jeweller's money for him by imprisonment for debt? If there had been no imprisonment for debt the jeweller's business wouldn't pay, and the workman would have one chance less of mortgaging his wages for the immediate delight of possessing a third-rate piece of jewellery. This would be better for the State and the workman, and for everybody but the jeweller. But why should his interests prevail over those of the rest of the community, and why should we spend money in promoting a business of which most of us disapprove? Everyone must have noticed of late years the enormous growth of firms whose main business seems to be to tempt people of small means to purchase things they do not want, or, at all events, cannot afford. Take up any newspaper or magazine circulating among the lower middle classes, or among working men, and you will find it crowded with advertisements of musical instruments, cycles, furniture on the hire system, packets of cutlery, all of which can be obtained by a small payment down and smaller instalments to follow. Remember, too, that over and above these there exists a huge army of "tally men" and travelling touts, who are pushing on commission, clothing, sewing machines, Family Bibles in expensive series, jewellery, and a host of unnecessaries. What chance has the working-man to keep out of debt? Not one of these transactions has any commercial sanction. Credit is given merely because there is imprisonment for debt. And there is a further aspect of this question which I am surprised has never attracted the attention of temperance reformers. As long as a man can get credit for groceries and clothes there is not the same urgent reason to spend his cash upon these things. But cash is necessary in the public-house, because, by the Tippling Acts, no action can be brought for the

price of drink consumed at a public-house. So the obvious result too often follows: the wages are spent at the public-house, and the credit for the week's groceries and the children's boots is obtained under the sanction of imprisonment for debt.

Much more might be said in objection to the system of imprisonment for debt, but we have enough before us, I think, to show a strong case for reform. The next question will be: Should that reform be abolition? Although I am personally in favour of the abolition of imprisonment for debt, I am in doubt whether it is desirable at the moment; and I am so eager to see some reform that I would welcome any measure, however meagre, that did something to mitigate the misfortunes of the insolvent poor. I have suggested as a practical measure that no summons should be issued or committal made for a less sum than forty shillings. One must remember that there are a huge number of traders giving reasonable credit to their fellow-traders, who find, when they seek to recover the debt, that the goods in the house or shop are in the wife's name. This is really a quasi-fraudulent obtaining of credit, and there are many similar cases not within the criminal law where imprisonment for debt seems a natural remedy. Moreover, if one studies the evidence given before the Commissioners on the subject, and if one discusses it, as I have, with men in business, one finds that abolition would meet with great opposition from powerful trade interests, whereas the "forty shilling" proposal is generally regarded as a fair experiment, which would injure no one but traders who deliberately give credit to the poorer working class under the sanction of imprisonment for debt. In my own experience, I have found hardly any cases of judgments summonses taken out for more than two pounds where there was not ample evidence of means, and where the non-payment was not more or less of the nature of a contempt of Court. In the smaller cases the means, though proved to have existed since the judgment, have disappeared, and the debtor is only saved from imprisonment by the leniency of the Court. Total abolition of imprisonment for debt would probably never be carried by consent. It would mean more commissions, inquiries, reports, and the waste of time that these things necessitate. Abolition of imprisonment

for debt for sums under forty shillings—a great practical reform for the very poor—would, I believe, be carried by consent. That is why I put it forward. It is utterly illogical but intensely practical; and when one has been face to face with the misery of others for many years, one cares more for business than logic.

Assuming, therefore, that the future of the County Court as a debt-collecting machine is to be a future of decrease, that the legislature are going to save the taxpayer's money and encourage thrift by refusing to collect undesirable debts, what will be its future as a litigating machine?

I may commend to anyone desirous of studying in further detail the arguments for and against the extension of County Courts, the proceedings of the Norwood Commission on County Courts in 1878. There is no doubt that if the business man had had his way the County Court in urban centres would have long ago been a district Court for all but cases of some peculiar public or legal importance. The great enemy to such an extension has always been the lawyer, and the London lawyer in particular. A very eminent solicitor, giving evidence before the Commission in 1878, had no confidence whatever in County Courts. His evidence was very typical, and shows how carefully one should criticise the evidence of a professional man who is also a very superior person. His view was that "When occasionally a client of mine of position who has been summoned to the County Court comes to me, I am unable to leave him in the lurch, but I never go into the County Court myself." Asked whether he thought it "undignified," he replied enigmatically: "It is not a matter of dignity, but a man of position cannot go into the County Court." It turned out later that it was a physical difficulty, for it was "quite inconsistent with the position of a professional man to stand in the County Court with women bringing cases about washing-tubs, and servants summoning their masters for wages."

He called them untaught knaves unmannerly  
To bring a slovenly, unhandsome corse,  
Betwixt the wind and his nobility.

Dozens of times, he told the Commission, barristers had declined to go into the County Court, and his clerk had gone to half-a-dozen barristers before he could find one who would demean himself by taking a case in the County Court. County Courts were, in his view, “inherently incapable of conducting important litigation.” The County Court Judges had not, in his opinion, the confidence of the country, because they are not taken from the successful members of the Bar, it is known that their salary is an extremely small one, there is no Bar attending before them, there is no report of their proceedings, and there are difficulties of appeal. One thing I find very delightful in the eminent solicitor’s evidence.

*Question.*—Some of the County Court Judges are very competent men, are they not?

*Answer.*—Extremely.

*Question.*—You think that there are some who are not equal to the others?

*Answer.*—Yes.

*Question.*—Is not the same thing true in regard to the Superior Courts?

*Answer.*—You will not expect me to answer that question, I think.

Even in the dark ages of 1878 one would have thought he might have risked an affirmative.

One does not quote the eminent solicitor’s opinion merely for the humour that attaches to old-fashioned ideas and prophecies that are brought to light in a new age and found to be absurd. No doubt he was fighting for a substantial thing, in a word—costs, and he was fighting the wreckers that wanted to break up the machinery that made costs, for he naturally disliked to see the smooth, well-oiled machine that worked so well for him replaced by some cheap machinery of one-horse “costs” power. In one thing I confess to his statesmanlike insight. If you want to improve the County Courts, he said, the “only improvement would be to double the salary of the judges at least,” and let the judge reside in his district, “but then you would be establishing superior Courts all over the country.” And the idea of the “country” having similar facilities to London for the trial of actions was too preposterous. It had

only to be stated, it was self-condemned, and the matter dropped.

One must not suppose that there were no champions of saner methods in 1878. On the contrary, I think the reformers were the better team of the two, and pressed their opponents hard, although they did not score greatly in the end. What could be more interesting or important than the opinion of Lord Bramwell, who was concerned in several of the Judicature Commissions prior to 1878? His view was that the County Courts should be made constituent branches of the High Court of Justice, and that as a consequence of that, the existing jurisdiction in common law should be unlimited. That is to say every action would commence in the County Court and be tried there unless the defendant chose to remove it to the High Court. It was pointed out that this would practically mean giving to every district, local Courts with full powers, and among other things that it would lead to the “deterioration of the Bar.” Lord Bramwell objected to the phrase, and answered his opponents by saying that the then Attorney-General (Sir John Holker) and Mr. Gully and Mr. Pope and Mr. Higgins, one of her Majesty’s counsel, have belonged to the local Bar, “and I think I may say of my knowledge, that the local Bar of Liverpool is as good as the London Bar.” This is important testimony, inasmuch as any evolution towards district Courts that will injure the assize system is sure to be opposed by those barristers—and there are many in Parliament—who are interested in the assize system, and one argument will be that the client will be deprived of the advantage of London “silk” if his case is tried in the County Court. Lord Bramwell disposes of that argument very shortly. “If there is any disparagement or injury to the Bar for the benefit of the public, the Bar must undergo it; that is all.”

In other words, the Courts of the future must be made convenient to the public as well as convenient to the profession; and where interests clash the public interest must be considered before the professional interest. This looks when written down an obvious platitude, but the history of the efforts to obtain and improve County Courts since 1830 will convince the legal reformer that it is worth re-stating.

Some years ago I made some elaborate calculations from the Blue Books, the results of which were rather surprising even to myself. I investigated the figures of ten typical urban Circuits in the centres of industry and of ten typical rural Circuits in agricultural districts. I found that in the former Circuits in ten years there had been a large increase in business. Nearly £40,000 a year more was paid to the Treasury in fees, and more than £150,000 was the increase in monies collected for suitors. In the same ten years similar figures for the rural districts showed a marked decrease. When one compared the turnover of the ten urban Circuits as against the turnover of the ten rural Circuits, it was as ten to one. I wondered what a Harrod or a Lipton or a Whiteley would have done with these Courts if he had found in auditing their accounts over many years that ten of them were non-increasing in a business sense, and that the other ten were increasing; if he found that he drew £150,000 as an income from one set and £40,000 from the other set. Would he not consider whether there was not a class of business being done by the urban circuits worthy of special consideration and encouragement?

For what did these figures show? They showed on the one hand a stagnant and non-increasing business, and on the other a business increasing by leaps and bounds. What business man would hesitate to extend ten branch concerns capable of so great an improvement in turnover in the course of a few years? I am frankly an enemy to making the suitor pay for his law. I believe, as Lord Brougham did, in free law; but if the system is to continue, why should a suitor in Birmingham pay more for his law than is necessary in order that a suitor in Ambleside may pay less for his law than it costs?

The Courts are, no doubt, not paying concerns, but how far some Circuits are run at a profit it is impossible for anyone outside the Treasury to ascertain. There is no doubt, however, that the loss in small Courts is very great, and whether they are of any great value to a district in these days of postal facilities and cheap railway transit I have grave doubts. I have always thought that the Post Office might work a great deal of the pure debt-collecting business in connection with the County Court, if it were thought desirable. It would, to my mind, be a

natural co-ordination of two public offices, and might adapt itself very well to the needs of rural districts. If a country debtor could pay his debt to the nearest post office, and get an official receipt there, many small Courts and offices would become wholly unnecessary, and with a post office cash on delivery system one excuse for giving credit would be removed.

Why one little town has a Court and another has none it is as impossible to say, as why one little pig went to market and the other little pig stayed at home. These ancient myths are part of our history, and any effort to dislodge them is rightly made difficult. But whilst the Courts of London and the Midlands and the North are overcrowded, there are actually ten Courts issuing less than 100 plaints each—their average is 57!—and thirty-two Courts with less than 200. Alston, in Cumberland, is the holder of the record. This Court issued twenty-seven plaints and four actions were heard. It heard two judgment summonses, and made a commitment order in one. And the Court collected sixteen pounds in fees. To cope with this annual business the Judge sat once and the Registrar three times. It will take a long time to persuade these small communities that it is necessary they should give up conditions such as these to which they have become accustomed. I think it would be more readily done if the districts that had no real use for a County Court or an Assize Court were only allowed to retain them on payment of what they cost to the community.

The endeavour to bring justice to the poor man's door is more praiseworthy than practical. I remember explaining to a collier's wife that her husband must attend with her, and adjourned the case to a Monday for that purpose. Monday is often kept by colliers as a saint's day. "Eh!" she replied. "It will be very onconvenient. My maister winna like coming on a Monday. Besides, it's my weshing-day."

I expressed my regret, but said it must be.

"Well, it's very onconvenient our coming here. Couldn't yo call?"

The idea of calling personally on the litigants—especially in these days of motor-cars, when every registrar is probably an expert chauffeur—is a very attractive one, and not much more absurd than the present system of sending Judges to Courts that have no real use for them.

But from my point of view, the difficulties of dealing with the smaller Courts, if they exist, should not hinder the development of the larger Circuits. It is clear that the problems of providing adequate Civil Courts for Central Wales and Norfolk is not the same as the problem of providing similar tribunals for Manchester, Birmingham, and Leeds. I have shown that there are a large number of districts where the Courts are increasing yearly in usefulness and in public favour, and there is, I think, a strong case that from a business point of view Circuits that are dealing with large amounts of work should be specially considered.

I do not think there will be any great difficulty in dealing with the great urban centres when the legislature makes up its mind to make the County Courts district Courts working directly in touch with the High Courts. No doubt it will mean the providing of money for further and better equipment, but it has certainly to come about, and there are signs that it is being faced. The problem of the rural Courts is more difficult, but I think the grouping of several Courts under one resident permanent registrar with extended powers and allowing him to gather together in one place a day's work for the Judge who is to travel his Circuit with a business regard for the actual wants of litigants from time to time is a statement of the general lines upon which reforms can be carried out. The rural Courts will always be costly to the community, out of all proportion to the services rendered, but they are necessary and the expense must be borne; the urban Courts, on the other hand, might be made to pay their way, and might be of far greater service to the business communities around them than they already are.

It is difficult, of course, to write upon such a subject without personal bias, and it has been my lot to take an official position for the sake of its comparative leisure, and to find that leisure taken away by successive Acts of Parliament without compensation for disturbance. Still, experience of legal reform

leads me to believe that I cannot be writing this with any personal motive, for I cannot hope to be presiding in any County Court in the latter part of the twentieth century, when, according to recorded precedent, such reforms as I propose will be about due.

Why, then, do I commend the future of the County Court to the attention of the legal reformer? Because I see in the County Court, and in that Court only, a growing and popular tribunal favoured by the business men of the country. Because in that Court there is a crying abuse calling aloud for reform, namely, imprisonment for debt, which abuse, when abolished or mitigated, will release Judges from odious duties, and give them time for more honourable services. Because in great urban centres there has long been a demand for continued sittings, which the High Court has been unable to comply with, but which the County Court already satisfies to some extent, and with reasonable equipment could supply in full measure. The record of the County Courts in the last fifty years is a very remarkable one. In the face of keen professional opposition, Parliament has given them year by year more important and onerous duties. These have been carried out in the main to the satisfaction of the business man in the business centres. It is because the urban County Courts are live business concerns, carrying on their business to the satisfaction of their customers, that I believe in the future of the County Court.

## THE PREVALENCE OF PODSNAP.

“The question about everything was would it bring about a blush into the cheek of the young person? And the inconvenience of the young person was that according to Mr. Podsnap she seemed always liable to burst into blushes when there was no need at all.”

—*Charles Dickens, Our Mutual Friend.*

There seems an alarming recrudescence of Podsnappery at the present moment. Perhaps in a measure it is a protest against things that are wrong. If some novel-writers exceed the limits of reasonable plain speech, and some dramatists seek publicly to exhibit the results of moral leprosy, they challenge the latent Podsnap, that is a valuable asset in our national character, to flourish its right arm and say, “I don’t want to know about it; I don’t choose to discuss it; I don’t admit it!” With every proper contempt for Podsnap, there are some excesses about which he is right when he sweeps them away with the verdict, “Not English!” But having tasted too much success by reason of the excesses of his enemies, he is beginning not only to reform our morals, but has started upon our manners.

A “Town Vicar,” writing a letter to a Church paper, recently lifted up his voice in the following complaint: “It is not long ago that I heard a Dean declare that ‘we were not going to take it lying down,’ and more than one Bishop has in preaching lately had recourse to ‘the bottom dog.’ But these are mere details in the alarming spread of vulgarity where culture and right feeling used to be.”

What would Charles Kingsley have said or His Honour Judge Hughes to a parson who shrank from a simile drawn from the noble art of self-defence? Seeing, too, that the phrase has attained esoteric political value in respect of its use by the leader of Birmingham state-craft, the Podsnap in our good Vicar takes too much upon itself when it declares that the sporting Dean who used it was wanting in “culture and right feeling.”

The reference by more than one Bishop to the “bottom dog” is less easy to defend. The “Town Vicar” no doubt regards a Bishop as so far removed from the everyday affairs of the world that the phrase should never have polluted his ears, far less his lips, and that if he has indeed heard of the existence of “bottom dogs,” and he desires to express himself about them, he should allude to them on the platform as the “submerged tenth,” and in the pulpit as “our poorer brethren.”

To many of us it will come as a pleasant surprise to know that there is more than one Bishop whose courage is stronger than his culture. Not that one desires to see in Bishops or in anyone else a tendency towards the patronage of meaningless slang or dull expletive. I remember a story of the seventies that used to be told with equal inaccuracy of Canon Farrar and Bishop Fraser. The Bishop—let us say—travelling in a third-class carriage with some workmen, took occasion to reprove one on his constant and meaningless use of the adjective “bloody.”

The workman took the reproof in good part, and by way of excuse said: “You see, Mister, I can’t help it. I’m a plain man, and I call a spade a spade.”

“That is just what you don’t do,” retorted the Bishop quickly. “You call it ‘a bloody shovel.’” At which they all laughed in a friendly spirit, and the offender promised amendment.

Relating this anecdote at a dinner, a well-known pillar of the Church, noted for his pompous demeanour and the ignorant pleasure he took in the use of long words, expressed his horror that such language could be used in any form of society. “For myself,” he said, “I cannot believe it possible that, however I had been brought up, such words could pass my lips.” “I am sure of it,” replied the Bishop, “in whatever society you found yourself you would always refer to a spade as an agricultural implement for the trituration of soil.”

And, indeed, in this story lies the test of the matter. A spade is to be called a spade. And whilst even Podsnap is right in putting his veto on the mediæval adjective dear to the sons of toil, we are not going to be bullied by him into periphrastic

descriptions of facts that are better stated in plain, simple, and even vulgar language.

The “Spectator” voiced a very general feeling among the Podsnap family in writing of Mr. Lloyd-George’s reference to the hereditary principle and his simile that a peer became a legislator by being “the first of the litter.” The word ‘litter’ quoted without its context may seem a little harsh, but the point of the allusion was that, although we chose our legislators in that way we did not choose our spaniels by this curious and, as he argued, obsolete method. The “Spectator” found this to be mere vulgarity. I have a great affection for the “Spectator,” having been brought up from earliest childhood to reverence her teachings. I say “her” because I always visualise the “Spectator” as some being like Charles Lamb’s aunt, who was “a dear and good one ... a stedfast friendly being, and a fine old Christian ... whose only secular employment was the splitting of French beans and dropping them into a china basin of fair water.” Much as I honour the “Spectator,” I cannot but think the prevailing Podsnap is warping her better judgment.

But there is an excuse for the “Spectator” that cannot be offered for the average man of the world who claims to be righteously offended at the vulgarity of Mr. Lloyd-George’s similes.

I met a friend upon the golf links who used language upon the last green, where he failed to hole out in three, that no Bishop could have sanctioned, even although he fully appreciated that my friend was for the moment a “bottom dog.” On the way to the Club-house he vented his wrath upon the offending Chancellor of the Exchequer for the language he used on the platform. I pleaded in mitigation that just as my friend had been endeavouring to hole out a lively “Helsby” on a tricky green, so the Chancellor was endeavouring to put the House of Lords in a hole, a process in which that rubber-cored institution refused to assist him. To express your feelings and beliefs at a moment like that required that some latitude should be allowed to you in the choice of simile and language.

But so far had the microbe of Podsnap entered into my friend’s understanding that he treated my poor pleasantry as an

added insult and complained bitterly that such vituperation, as he called it, was “not English, and never used to be done.” Curiously enough, I had in my mind a passage in a political speech that created even greater pleasure and displeasure to Reds and Blues more than a quarter of a century ago. It was that famous passage in which Mr. Chamberlain scorned Lord Salisbury as constituting “himself the spokesman of a class—of the class to which he himself belongs—‘who toil not neither do they spin,’ whose fortunes, as in his case, have originated in grants made long ago, for such services as courtiers render kings, and have since grown and increased while their owners slept by the levy of an unearned share on all that other men have done by toil and labour to add to the general wealth and prosperity of the country of which they form a part.” There was not so much whining over a few hard words in those days, and Lord Salisbury himself could hit out with his “black man” allusion and the famous Hottentot simile, and, lost, as the ‘Town Vicar’ would think, to culture and right feeling, could talk of “having put our money on the wrong horse.”

Memory may be misleading after a gap of twenty-five years, and the wisest of us is apt to grow “*difficilis, querulus, laudator temporis acti,*” yet I cannot but think that there are signs in the air that our old friend Podsnap is having it too much his own way. He is a good fellow in the main, and some of the ideas he worked for are sound. His belief in the young person had its touching and beautiful side as it had its ridiculous side. The young person, however, has grown up since his day, and has her own movements which are but lightly clad with Podsnappery of any kind. And for grown-ups dealing with the everyday affairs of the world we must, in the old English way, stick to our fighting instincts, and give and take hearty blows in good part, and win pleasantly and lose ungrudgingly, as most of our fighters, fair play to them, still do. And we must not be afraid of the Town Vicar’s “mere vulgarity.” For, after all, our language is a vulgar tongue, and we are proud that our Bible is printed in it, and our speeches have to be made in it. As a vulgar tongue vulgarly used it brought forth the triumphs of Elizabethan literature, and was the medium of such varied writers as Fielding, Dickens, and Rudyard Kipling. And when it is the duty of wisdom to cry

without and utter her voice in the street, she must do it without fear of Podsnap and in the vulgar tongue.

## AN ELIZABETHAN RECORDER.

“I assert that all past days were what they must have been,  
And that they could no-how have been better than they were.”

—*Walt Whitman.*

Many years ago, when I happened upon a few extracts from the letters of Mistress Dorothy Osborne, I wondered how they had escaped the grasp of the historian learned in the domestic annals of the Commonwealth. And in the same way it has always surprised me that the correspondence of William Fleetwood, Recorder of London from 1571 to 1591, should have been left hidden in the scarce but charming collection of Elizabethan Letters edited by that excellent antiquary and man of letters, Thomas Wright.

Some day, perhaps, popular interest may demand a Life and Letters of Fleetwood; but, meanwhile, a mosaic of the man and his work, pieced together from his own written words, may interest latter-day readers. His career was similar to that of many another minor Elizabethan official, and the records show him to have been an honest, active Protestant magistrate, full of zeal for his religion, honour for his Queen, and integrity in his office. In his letters we have a twenty years experience of an Elizabethan Quarter Sessions which we may use as a base to measure our progress in law and humanity during the last four hundred years.

And first a word or two of the man himself that his message may be the more clearly understood. The Recorder was a descendant of the ancient Lancashire Family of the Fleetwoods of Hesketh, in which village Baines, Lancashire's historian, thinks our Recorder was born, and the probable date of his birth seems to be 1535. He is said to have been an illegitimate son of Robert Fleetwood, third son of William Fleetwood of Hesketh, who married Ellen Standish, daughter of another old Lancashire family. Their second son, Thomas, came to

Buckinghamshire, and was known as Thomas Fleetwood of the Vache in Chalfont St. Giles. He was Master of the Mint, and Sheriff of Buckinghamshire. The Recorder must have been recognised by the family, and no doubt visited his uncle Thomas, for he himself married a lady of a well known Buckinghamshire family, Mariana, daughter of John Bailey of Kingsey. He was educated at Oxford, and was of Brazenose College, but he took no degree, and came to London to study law at the Middle Temple, where at the age of twenty-eight we find him appointed Reader. In Mary's reign he was member for Lancaster, and afterwards sat in the House for Marlborough and the City of London. The Earl of Leicester was his patron, and it is said to be through his influence that in 1571, at the early age of thirty-six, he became Recorder of the City of London.

This office he held for twenty years, when he retired on a pension of £100 a year, and becoming Queen's Serjeant the following year, did not live to enjoy the further honour, for he died at his home in Noble Street, Aldersgate, in February, 1593, and was buried at Great Missenden, in Buckinghamshire, where he seems to have had considerable estates.

Altogether he stands before us as a type of successful professional lawyer coming from the ranks of the county families into the larger world of London, bringing with him a certain amount of Lancashire grit and humour, and a strong sense of duty to the Government and the public. Nor does he seem to have been in any way a hide-bound, dry-as-dust, technical minded official, but there is evidence that he had a wide sympathy with many social movements of the time. He was an eager Protestant, but I cannot find that he was fanatical in his dislike of the Roman Catholics, whom it was his duty to prosecute. Anthony Wood describes him as "a learned man and a good antiquary, but of a marvellous merry and pleasant conceit"; and it is said he contributed much to the last of the old editions of Holinshed. Strype, the annalist, speaks of him in reference to a speech in the House of Commons as "a wise man," and he seems to have combined wisdom and humour with a stern sense of official duty. That he was not a mere

creature of Leicester's and the Court is shown in his examinations of one Bloss, who had uttered terrible scandals concerning Elizabeth and her favourite, but Fleetwood reports upon his conscience as a lawyer, that it is "a clear case of no treason." A weak man would have been tempted to strain the law against the prisoner, who was an undeserving and dangerous person. There is a pleasant incident, too, of his writing to Secretary Walsingham about some young orphans whose Catholic mother had committed suicide, begging him to acquaint Peter Osborn, the Lord Treasurer and the Master of the Wards, with the details of the unfortunate case, in order that their monies may be kept for them. "Such was the care," writes Strype, "of this good Recorder, of the Children of the City."

There was one exciting incident in his life when in 1576 he was cast into the Fleet Prison. Lord Burghley seems to have suggested a raid upon the Charterhouse, where unlawful Mass was being celebrated. The Recorder carries out his instructions, and writes a vivid account of his proceedings. Unfortunately, Lady Geraldine, the wife of the Portuguese Ambassador, was present, and her husband carries his complaint of her treatment to Court, with the result that Elizabeth—after the manner of all rulers of all times—promptly disavows her agent, and by way of a pleasant apology to Portugal, throws Fleetwood into gaol. The Recorder, who probably thoroughly understands that he is only in the Fleet, "without prejudice" and for purely Pickwickian state purposes, writes to Lord Burghley: "I do beseech you thank Mr. Warden of the Fleet for his most friendly and courteous using of me, for surely I thank God for it. I am quiet and lack nothing that he or his bedfellow are able to do for me." And after a short experience of gaol he sums up the situation much as Mr. Stead did after a similar experience: "This is a place wherein a man may quietly be acquainted with God."

It is in passages like these in the man's own letters that his figure becomes dimly discernible to us across the ages of time, and when our eyes grow accustomed to the sight, we see before us the form of an Englishman not unlike many we have

known in our own time. The more one studies the unaffected domestic documents of any period written without afterthought of publication, the more convinced one is that social progress moves like the tide and the rocks and the trees; its growth is nearly imperceptible, and four hundred years in the development of mankind is but a small moment of time.

The correspondence of William Fleetwood with Lord Burghley commences in 1575, when my Lord Burghley was at Buckestones—what a charming spelling of the prosaic Buxton—for his health. In those days an English Premier got rid of his gout in his own country, and knew not Homburg. The knowing ones in the political circles of London whispered with emphasis that the Prime Minister was “practising with the Queen of Scots,” then in custody at Sheffield, but the historical evidence points to mere gout.

Our Recorder, being Leicester’s creature, and being also a man of the world and looking for promotion as his deserts, writes careful reports to my Lord Burghley, telling him of London that from a police point of view “the state of the city is well and all quiet.” The Star Chamber had received the city fathers, and my Lord Keeper with the Chancellor of the Duchy, the Master of the Rolls and others had met the Recorder, and Master Nicholas the Lord Mayor, and divers Aldermen who had reported to them of city affairs. And as is the way of official men, they reported all to be well.

“And as,” writes the Recorder, “my Lord Keeper’s order is to call for the book of misbehaviours of masterless men, rogues, fencers, and such like, we had nothing to present for London, for Mr. Justice Southcot and I had taken fine of six strumpets such as haunt the hedge and which had lately been punished at the Assizes at Croydon, and two or three other lewd fellows, their companions, whom we despatched away into their countries. As for Westminster, the Duchy (the Savoy), St. Giles, High Holborn, St. John’s Street and Islington, (they) were never so well and quiet for neither rogue nor masterless man dare once to look into those parts.” Could Scotland Yard make a better report than that to-day? No doubt Fleetwood believed with the optimism of a modern Home

Office official that he and his fellows had purged London of crime.

Crime being well in hand, these good men set out with feverish energy to put down the source of crime, and like the social reformer of to-day, thinking that pimples were the origin of disease rather than mere evidence of a disordered system, commenced a crusade on the alehouse.

One is apt to think of the Star Chamber as merely a Court for the oppression of English freedom and the abolition of Magna Charta, but in Elizabeth's day it was busying itself with much the same problems that are troubling Parliament and the magistrates to-day. It is very modern reading to learn that my Lord Keeper and the residue of the Council at the Star Chamber have set down in writing certain orders for the reforming of certain matters, and that the very first of these is "for the suppressing of the over great number of alehouses, the which thing upon Wednesday last my Lord Mayor, Sir Rowland Hayward and myself for the liberties of Southwark, and Mr. Justice Southcot and myself for Lambeth town, Lambeth Marsh, the Mint, the Bank, Parr's Garden, the Overground, Newington, Bermondsey Street and Kentish Street, sitting altogether, we have put down, I am certain, above two hundred alehouses and yet have left a sufficient number, yea, and more, I fear than my Lord Keeper will well like of at his next coming."

All this was done on Wednesday and Thursday, and on Wednesday there was an influential dinner party at Mr. Campion, the brewer's—one wonders if he owned tied houses in those days and whether their licenses were spared—and "at after dinner, Mr. Deane and I went to Westminster, and there in the Court we had before us all the officers of the Duchy and of Westminster, and there we have put down nearly an hundred alehouses. As for St. Giles, High Holborn, St. John Street, and Islington, Mr. Randall and I mean this Saturday at afternoon to see the reformation, in like manner Mr. Lieutenant and Mr. Fisher deal for the East part. I am sure they will use great diligence in this matter."

One may piously hope that the souls of these good men are not vexed to-day with the knowledge of the futility of their work on earth and that they know nothing of our modern licensing system. Could Master Fleetwood return to listen to the procedure of a local licensing bench in the twentieth century he would perhaps laugh in his sleeve to think that the methods of the Star Chamber were yet with us and that magistrates of austere mind were still using “great diligence in these matters.”

Fleetwood’s earliest letter is dated from Bacon House, August 8th, 1575. The vacation is on, yet it seems the Temple is full of students. For as Richard Chamberlayne tells us this is the “second learning vacation” which began on Lammas Day. Readings continued for “three weeks and three days,” and the Recorder seems to think my Lord Burghley would take an interest in the matter of legal education, which is not an affair that has troubled the mind of any minister of modern times. The plague is with them and the study of the law has to give way to the plague, for the Recorder tells us that “as touching the Inns of Court it so fell out that at Gray’s Inn there was no reading this vacation because one died there of the plague. At the Inner Temple there hath been a meeting, but by means that the plague was in the house, the reading being scarce half done, is now broken up. In Lincoln’s Inn yesterday being Friday, at afternoon one is dead of the plague and the company are now to be dispersed. In the Middle Temple, where I am, I thank God we have our health and our reading continually. I am always at the reading, and I have taken stringent order upon the pain of putting out of commons, that none of the Gentlemen of our house or their servants shall go out of the house except it be by water and not to come in any place of danger, the which order is well observed.”

“Our house” is the old world phrase familiar to Templars and means the Middle Temple, and “putting out of commons” was in that day a serious penalty. The “readings” took the form of “moots” or arguments on a case put by the reader, and argued not only by students but by lawyers of position. They must have been of considerable educational value and have always been prized by the older generation of lawyers. I

remember well an old learned Judge solemnly exhorting me in the days of my youth, to become a good “put-case,” a phrase which one does not hear used nowadays. Moots and readings might, one would think, be revived especially in the interest of the newly called barrister, who can say with but too much truth as Fleetwood wrote in August, 1575, “For my own part I have no business but go as quietly to my book as I did the first year that I came to the Temple.”

In July, 1577, Lord Burghley is again at “Buckstons” [*sic*] and the faithful recorder sends him a budget of news. He has been at the Mercers’ feast “and there were we all very merry ... and I told them that I was to write privately to your Lordship; and they required me all to commend them to your good Lordship; at which time the Master of the Rolls, who is no wine drinker, did drink to your Lordship a bowl of Rhenish wine and then Sir Thomas Gresham drank another, and Sir William Demsell the third and I pledged them all.” It reads like a page from the Book of Snobs.

And after the “great and royal banquet” which took place at the house of the new Master, some time we may suppose about mid-day, Fleetwood, as he tells us “walked to Powle’s to learn some news.” For in that day St. Paul’s was the Exchange and the club and the Market Place of the men of the world where news came from all quarters of the world and where news passed from lip to lip and thence out into the corners of England in such letters as this of Fleetwood’s to Lord Burghley. The extraordinary uses to which the Cathedral was put in Elizabeth’s time, are a constant theme of reproach from religious-minded men. Idlers and drunkards used to sleep on benches at the choir door, and porters, butchers and water bearers were suffered in service time, to carry and re-carry their wares across the nave, and in the upper choir itself irreverent people walked about with hats on their heads, whilst if any entered the Cathedral booted and spurred, the gentlemen of the choir left their places and demanded “spur-money” and threatened their victim with a night’s imprisonment in the choir if the tax were not paid. Such was “Powle’s” on this July afternoon when Recorder Fleetwood went down in search of news, and indeed he heard terrible tidings; for there “came

suddenly into the church Edmund Downing, and he told me that he was even then come out of Worcestershire and that my Lord Chief Baron died at Sir John Hubbard's house and that he is buried at Leicester. And he said that the common speech of that country is that Mr. Serjeant Barham should be dead at Worcester, but that is not certain. The like report goeth of Mr. Fowler, the Clerk of the same Circuit ... and a number of other gent that were at the gaol delivery at Oxon are all dead. The inquest of life and death are almost all gone. Such Clerks servants and young gent, being scholars as were at the same gaol delivery, are either dead or in great danger. Mr. Solicitor's son and heir being brought home to his father's house at Woodstock, lieth at the mercy of God. Mr. Attorney's son and heir was brought very sick from Oxon to his father's house at Harrow, where he lieth in as great danger of death as might be, but now there is some hope of amendment. The gaol delivery of Oxon, as I am told, was kept in the Town Hall, a close place and by the infection of the gaol as all men take it, this mortality grew."

We know now all about the Oxford Black Assizes of the 5th and 6th of July, 1577, and how Judges, Sheriffs, Knights, Squires, Barristers and members of the Grand Jury were stricken down with what was probably typhus. The disease spread to the Colleges. Masters, Doctors and heads of houses left almost to a man. "The Master of Merton remained *longe omnium vigilantissimus* ministering to the sick. The pharmacies were soon emptied of their conserves, oils, sweet waters, pixides and every kind of confection." Wild rumours spread abroad that it was the result of a Papist plot. In a few weeks of the Assizes, some five hundred perished, nearly all men of the better class. The disease did not attack the poor or women. There seems little doubt that the infection was among the prisoners and there is a record that two or three thieves had died in chains shortly before the Assizes. One would have supposed that such a visitation would have been a signal for prison reform, but those who have read of Howard's experiences, know how little was done to mitigate the horrors of life in gaol until a much more recent date.

Fleetwood tells us a great deal about his own activity at this time. He is holding an oyer and terminer at the Guildhall in the vacation "to keep the people in obedience." He sits with the Justices to discuss the abolition of alehouses and the advancement of archery, he is constant in his search after rogues and masterless men and there being cases of plague in the Savoy, he takes occasion to pass with all the constables between the bars and the tilt-yard in both the liberties, to see the houses shut, which he notes with pride "neither the Master of the Rolls nor my cousin Holcroft the Bailiff, would or durst do." At the same time he was writing a book on "The Office of a Justice of the Peace" which was printed a hundred years later. Amidst these various employments however, he finds room for the lighter social duties and spends an afternoon with the Shoemakers of London, who "having builded a fair and a new hall, made a royal feast there for their friends, which they call their housewarming."

A really heavy sessions must have been a terrible experience since this is what the Recorder evidently regards as a light one. "At the last Sessions," he writes, "there were executed eighteen at Tyburn, and one, Barlow, born in Norfolk but of the house of the Barlows in the county of Lancashire, was pressed. They were all notable cut-purses and horse-stealers. It was the quietest Sessions that ever I was at." At the beginning of the year he makes an audit of known criminals "that I may know what new may be sprung up this last year and where to find them if need be" and he makes out a list of "receivers and gage takers and melters of stolen plate and such like."

Part of his duty was the actual police work of "searching out of sundry that were receptors of felons." In the course of this duty he tells Burghley on another occasion of the discovery of a den that Dickens might have used as a model in *Oliver Twist*, so little had the ways of criminals altered from Elizabeth to Victoria. "Amongst our travels this one matter tumbled out by the way, that one, Walters, a gentleman born and some time a merchant of good credit, who falling by time into decay, kept an alehouse at Smart's Keye (Quay) near Billing's Gate, and after some misdemeanour being put down he reared up a new trade of life and in the same house he procured all the cut-

purses about this city to repair to his same house. There was a school-house set up to learn young boys to cut purses. There were hung up two devices, the one was a pocket, the other was a purse. The pocket had in it certain counters and was hung about with hawk's bells, and over the top did hang a little sacring bell; and he that could take out a counter without any noise was allowed to be a publique foyster, and he that could take a piece of silver out of the purse without the noise of the bells, he was adjudged a judicial nipper." Note that a foyster is a pick-pocket, and a nipper is termed a pick-purse or a cut-purse.

The path of an honest judge in the days of Elizabeth was beset with difficulties. Although bribes were not actually offered to the individual magistrate, yet he was written to by influential persons about the Court, and he had to choose between doing his duty and incurring the dislike of powerful men. Fleetwood complains "that when by order we have justly executed the law ... we are wont either to have a great man's letter, a lady's ring, or some other token from some other such inferior persons as will devise one untruth or another to accuse us of if we prefer not their unlawful requests." Our honest Recorder is strong to maintain the principle that all men are equal in the sight of the law.

Here is a typical case of which he complains: "Mr. Nowell of the Court hath lately been in London. He caused his man to give a blow unto a carman. His man hath stricken the carman with the pommel of his sword and therewith hath broken his skull and killed him. Mr. Nowell and his man are likely to be indicted thereof, I am sure to be much troubled with his letters and his friends, and what by other means, as in the very like case heretofore, I have been even with the same man. Here are sundry young gentlemen that use the Court that most commonly term themselves gentlemen; when any of them have done anything amiss, and are complained of or arrested for debt, then they run unto me and no other excuse or answer can they make but say—'I am a gentleman, and being a gentleman I am not thus to be used at a slaves and a colion's (scullion's) hands.' I know not what other plea Mr. Nowell can plead. But this I say, the fact is foul."

A “gentleman” in England in Elizabethan days seems to have thought himself as little amenable to law as an American millionaire, but Fleetwood had the English gist of the matter in him when he says “the fact is foul.”

But though the Recorder stood firm against the hangers on of the Court, London was not a happy soil for judicial integrity. He never attained to the promotion he deserved, and maybe it was because he could not dishonour his office to serve his friends at Court. Such mercy as the Recorder could honestly show to a prisoner, he was only too ready to exercise. “Truly, my Lord,” he writes, “it is nothing needful to write for the stay of any to be reprieved for there is not any in our commission of London and Middlesex but we are desirous to save or stay any poor wretch if by colour of any law or reason we may do it. My singular good Lord, my Lord William of Winchester was wont to say: ‘When the Court is furthest from London then is there the best justice done in all England.’ I once heard as great a personage in office and authority as ever he was and yet living say the same words. It is grown for a trade now in the Court to make means for reprieves; twenty pounds for a reprieve is nothing, although it be but for bare ten days. I see it will not be holpen unless one honoured gentleman who many times is abused by wrong information—and surely upon my soul not upon any evil meaning—do stay his pen. I have not one letter for the stay of a thief from your Lordship.”

But Elizabethan mercy was not a very vigorous virtue and did little to temper the wind to the criminal lamb. Here is a typical day’s work and its terrible results. “Upon Friday last we sat at the Justice Hall at Newgate from seven in the morning until seven at night when were condemned certain horse-stealers, cut-purses and such like to the number of ten, whereof nine were executed and the tenth stayed by a means from the Court. These were executed on Saturday in the morning. There was a shoemaker also condemned for wilful murder committed in the Black friars, who was executed upon the Monday in the morning.” The superior criminal dignity of murder over larceny appears to have given the murderer two days further life.

The Recorder's main work however, was a constant warfare with rogues and masterless men. The Elizabethan vagabonds were to be "grievously whipped and burnt through the gristle of the right ear" unless they could find someone who under penalty of five pounds would keep them in service for a year. Rogues and vagabonds were all those able-bodied men having no land or master practising no trade or craft and unable to account for the way in which they earned their living, and further included actors, pedlars, poor scholars and labourers who would not work for what employers called "reasonable wages." London swarmed with these vagabonds, and Fleetwood seems to have been the official who was made responsible if they committed any excesses.

One January afternoon in 1582, Her Majesty at even was taking of the air in her coach at Islington, in which suburb she had a Lodge. During her drive, writes Fleetwood, "Her Highness was environed with a number of rogues. One, Mr. Stone, a footman, came in all haste to my Lord Mayor, and after to me and told us of the same." No mention is made of any molestation, but the complaint rouses the Recorder to extraordinary efforts. "I did, the same night," he writes, "send warrants out to the said quarters and in the morning I went abroad myself and I took seventy-four rogues whereof some were blind, and yet great usurers and very rich." All these were sent to the Bridewell, and the next day "we examined all the said rogues and gave them substantial payment, (a euphemism for grievous whipping), and the strongest we bestowed in the mylne (mill) and the lighters. The rest were dismissed with a promise of double pay if we met with them again." In the Southwark district, forty rogues, men and women, were taken and "I did the same afternoon peruse Poole's (St Paul's) where I took about twenty cloaked rogues." All these went to the Bridewell and to punishment. The constables of the Duchy (the Savoy), brought in "six tall fellows that were draymen unto brewers. The Master did write a very courteous letter unto us to pardon them. And although he wrote charitably unto us, yet they were all soundly paid and sent home to their masters"; which seems to have been in excess of the Recorder's jurisdiction, as the draymen were clearly not "masterless." Another day a hundred lewd people were taken and the Master

of Bridewell received them and immediately gave them punishment. The bulk of these poor wretches were unemployed seeking work in the City, which they could not obtain in their own counties. And Fleetwood writes: "I did note that we had not of London, Westminster nor Southwark, nor yet Middlesex nor Surrey above twelve, and those we have taken order for. The residue for the most were of Wales, Salop, Chester, Somerset, Buckingham, Oxford and Essex and that few or none of these had been about London above three or four months. I did note also that we met not again with any in all our searches that had received punishment. The chief nursery of all these evil people is the Savoy, and the brick-kilns near Islington." It is curious to remember that a hundred and fifty years afterwards Defoe writes of the beggar boys getting into the ash-holes and nealing arches of the glass houses in Ratcliff Highway, and that to-day one of the difficulties of Manchester magistrates is to keep vagabonds from sleeping in suburban brick-kilns. Truly the ways of the vagabond seem to be a force of nature which centuries of progress and reform have done very little to amend.

The history of the Bridewell which was filled with so many generations of evil-doers, is a very curious one. An ancient palace of the Kings of England, it was in the reign of Edward VI. standing empty. The suppression of the monasteries and other religious houses filled London with multitudes of necessitous and to some extent dissolute persons. It was Bishop Ridley who wrote to Sir William Cecil: "Good Mr. Cecil I must be a suitor unto you in our Master Christ's cause," and pointed out that "there is a wide, large empty house of the King's Majesty called Bridewell, that would wonderfully serve" to house these poor wanderers. Thus in a spirit of pure charity, did the good Bishop open the doors of one of the most miserable prisons that ever disgraced humanity. Already we see in Fleetwood's time how it had fallen away from the Bishop's ideal Christian home to shelter the hungry, naked and cold. What it was then it remained for more than a hundred and fifty years, as we may see in Hogarth's print in the "Harlot's Progress," with its pillory and its whipping post, and the heavy log to be fastened on the prisoner's leg and the

gaoler with his rod standing over the wretched woman beating out the hemp with her mallet.

The Recorder seems to have had absolute power in dealing with prisoners charged with offences, to use force to obtain confessions. Here is a very horrible story which Fleetwood reports to Lord Burghley as a matter of every day routine. A French merchant charged a carrier's wife with stealing £40. After great search the money was found and restored. The carrier's wife denied all knowledge of it. "Then," says Fleetwood, "I examined her in my study privately, but by no means, she would not confess the same, but did bequeath herself to the devil both body and soul if she had the money or ever saw it." After much cross-examination, the woman refused to answer anything further. "And then," continues Fleetwood, "I took my Lord Mayor's advice and bestowed her in Bridewell, where the Masters and I saw her punished, and being well whipped she said that the devil stood at her elbow in my study and willed her to deny it, but so soon as she was upon the cross to be punished he gave her over. And thus, my singular good Lord, I end this tragical part of this wretched woman."

But Fleetwood did not spend all his days in the Criminal Courts. As a Serjeant-at-law, he is present when his "brother" Sir Edmund Anderson, was made Lord Chief Justice of the Common Pleas, and he took part in the ceremony by following the "ancient" in the ceremony of putting a case to the new Judge. And the way of it was thus: "my Lord Chancellor did awhile stand at the Chancery bar upon the side of the hall, and anon after that the Justices of the Common Place (Pleas) were set, his Lordship came to the Common Place and there sat down and all the Serjeants, my brethren, standing at the bar, my Lord Chancellor my brother Anderson called by name and declared unto him Her Majesty's good liking and opinion of him, and of the place and dignity that Her Majesty had called him unto, and then my Lord Chancellor made a short discourse what the duty and office of a good Justice was, and in the end his Lordship called him up unto the midst of the Court and then Mr. Anderson kneeling, the commission was read, and that done, his Lordship took the patent into his hand, and then

the clerk of the Crown, Powle, did read him his oath, and after he himself read the oath of his supremacy, and so kissed the book, and then my Lord Chancellor took him by the hand and placed him upon the bench. And then Father Benloos, because he was “ancient” did put a short case, and then myself put the next. To the first my new Lord Chief Justice did himself only argue, but to the next that I put, both he and the residue of the Bench did argue. And I assure your good Lordship he argued very learnedly and with great facility delivered his mind. And this one thing I noticed in him, that he despatched more orders and answered more difficult cases in this the fore-noon than were despatched in one whole week in his predecessor’s time.”

So too, when the Lord Mayor was sworn in in the Exchequer, the Recorder presented him in the name of the City, and they “did such services as appertained viz.: in bringing a number of horse-shoes and nails, chopping knives and little rods.” These customs were antiquarian even in Elizabeth’s days, but they are with us still.

And no doubt Fleetwood loved to take part in these things, for he was a good antiquary himself, and we must not think of him merely as a harsh persecutor of the “rogues and masterless,” for away from his work we hear record of his merry and pleasant conceit, and note that he is an eloquent and witty speaker at City banquets. And there is evidence in these letters that he did not love much of his work, as indeed what man can take pleasure in so unfortunate a task, but to him it was a duty, and one to be done like all duties—thoroughly. And that he did it to the best of his ability and with honesty seems clear, but that he longed to be removed from the intolerable toil of it, even as early as 1582, is shown by this pathetic appeal to Lord Burghley. “Truly, my singular good Lord, I have not leisure to eat my meat, I am so called upon. I am at the least the best part of one hundred nights in a year abroad in searches. I never rest. And when I serve Her Majesty, then I am for the most part worst spoken of and that many times. In the Court I have no man to defend me, and as for my Lord Mayor, my chief hand, I am driven every day to back him and his doings. My good Lord, for Christ’s sake! be such a mean for me as that with credit I may be removed by

Her Majesty from this intolerable toil. Certainly I serve in a thankless soil. There is, as I learn, like to fall a room of the Queen's Serjeant; if your Lordship please to help me to one of these rooms, I assure your honour that I will do Her Majesty as painful service as six of them shall do. Help me, my good Lord, in this my humble suit, and I will, God willing, set down for your Lordship such a book of the law as your Lordship will like of."

The offer of a new law book did not tempt Lord Burghley, and the end did not come until nearly ten years afterwards, when in 1591 Fleetwood resigned with a pension of £100 a year, which the Common Council voted him. And in the next year he obtained the wished for post of Queen's Serjeant, which he held for scarcely two years, as he died on February 28th, 1594.

And this is the last piece of writing I have found of his, written the day he gave up his Recordership. Even with his resignation upon his mind he notes down for Lord Burghley's satisfaction the excellent punishment awarded to two lewd people for misconduct against the public health.

"This day I rode to the Yeld (Guild) Hall to sit on the commission for strangers and in the lower end of Cheapside towards Poole's (St. Paul's) there stood a man and a woman both aged persons with papers upon their heads. The man was keeper of the conduit there. These two lewd people in the night entered into the Conduit and washed themselves, *et ad hunc et ibidem turpiter exoneraverunt ventres eorum, etc.*

This day Mr. Recorder surrendered his office. The lot is now to be cast between Mr. Serjeant Drew and one Mr. Fleming of Lincoln's Inn. This present Saturday.

Your good Lordship's most bounden

W. FLETEWOODE."

This picture of the old Recorder riding out to the Guild Hall for his last sitting and reporting to my Lord the common sights of the City brings back to us a real picture of his days. So that we can almost feel that we are living on "this present

Saturday” and regretting with all good citizens that “this day  
Mr. Recorder surrendered his office.”

## THE FUNNIEST THING I EVER SAW.

“Laughter almost ever cometh of things most disproportioned to ourselves and nature.”

—*Sir Philip Sidney.*

To ask one to write to such a title is a challenge to be taken up, but one does not expect to vanquish the challenger. The funniest thing I ever saw would not make you laugh because you never saw it and if I had the skill to make you see it probably you would not think it funny. Then again the older you grow the few funnier things you see. What a lot of laughter there was thirty or forty years ago. Whither has it fled? In childhood nearly every discomfort or disaster to others is food for laughter whilst your own little troubles are tragedies fit for tears.

It is a curious thing that the funny things you see always involve a certain amount of cruelty, pain or at least discomfort to others, and I suppose as one grows older the painful side of the matter oppresses you more than the funny side inspires you to laughter. There are some human attributes that are always laughable. Of these the chief is fatness. The troubles of a fat man or woman are always comic. Littleness, if it amounts to wee-ness, is comic in a somewhat less degree and thin-ness may move folk to laughter but scarcely unless it be added to some amusing eccentricity. Height and tall-ness are not funny. One never heard of a king employing a giant as a jester or a butt. The dwarf on the other hand has been cast for such parts from time immemorial.

I believe quite small babies see a lot of funny things. Certainly they laugh to themselves without end and seem to find their surroundings full of amusement. I have no doubt the funniest thing one ever saw is cinematographed on some ancient film at the back of one's brain so far out of reach that the memory cannot get at it. Children undoubtedly see most of the fun. I remember many years ago Louis Calvert, the well-known actor, was staying with me in a little house in a remote

corner of Wales. The house had a small verandah doorway with two narrow doors, one of which was usually bolted as it was a windy place and the outlet by the half door was, to say the least of it, meagre. Louis Calvert was in those days, I will not say fat or stout or corpulent—these ample men are so susceptible—but he was a fine figure of a man and he was then as he is now a great actor in both comedy or tragedy. It was a summer afternoon and I was lolling in a deck chair beneath our only tree, and the children, four of them, from five years old to twelve, were sitting on the lawn in front of the doorway basking in the sun. Suddenly Calvert appeared at the doorway and accidentally stuck in it as he was coming through. The children caught sight of him and on the moment were off in fits of laughter which good manners required them to stifle as he came among us. But if laughter challenges manners, the latter generally get the worst of it, and the mere memory of the incident sent one or another off into small explosions of laughter. Calvert who always wanted to be in at any fun sought explanations, which only made them laugh the more and reprove each other for doing it, and whilst their attention was so engaged I told Calvert what the joke was. A few minutes later he went back into the house making an elaborate sideways entrance, which started the young audience on the laugh again and all eyes were fastened on the door watching for his return.

And he did return and gave us one of the finest pantomimes I have ever seen. He came along loading a pipe and not looking at the doorway at all and stuck fairly fast in it before he was aware that he was up to it and opened his eyes in annoyance and amazement. Four shouts of laughter greeted him. Fingers of delighted mockery were pointed at him and he made a face as if he were on the brink of tears, which drew echoing tears of uncontrollable laughter from the youngsters. Then his pipe dropped on to the shingle path in front of the door and he dived to get it and failed and grabbed and kicked in the air until the children threw themselves on the ground and sobbed and begged him to leave off for he was hurting them. Then Calvert, to give them a moment's respite, pulled himself together and still fast in the doorway rested his hand on the door-post and thought dismally while the audience sobbed and sniffed and slowly recovered breath enough to

laugh again. By a mighty effort he now backed out of the doorway and approached it as Uncle Remus would say “behime” first. This was a signal for yells of delight, the more so as the manœuvre resulted in the most undignified and comic failure. All beautiful and simple people have a thoroughly broad and healthy laugh for the “behime” quarters of man in awkward positions. A man sitting down on the ice, a man sitting on another’s hat—these are situations that can never cease to be funny whilst there is any fun left in the world and simple minds to be moved to laughter. But this effort at an exit was only one of many. A carefully designed strategic move edgeways, after the fashion of Bob Acres, which was so nearly successful that it grew really exciting to watch, ended in hilarious shouts and yells, when the climax of it was the victim waving his arms and head out of the door and kicking violently inside the house and calling for help. This business having nearly reduced the audience to exhaustion there was further pantomime of deep expressive thought followed by a solemn retirement within the doors and a laboured and careful pulling at the bolts of the other half of the door and a ceremonial entrance through the whole double space of it with a smile and sigh of supreme content at the glorious triumph over difficulties undergone and vanquished. I can see in my mind’s eye a middle-aged gentleman with tears rolling down his cheeks and four absolutely limp children lying on the grass still gasping with laughter—dying with laughter as the phrase is—and begging Calvert in the intervals of their spasms to “Do it again!”

Now this may not seem one of the funniest things in the world nor was it perhaps the funniest thing I ever saw, for unfortunately I was only the middle-aged gentleman and my days for seeing funny things were more or less over. But to the children it was certainly one of the funniest things they ever saw, only the question that haunts me is—will they, when they grow up, be able to describe the fun they saw so as to impart a tittle of it to those who never saw it? And although I know that, at some period of my life, I must have seen equally funny things that moved me to equally stormy and glorious laughter, yet the storm and the glory have died so completely away that

the memory of them is gone and I cannot even remember from what point of the compass they sprang.

And in my view grown up people really see beautifully funny things only in the conduct of children and these incidents can only be described to fathers and mothers, or people who love children as though they were their fathers or mothers. One of the funniest things I ever saw since I was grown up was a baby struggling to find its way to its mouth with a rusk. Why don't they have a baby doing that at a music hall to slow music, or at least show one on a cinematograph? I could laugh at such a thing "sans intermission an hour by the dial." How it jabs itself in the eye with the soft end of the biscuit and bedaubes its cheeks and loses the biscuit in a temper and if not assisted by an over indulgent mother finds the biscuit after infinite search and goes at it again with renewed energy and at length is rewarded by success.

There is plenty of comedy and laughter about a baby as well as sleepless melodrama in the middle of the night—but it must be your own baby. There is no fun in next-door babies except when the Clown gets hold of them in a pantomime.

And now having solemnly failed to recount the funniest thing I ever saw, let me again remind you that I said from the first that the task was impossible, since the thing to be funny must be seen, and the funniest thing I ever saw you never saw. But the way to see funny things and to enjoy them is to keep your heart like the heart of a little child, for it is only children who are moved to the purest and healthiest laughter as the trees are moved in the breeze by a power they know nothing of. And of course if you have never been a child—and some poor people are born grown up—you will never have been able to see the funniest thing you ever saw.

# THE PLAYWRIGHT.

“In youth he learned had a good mistère  
He was a well good wright a carpentère.”

*Chaucer.*

The play is very nearly extinct. This is an age of dramatists. The reason is not far to seek. The playwright is merely a craftsman. The dramatist—so his friends in the press tell him—is a genius. And in these years genius is plentiful and craftsmanship becomes a rarer thing every day.

Just at the moment it is certainly not considered important to be a playwright. It is better to be an aviator. In the eighteenth century it was better to be a performing bear. But in my view now as in the eighteenth century the alternatives to the theatre will not destroy the theatre and a sound entertaining play will always find theatre-goers. There is room for plays written by a playwright, and as it is open to anyone who cares to learn the business to become a respectable craftsman—just as a man can learn to play the fiddle or make an etching on copper—there will generally be a few writers for the stage of literary merit who can turn out a stage play capable of weathering the varied storms of taste and criticism by which it is assailed in its endeavours to make safe harbour in the Box Office.

A playwright is according to Dr. Johnson “a maker of plays.” The word “wright” is satisfactorily enough a Saxon word derived from *wyrht*, the third person indicative of *wyrcan*, meaning “one that worketh.” The mere derivation of the word is enough to account for the absence of the thing itself. This is not an age of work. We retain in a degraded form the Saxon word, but the Saxon idea is foreign to our civilisation. Still in things that really matter we cling to the old world notion of a “wright” or person who knows his business, as in our word “ship-wright.” Unfortunately in the affairs of the theatre which in the present age do not really matter very

much, any clever man may exploit his wares without learning his business. Money is lost over it, and the theatre as an institution suffers. But playgoers like voters and ratepayers will continue the struggle to obtain a well-made article built according to their tastes, and in course of time workmanship in playwriting will have its value again. Meanwhile it seems a pity that among so many brilliant and intelligent writers for and about the stage, hardly one will take the trouble to master a few essential problems of what is really, compared to the technicalities of music or painting, a simple business.

If a man were to claim to be a ship-wright for instance, it would be accounted to him as a matter of blame if, after money and time had been spent on building his vessel, it were to be found bottom up on the evening of the launching. Explain it as he might, his career as a ship-wright would be endangered. With a playwright it is quite otherwise. If a man hangs out a sign that he is a wheelwright, you go to him in the expectation that he can make a wheel. It may not be a highly artistic wheel. It may be roughly painted, there may be no poetical carving in its wood-work, still you do expect him to turn you out a wheel. You would be disappointed if the article were oblong or rhomboid in shape. You would hesitate to trust yourself to it if it had no hub, no spokes, no tyres—none of the attributes of a wheel, and you would certainly be utterly disgusted if it did not run. But a playwright who makes his play without dramatic hubs or spokes or tyres, is often accredited a genius by those who have never learned how, and how only, a play can be made, and the fact that his play does not run is set down to the centrifugal ignorance of the spectators by the side of the road who came there desiring to see it run.

There are of course many playwrights to-day who are masters of their craft and audiences who can approve of them, but unfortunately the men who make it their business to write criticisms of the theatre are peculiarly and in some cases boastfully ignorant of the business of the playwright. In this way they mislead the aspirant dramatist into the idea that his audience is to blame for not appreciating his play, when his audience is only the mercury in the barometer recording the

general depression that must result in a theatre from a badly made play. However beautiful the words and the sentiments of a play may be, and whatever their moral and literary value, they are quite useless unless they are put in a form to get over the footlights. Quite silly sentiments and foolish language may be made serviceable by a playwright who knows his craft, and it would be valuable if some of the writers about theatrical affairs were to turn their attention from the discovery of new genius to the interesting business of the making of stage plays. One does not expect this to happen just yet, for the stage as a craft is a dull thing from a literary point of view, compared to the politics of the theatre and the apportioning of praise and blame—especially the latter—to writers, actors, and theatre-goers. Besides, there is a cult and creed among these writers, and to be in the movement, you must of necessity abjure the well-made play. I read a very clever essay the other day by a modern writer about the theatre, proving that “the well-made play” was the abomination of desolation. The essay was full of learning and epigram, and the questions were cleverly begged and answered in an apparent spirit of generosity, but it did not convince me. Supposing the title of the essay instead of being “the well-made Play” had been “the well-made Coat” or “the well-made Porridge” and the author had set out to prove to you that you were a stodgy Early Victorian duffer, because you pretended to like well-made coats and well-made porridge, might you not reasonably have sighed over his perversity. But this would never happen, for you will find that in the matter of coats and porridge, your writer is full of learning, and will write on these subjects if at all, with a sound knowledge of the craft he is criticising. Indeed I think the playwright and the actor are the only craftsmen whose work is widely written about by people who deliberately refrain from learning the grammar of the crafts they are writing about. Even the critic of pictures has generally failed to paint them, and that in itself is a liberal education. But many brilliant entertaining writers about the stage seem to base their right to be read with attention upon the scant attention they have themselves given to the subject matter of their criticisms. Thankful as I am, for the amusement contained in their epigrams, I am still of opinion that for men to set out to judge a play who have no

idea how a play is made, and no desire to learn how a play is made, is bound to end in amazement.

I remember taking an eminent antiquarian to Old Trafford on the occasion of a county cricket match. It was in the historic days of A. N. Hornby and Lancashire were in the field. My friend—who by-the-bye had written dramatic criticism in his early days—knew little or nothing about cricket but was not wanting in that kind of courage that goes to the making of a great critic. Viewing the game solemnly for about a quarter of an hour, he at length delivered judgment. “If I were Hornby,” he said, “I should never have chosen those two fellows in the long white coats for a Lancashire team; they haven’t tried to stop a ball for the last ten minutes.” I am often reminded of that story when I read a criticism of a play. Nor do I for a moment harbour any feelings of wrath against average critics. Like my friend they too have great literary and scholastic qualities that I can humbly envy and admire, but there is one thing that they have not taken the trouble to learn because it is too simple and easy for their really superior intelligence—the rules of the game.

And playwriting is a game like chess or cricket or many another great game and many a duffer can learn its elementary moves and rules and the more studious can master its gambits and strategy, but not even the greatest can succeed at the game, or understand what the game is about if they will not learn the rules. This is an age in which quackery and slush and conceit are having a long innings, and it is a common boast that some new genius has found a new way of saving souls, or painting pictures or making plays that is to revolutionise the practice of these things. Originality is a good thing, and who shall say a harsh word to the youth who dreams in the waking hours of his inexperience of a new way of doing old things. There are many new things to be done in the world, but not so very many for the playwright or the wheelwright. The world has long ago laid down the lines on which a play or a wheel is to be built and whilst it is open to us to use any material we choose, that will bear the necessary strain and decorate it with all the artistic ability we possess the structure must be sound—the work of the *wright* must be done—or all is vanity. The most

eloquent writer of sermons in the world cannot make a play of his preachings merely by chopping them into acts and giving them to different eminent actors and actresses to recite.

There is an A-B-C for the apprentice playwright to learn as there is for the child at school, and if he never learns it, he will not be a proficient workman. I acknowledge this simile is a little old-fashioned for the modern kindergarten child is taught nowadays to grunt strange sounds instead of mastering his or her A-B-C; the scientific teacher being I suppose, under a delusion that English is a phonetic language like my own native Welsh. But when the educational slush has subsided a little, we shall begin again with the A-B-C in our study of the English tongue, just as our playwrights will go back to the simple elementary rules of their interesting craft.

When Shakespeare wrote of the players that “they have their exits and their entrances,” he wrote what was strictly true of his own plays, for he took care to provide them with exits and entrances as any honest playwright should. And to explain briefly what I mean by the simple rules of the craft, let us consider for a moment the subject of “entrances.” It does not, nor need it, enter into the head of the playgoer that his convenience is consulted by the playwright on the matter of the entrances of the characters. The critic generally misses the best “entrances” if any, and makes his own exit with the programme as a book of reference before the players’ exits are completed. He has a soul above these matters. But Shakespeare knew that an actor wanted—and rightly wanted both an exit and an entrance and would not be happy unless he got them. These matters had to be thought out and designed, and in the matter of entrances, Shakespeare seems to have learned a very simple little truth, namely, that from a playwright’s point of view, and equally from an audience’s point of view, it was not the slightest use for a player to be talking upon the stage unless the audience knew who he was. Open your Hamlet and see how the play begins:

ACT I. SCENE I. *A Platform before the Castle.*

FRANCISCO *at his post. Enter to him* BERNARDO.

*Ber.* Who's there?

*Fran.* Nay, answer me; stand, and unfold yourself.

*Ber.* Long live the king!

*Fran.* Bernardo?

*Ber.* He.

*Fran.* You come most carefully upon your hour.

*Ber.* 'Tis now struck twelve; get thee to bed, Francisco.

*Fran.* For this relief much thanks; 'tis bitter cold,  
And I am sick at heart.

*Ber.* Have you had a quiet guard?

*Fran.* Not a mouse stirring.

*Ber.* Well, good-night.  
If you do meet Horatio and Marcellus,  
The rivals of my watch, bid them make haste.

*Fran.* I think I hear them. Stand, ho! Who's there?

*Enter* HORATIO *and* MARCELLUS.

*Hor.* Friends to this ground.

*Mar.* And liegemen to the Dane.

*Fran.* Give you good-night.

*Mar.* O! farewell, honest soldier:  
Who hath relieved you?

*Fran.* Bernardo has my place.  
Give you good-night. [Exit.

*Mar.* Holla! Bernardo!

*Ber.* Say,  
What! is Horatio there?

*Hor.* A piece of him.

*Ber.* Welcome, Horatio; welcome, good Marcellus.

Notice how naturally and in what a businesslike way Bernardo, Francisco, Horatio and Marcellus are all introduced to the audience, and the care taken to stamp their identity upon the mind of the spectators. The natural easy way in which it is done springs from the good craftsmanship of Shakespeare, but the doing of it is the business of every playwright.

One would suppose that such a simple matter as that could not be overlooked, but if one turns to the plays of some modern dramatists and seeks to understand them without studying the stage directions and noticing carefully the name of the speaker, one is apt to get into confusion. The latest craze is to publish a programme with the "order of going in" like a cricket card and thus you can buy for sixpence information that the playwright is too slovenly and too ignorant of his business to provide for you. There were no programmes in Shakespeare's time, but there were playwrights.

It may occur to those who have not studied the rules of the game that there is not the same necessity for careful workmanship in the matter of entrances in a play of to-day that there was three hundred years ago. The answer to that is that a play or a wheel of to-day is essentially the same as a play or a wheel was in the sixteenth or seventeenth century. The duty of the playwright to make his entrances obvious to his audience is equally clear, and is equally understood by the man who knows his business.

Compare as a modern instance Sir Arthur Pinero's opening of "Sweet Lavender." The scene is a sitting-room at 3 Brain Court Temple. Left and right are two doors leading to the rooms of Richard Phenyl and Clement Hale. Ruth, the housekeeper, is discovered, and Bulger, the barber, enters the room and the play begins. Now note the workmanship.

*Bul.* I've give Mr. 'Ale a nice shave, Mrs. Rolt, clean and quick. Water's 'ot enough for me jist to rub over Mr. Phenyl's face if 'e's visible.

*Ruth.* I'm afraid Mr. Phenyl isn't well enough for you this morning, Mr. Bulger.

*Bul.* Not one of 'is mornings, hey?

*(Ruth goes to the right-hand door and knocks sharply).*

*Ruth (calling).* Mr. Phenyl! Mr. Phenyl! The barber.

You see, Sir Arthur Pinero, having been an actor and knowing his business, informs you in a few lines not only the names of Phenyl, Hale, their housekeeper, and barber, but where each of the two men sleep and something of their characters. In a word, Pinero, like Shakespeare, is a thoroughly experienced playwright.

No doubt the younger writers of to-day have been led into their contempt for the business they have undertaken by the success that has enriched Mr. Bernard Shaw. They should remember, however, that he is more of a preacher and society entertainer than a playwright, winning the game by his delightful personality or personalities. He is an earnest religious man, with a great hatred of the theatre, the stage, and entertainment, to use his own words, "the great dramatist has something better to do than to amuse either himself or his audience." But dour Nonconformist as he is, his dullest moments are interrupted by his deep insight into the really funny things of this world. Mr. Shaw could make a sound play if he cared enough about it to try to do so, and in "Arms and the Man" and "You Never Can Tell" he showed much knowledge of the business. He would never, I think, have attained the real grip of the matter that Shakespeare and Pinero have, and knowing this he prefers to exploit his really great qualities in other ways.

But anyone can see for himself in this one little matter of entrances how slovenly the modern writer can be. If you turn to Mr. Galsworthy's "Joy," the play is opened without any effort being made to tell you the names and identities of the people on the stage; so, too, I remember, in the first act of the "Silver Box," Mr. and Mrs. Borthwick discourse amusingly about politics without disclosing who they are. No doubt these little mysteries are easily solved by the regular up-to-date theatregoer armed with a programme, but the absence of the information irritates some of the duller members of the audience, and the play suffers. Mr. Granville Barker, in "Waste," opens his piece with a room containing five ladies and one gentleman. He does not disclose you an identity by

name for twelve lines, and Mr. Walter Kent, one of the characters, is not introduced by name until some nine pages of very clever dialogue have been spoken.

No one supposes that Mr. Galsworthy or Mr. Barker could not put these little matters right somehow, though they could not do it with the craftsmanship of Pinero or Shakespeare. Unfortunately they seem to have a very real contempt for the minor details of the playwright's business, which prevents the full effect of their literary gifts being appreciable in a theatre. Mr. Galsworthy, it is very pleasant to notice, is growing out of these ways somewhat, and will probably, as his knowledge of the stage increases, come to respect its old world characteristics, and recognise that they are permanent, fixed, and unalterable. In his love of pantomime and the exhibition of real things on the stage, he has the true playwright's instinct. His real police courts, real prisons, and real boardrooms are admirable, and he is on the verge of understanding the true gospel of the playwright according to Vincent Crummies, manager, who really knew all about it from the Shakespearean standpoint.

Of course, this little matter of opening a play and designing an entrance for a character is only one of many simple matters that a good workman or "wright" has to attend to, but it is a very important one, and sufficiently illustrative of the difference between good and bad craftsmanship. To extend the theme by citing further instances of elementary rules broken and followed would be to commence an essay on the construction of plays. But to anyone who wishes to pursue the matter, it is curiously entertaining to see how in all essential things the actor-playwright is invariably the better craftsman than the literary man who commences dramatist. Mr. McEvoy, one of our most interesting modern dramatists, who has still perhaps something of the craft to learn, writes in a spirit of noble optimism: "I, as a dramatist, who knows how to do things the right way, mainly because I never had to unlearn how to do them wrong," in a few words, expresses the attitude of the dramatist of to-day towards the experience of centuries in the craft of playwriting. No one doubts that Mr. McEvoy and others may help a little in the evolution of the stage, but

they lessen their chances of success by the belief so piously held nowadays that there is nothing to be learned from the playwrights that have gone before. It was reckoned a mad conceit that prompted Walt Whitman to sing:

“I conn’d old times  
I sat studying at the feet of the great masters  
Now if eligible O that the great masters might return and study me.”

The modern genius finds nothing to study in the old masters, and if they, poor fellows, were now eligible to return and study our world of genius, I fear they would lack even the courtesy of an invitation box.

It is a pity that it should be so, but for my part I think it is only a temporary matter, and that, like all other things connected with the stage, it will work itself out under the wholesome discipline of the Box Office. A man who will not learn some of the elementary rules of playwriting must ultimately become too expensive for the most patient patron. Nor should we blame the literary man who turns dramatist very severely because he has a contempt for the craft of the playwright. He was born for higher things. His journalist friends proclaim the value of his ideas, and the literary expression of them in his play, and it is only the carelessness of the players and the stupidity of the playgoers that hinder his success. It is all to the good for the stage that men of education and intellect should be players, and that good artists should be scene painters, but no one who is a player or a painter expects to succeed in his stage work without learning the rules of the game. Why should a literary man despise the craft of the playwright when he seeks to earn his wages as a craftsman?

There is nothing new in this distaste of a literary man for the baser duties of playwriting. Bulwer Lytton, who, whatever we may think of his literary qualities, had undeniable talent as a playwright, discovered when he wrote “The Duchess de la Vallière” the interesting fact that playwriting was a special craft and that “dramatic construction and theatrical effect” were mysteries to be mastered. “I felt,” he writes in his preface to the *Lady of Lyons*, “that it was in this that a writer

accustomed to the narrative class of composition would have the most faults to learn and unlearn. Accordingly, it was to the development of the plot and the arrangement of the incidents I directed my chief attention, and I sought to throw whatever belongs to poetry less into the diction and the ‘felicity of words’ than into the construction of the story, the creation of the characters and the spirit of the pervading sentiment.”

Genius will shrug his shoulders at the name of Bulwer Lytton, but as a playwright two things are worth remembering about him—first, that in modern phrase he “got there,” and, second, that “he remains.” And if genius desires to write plays with a view to “getting there” and “remaining,” after the manner of Bulwer Lytton and other greater men who have stooped to the craft, let genius seriously consider whether, in his own interests as well as in the interests of the harmless necessary playgoer, it is not worth while to learn the rules of the game and commence playwright.

## ADVICE TO YOUNG ADVOCATES.

Here in the street poor Juvenis  
May raise his head and proudly trudge  
Alongside Judex—judicis  
The Third Declension—Judge.

*Pater's Book of Rhymes.*

In England the legal profession has two branches. There is also the root of the matter, but that is seldom referred to. These two branches are called—(i.) The Upper Branch, and (ii.) The Lower Branch. In great affairs the Lower Branch tells the Upper Branch what it has learned about the case from the client, and the Upper Branch tells the Court what it remembers of what it has been told by the Lower Branch. The advantage of retaining these separate branches is that where error occurs it is difficult to assign responsibility therefor. The Upper Branch learns advocacy by passing examinations and eating dinners; the Lower Branch by means of further and better examinations and fewer dinners. Those rules of advocacy that have not been learned by that method are acquired afterwards, if at all, by practical experience in the Courts of Law at the expense of the client.

To offer advice to members of the Upper Branch of the Profession on the Art of Advocacy would be unseemly, and these hints are intended—merely as suggestions made in the friendliest spirit—for the Law Student of the Lower Branch who proposes to take up advocacy in those inferior Courts which are open to him. Long experience of sitting as Judge in an inferior Court has led me to believe that it is not necessary or convenient that the advocacy should also be inferior, and I humbly commend this point of view to the younger members of both branches of the Profession.

Perhaps the most important Court from the young solicitor's point of view is the County Court. A solicitor is allowed to act for a client in a County Court. When he is acting he has what

is called a right of audience. This does not mean that all he says will be listened to by the audience, even if it be uttered in an audible voice. Moreover, the advocate's right of audience must not be confounded with the rights of the audience themselves, who are always entitled to leave the Court if they are bored. For this purpose the Judge is not "audience." He is bound to go on sitting, and ought to listen. The commission of Judge is *oyer* and *terminer*, but in actual practice in County Courts you will find that Judges are more ready to dispense justice *terminando* than *audiendo*.

Law students who have afterwards risen to eminence in their profession have sought to practise advocacy in their earlier years by making appearances at the local Police Courts as defendants. Much of the law of the motor-car may be learned in this matter—and much that is not law. The young enthusiast will find, I fear, that the method is an expensive one, the legal educational value of the magistrate's *dicta* is slight, and the opportunities allowed by the magistrate's clerk to the defendant for the practice of advocacy wholly unsatisfying.

Even in later life the young solicitor is not advised to begin his career as an advocate in the Police Courts. Criminals have very little cash, and ought not to receive much credit. As to licensing matters, these are wisely placed in the hands of matured and experienced advocates. A licensing Bench has always made up its mind—which is divided into two parts—long before the case is called on, and the advocate's duty is to say nothing that could conceivably disturb the considered judgment of the Court. This is a delicate task not often entrusted to beginners, and although it is well worth while to study the technic of some of the masters of the game, yet it is to be remembered that only with a licensing Bench, and perhaps before some of the more remote Ecclesiastical Courts, is this style of advocacy required. The young solicitor will probably find more scope for his abilities as an advocate in the County Court than before any other tribunal. The Judges of these Courts are far more tolerant of advocacy and less dogmatic on legal questions than lay Magistrates, and are neither as omnipotent nor as omnivorous as Magistrates' Clerks.

Thus much for advocacy in general. “I will now,” as Lord Chesterfield says, “consider some of the various modes and degrees of it.” I assume that you are a young solicitor entrusted by some hopeful and friendly client with a County Court Action. Your first duty as a solicitor advocate is to get something on account of costs. Do not omit this common opening. A gambit here is a mistake. The fact of your client being a personal friend makes it the more necessary. Many a friendship has not survived a fourteen days’ order to pay a debt and costs. This sum on account may prove your real and only solace (*solatium*) when you hear the judgment.

Always consider yourself before your client. Your client is here to-day and gone to-morrow, whilst you, I hope, may remain. Proper pride will instinctively teach you when to consider your own interests rather than your client’s. Remember Bacon’s saying that “Affected dispatch is one of the most dangerous things to business that can be.” All dispatch is indeed alien to the interests of your profession, whether affected or otherwise, but there are many forms of affectation which you will find useful to your advancement. I would not have you pretend to forget the names of the earlier cases you obtain, though I do not advise you to take cognisance of the Court number of your case. If you knew this it would save the Court officials trouble, and they are paid to take trouble. Later in life you will find it well to call the Defendant by the Plaintiff’s name and *vice versa*. It suggests to the Court and the audience that you have too many cases to attend to, though it will not gratify your particular client.

In examining a witness, never let him tell his own story in his own way. Many a case is lost by this. The leading question is a sign of ripe advocacy. But do not overdo it; remember over-ripeness is rotten. The seniors at the Bar are called “leaders” from their habit of using this form of question unless restrained by quasi-physical violence. Cross-examination is not merely the art of making the witness cross. If your opponent’s witness proves nothing against your client, cross-examine vigorously. By this means the truth is often brought out and justice is done. During your cross-examination notice carefully whether the Judge is taking a note of the answers you

are obtaining, or writing letters. In either case do not prolong your cross-examination, for if the latter it is useless trouble, and if the former it is probable you are eliciting answers that will be used against you. In re-examination, endeavour to lead your witness once more through his proof. It is an excellent test of judicial complacency.

The rules of the County Court are to be found in books, and need not therefore be committed to memory. Indeed, most law can be found in books by those who know where to look for it. Yet it is ill to stir the green mantle of the standing pool of law yourself if you can persuade another to do it for you. A slight knowledge of the first principles of elementary law will always be welcome in any Court. You may evade a detailed study of the more intricate points in your case by insisting that it falls within the rule laid down in one of Smith's Leading Cases. For this purpose, however, you should learn at least the one rule you propose to quote. After all, the Judge has to decide the law, and ought to know it. The legal presumption is that everyone knows the law—this includes Judges. In cases under the Workmen's Compensation Act, be careful how you quote a decision of the Court of Appeal. It may not have gone to the House of Lords, but if it did it is well to find out what happened to it when it got there. If an appeal to the House of Lords is pending the current odds against the legal value of the existing decision will be found in any sporting paper. If, during your argument, the Judge points out to you that there is a leading case deciding exactly the opposite of what you are arguing, ask him, with pained irritation, to be patient, and tell him you will distinguish it presently—but do not try to do so. Never give yourself away unnecessarily, rather give your client away, and you will find that generosity of this kind is never forgotten.

Allow the Registrar's clerks to fill up for you the prolix and difficult forms in use in the County Court. They are not solicitors, and are therefore less likely to make mistakes in the work. If, however, a mistake is made you can always explain to the Judge how it arose, and you will not be blamed for it. In any case, where the law is really obscure and difficult, agree with your learned friend to leave the matter entirely to His

Honour. By this means His Honour—if he makes no objection—will have to hunt up the authorities, and this will save you and your learned friend much useless labour, whilst the decision of the Judge will be far more valuable to your client. If you lose your case and your client loses his temper, blame the Judge, and urge your client to write to one of the Government departments—it does not matter which—to make a formal complaint of the Judge’s conduct. Government departments enjoy correspondence, and will treat your client’s letter with the respect and attention it deserves. On days when county cricket matches are being played in the neighbourhood of the Court, and generally on fine summer afternoons, your arguments will be the more admired if they are brief and occasionally to the point. If the case you have lost is for an amount of over £20, nevertheless ask leave to appeal. You do not want leave, but the Judge may not remember this, and may either grant or refuse it. In any case it gives you what you are probably longing for at that particular moment—an effective exit. Finally, remember that however genuine your contempt for the Court may be, you conceal it until you get outside—otherwise, seven days.

If the law student will peruse these suggestions and act upon them, and assuming him to be, as no doubt he believes he is, a young man of clear, strong, subtle intellect, of sound judgment, quick perceptions and brilliant forensic abilities, I can assure him that there is nothing between him and a very considerable and remunerative practice as an advocate in the County Court in matters which are not of sufficient importance to “stand” Counsel.

## THE INSOLVENT POOR.

“Small debts are like small shot; they are rattling on every side and can scarcely be escaped without a wound; great debts are like cannon; of loud noise but little danger.”

—*Dr. Johnson.*

The average man—the “man in the street,” as the journalist of to-day calls him—has no clear notion of the affairs of the County Court. He reads occasional paragraphs in the evening papers of some amusing incident, in which the humour of the Plaintiff or Defendant is capped by the humour of the playful and learned Judge, and the humour of the reporter, displayed in his dramatic sketch of the litigants, is the chief motive for the record of the case. I have often been told that my work must be very amusing, that I must see a great deal of life, and that County Court cases seem very entertaining, and I have come to the conclusion that those of the public who never enter a County Court, or read any sane record of its everyday work, which is too often dull, wearisome, and painful, and no fit material for paragraphs and headlines, live in the belief that the occupation of a Judge of a County Court is a legal form of small beer and skittles, in which the Judge’s part is to preside with free and easy good humour, and settle disputes with as much wit and readiness as he happens to possess. No one who has any experience of the actual proceedings of the Courts would recognise such a picture as in any way portraying the facts of the case.

In Manchester and Salford I was able to divide the work of the Courts into two classes, and to keep them distinct from each other. One contained an increasing number of Bankruptcy, High Court, and other cases, in which the litigants are of the same class and have the same legal assistance as in the High Court. The main differences between the High Court and the County Court in the conduct of such actions, being the simplicity of the procedure, and the rapidity and punctuality of trial in the inferior Court. The second, and to my mind the

more important, if less interesting class of cases, was the large mass of debt collecting cases under £2, which were the original work of Courts created by the legislature for the “better securing the payment of small debts.” The first class of work is a somewhat onerous compliment to the ability with which the County Courts of the country are worked, but the second class ought always, it seems to me, to be the chief interest and care of County Court officials. And in the work connected with this smaller class of cases, the chief result of my experience has been a dull sense of the enormous mass of misery and wretchedness it is one’s duty to cause, and the despondent feeling that of necessity oppresses one in the presence of misfortune, that one can sympathise with, but not to any material extent alleviate. I should like, therefore, if it be possible to bring home to the average citizen the hopeless and almost degrading position of the insolvent poor, and to suggest for his consideration some of the reforms which, with or without legislation, might assist in bringing about a better state of things.

To begin with, one may state that there are over a million cases entered every year in County Courts, to recover debts under £20, and it will give some idea of how few cases are seriously disputed when I state that there are only between eleven and twelve thousand cases in which the Plaintiff fails to succeed, and these latter figures refer to all cases up to and above the £50 limit. Many cases get settled, some plaintiffs never get served, but I have no doubt that one is well within the mark in stating that 98 per cent. of cases under £20 result in judgment for the Plaintiff. It is clear, therefore, that the Court is to this extent a collecting agency rather than a Court for the determination of disputes, and it is, in this respect, that its machinery should be examined. Few who do not know by personal experience, something of the life of the poorer class of working men and women, recognise the enormous extent to which they live and have their being on credit. The extent to which credit is given, and recklessly given, to men, women, and children, by the competing tradesmen who supply the working classes, would be an absurdity if it did not lead to so much misery. As Judge Chalmers put it in an epigram born of

his wide experience of the insolvent poor: “They marry on credit to repent on Judgment Summonses.”

Now the two main causes of this reckless system of credit are:—(1) the keen competition among tradesmen; (2) the existence of imprisonment for debt. It is not advisable here to say much of trade competition. If it were a competition to sell the best goods at the most reasonable price it would perhaps be healthy enough, but it seems to be rather a competition to give the longest credit for the most inferior article. The largest classes of competitors are the money lenders, the credit drapers, or “Scotchmen,” the travelling jewellers, the furniture hirers, and all those firms who tout their goods round the streets for sale by small weekly instalments. These of necessity give reckless credit, and, equally of necessity, collect their monies with much suffering to their poorer customers. It seems fairly clear that to a working man on small weekly wages, no credit can be given in any commercial sense. A tradesman, if he gives credit at all to such a man, ought to give it upon the ground that he has reason to believe that he is an honest man who can and will pay his debts. As a matter of fact, the two chief reasons, or rather excuses, for giving credit are both somewhat weak. Tradesmen will tell you that they have given a man credit either because he was in receipt of good wages or because he was out of work. In the first case they ought clearly to insist upon cash, and the workman ought to get the advantage of a cash price, and in the second case they should only give credit if they know the character of the man, unless, of course, they choose to call it charity, with which the County Court has nothing to do. But in truth, credit is given without enquiry, recklessly and equally to those in work and out of work, for necessities, luxuries, and inutilities, and given at a price which includes the profit of the credit giver, his costs of making weekly collections, the costs of his debt collector or solicitor, and ultimately a considerable tribute towards the maintenance of the County Court.

Now all this is only possible because of the second factor in our treatment of the insolvent poor, namely, imprisonment for debt. The insolvent rich—if we may use such a phrase—do not nowadays fear imprisonment for debt. At the expense of a few

pounds borrowed from a friend, they file their petition in bankruptcy and shake themselves free of all their creditors as if by magic; for not being traders their discharge is of little importance to them, and they go absolutely unpunished. I set down a few cases from an Annual Report of the Board of Trade for comparison with some other cases, which I propose to set out later:—

“Bristol. No. 64, of 1896.

Liabilities expected to rank	£36,631
Probable value of assets on realisation	£100.”

Debtor, younger son of a duke. Creditors, mostly money-lenders and tradesmen. His expenditure, which included losses by betting, largely exceeded his income, and knowledge of his insolvent position for some considerable period was admitted.

“Kingston. No. 21, of 1896.

Liabilities expected to rank	£21,741
Probable value of assets on realisation	£667.”

Debtor, formerly in the army, lived on his wife’s income, lost money in Stock Exchange speculations and betting. No income except £135 derived under marriage settlement.

“No. 471, of 1896.

Liabilities expected to rank	£298,166
Probable value of assets on realisation	£1,700.”

Debtor, a peer. At the time of his succeeding to estates in 1864 his liabilities were £30,000, and have apparently continued to increase in consequence of his expenditure being larger than his income. His discharge was suspended three years on account of unjustifiable extravagance in living.

These are samples of the glorious achievements of the insolvent rich. Now let us turn to the shorter and simpler annals of the insolvent poor. For them the maxim, “*Si non habet in aere luat in corpore,*” is still a living truth, only they hear it as quoted to me once by a poor woman in the words of some Scotch draper: “If I canna ’ave yer brass I’ll tek yer body.” The law is not the same for the speculator who lives extravagantly above his income to the injury of his creditors and the working man on five-and-twenty shillings a week who

fails to live within his means. The latter is only in a very limited sense the creature of bankruptcy. The luxury of legal insolvency is almost denied to him. He is ordered to pay his creditor, and the costs his creditor has incurred in obtaining judgment, and the fees of the County Court, at so many shillings a month, and if he fails to pay his instalments his creditor proceeds, at further cost to the debtor, to collect them by means of a judgment summons. Then, upon proof that he has or has had the means to pay the instalments due, he is committed to prison for default. Few citizens, I think, recognise the number of persons who are thus committed to prison. In 1909<sup>[2]</sup> no less than 375,254 summonses were issued, 234,753 heard, 136,630 warrants issued, and 8,904 debtors actually imprisoned. Nor can it be granted that of those who pay between the issue of the summonses and the day of imprisonment, all, or nearly all, are in a position to pay, in the sense of possessing surplus money sufficient to discharge the debt. Friends and relatives come to the rescue, fresh credit is obtained to pay off the old debt, and thus the result of a committal order is too often to thrust the unfortunate debtor one step deeper into the slough of insolvency in which he is already sinking beyond recovery. At the same time it is of no use railing at the system. The Select Committee of 1893 reported generally in favour of it, mainly, I think, because the working class themselves uphold it. They uphold it for one reason—and a powerful one—because without imprisonment for debt there would be no reckless credit, and without reckless credit there would be no possibility of prolonging a strike after their own accumulated funds began to give way. All that any individual Judge can do is to administer the system with as much sympathy and mercy as is compatible with its honest working, without prejudice to his right of private protest as a citizen against its social iniquity.

Having now pointed out the position of the small debtor in the County Court, I want to draw attention to an existing system of small Bankruptcies known as Administration Orders which are very little used or appreciated by either the Courts or by debtors, but which with some improvements might do much to mitigate the evils of the existing system of

imprisonment and check the recklessness with which credit is given to the poor.

This Administration Order was the creation of the Bankruptcy Act of 1883, and in a few words the system may be thus described: Where a debtor has a judgment against him in a County Court and is unable to satisfy it forthwith, and alleges that his whole indebtedness does not exceed £50, he may file a request for an Administration Order. In this request he gives a full list of all his creditors with particulars of their debts, and states whether or not he proposes to pay them in full and by what monthly or other instalments. Notice is given to creditors of the date of hearing, and on that day the Judge either makes or refuses the order, or makes a modified order at his discretion. As soon as the order is made all proceedings against the debtor, in respect of the debts scheduled, are suspended, and the creditors individually cannot attack him. He can, however, if he does not pay his instalments, be committed for default or the order can be rescinded. The fund created by his payments is appropriated—(1) for the Plaintiff's costs in the action; (2) for the Treasury fees, which are 2s. in the £ on the total amount of the debts; and (3) for the debts in accordance with the order.

This is the system which Mr. Chamberlain, on the second reading of his Bill, March 19th, 1883, described as a system whereby the “small debtor would be in exactly the same position as a large debtor who had succeeded in making a composition with his creditors or in arranging a scheme of liquidation. Although he had not abolished in all cases imprisonment for debt, yet, if these provisions became law, it could be no longer said that any inequality existed in the law as between rich and poor. The resort to imprisonment<sup>[3]</sup> to secure payment would be much rarer, and a large discretion would be vested in the Judges to arrange for the relief of the small debtor by a reasonable compensation.”

These were brave and wise words, interesting to-day as showing the then intentions of the author of the system, hopeful to-day as suggestive of what may be expected from those in authority when they recognise the failure of the system in achieving the objects for which it was invented.

The advantage of the Administration Order over the individual collection of debts is manifest, but the imperfections in the system are equally manifest. The limit of £50, and the exorbitant Treasury fees to be paid in priority to the dividend to creditors, are of themselves sufficient to account for the failure of the system. Thus it is not surprising to find that in many of the Courts this section of the Act is a dead letter, and the Administration Order is unknown. There is, and I think rightly, a wide discretion given to Judges of the County Courts who are supposed to study the needs and wants of their particular localities, and minister to these wants in a quasi-pastoral spirit. Without the active assistance of Judges and Registrars such a system as this could not be either known to—or understood by—the insolvent poor. Many Judges probably think the system worthless, and in consequence it is not used. Thus in 1909, on two circuits, 5 and 8, Bolton and Manchester, 821 orders were made, while on five large London circuits, 40-44 inclusive, only 37 orders were made. I have myself found a considerable increase in applications for Administration Orders since I have encouraged debtors whose affairs were in a hopeless state, to make their application, and taken occasion to explain to debtors appearing on Judgment Summonses the provisions of the section enabling them to apply. How hopeless is the condition of many of the insolvent poor, and what they are reduced to by reckless credit given to them by some classes of tradesmen may be seen from some of the following cases extracted from the Administration Order Ledgers of Manchester and Salford:—

“M. No. 358.—Labourer; wife; 9 children; 18s. per week; 12 creditors; 7 judgments; debts £40. 9s. 8d. Has nearly finished paying these at 5s. in the £ by instalments of 6s. a month. The Treasury got £3. 4s. Court fees on the 7 judgments, and £4 fees on the Administration Order.

“M. No. 399.—Labourer; 22s. a week; wife; 11 children, two earning 5s. a week; 14 creditors; 10 judgments; debts £44. 16s. 1d. Was paying 10s. in the £ at 10s. per month. Paid £6; order then rescinded. Treasury taking £4. 8s. fees; creditors, £1. 12s. The Treasury had previously had £3. 17s. Court fees on the 10 judgments.

“S. No. 429.—Railway Porter; 16s. 10d. a week; wife and 1 child, aged three; 19 creditors; 13 of the creditors travelling drapers; debts, £33. 10s. Order, 10s. in the £ at 5s. 6d. a month.

Before the Order was made he was, under the 9 judgments, bound to pay 39s. 6d. a month, and liable to committal if he failed. The Treasury had already had £3. 4s. 9d. Court fees on the judgments, and will get a further £3. 6s. fees on the Administration Order.

“S. No. 551.—Labourer; wife and 6 children, two earning jointly 10s. per week; wages, 18s. a week; 18 creditors, of whom 11 were travelling drapers; 16 judgments; debts, £20. 10s. 2d. Already liable to pay 35s. a week to different judgment creditors. Order made, 10s. in the £ at 4s. a month. Court fees already paid to Treasury £4. 14s. 3d. Under the Order they will have another £2. In this case the State has added more than 30 per cent. to the original indebtedness of the man in the vain endeavour to make him do what he was unable to do, *i.e.*, pay his debts without the means to pay them.

“S. No. 460.—Ostler; wife; no children; 21s. a week; 25 creditors; 9 judgments; debts, £32. 7s. 6d.; 14 of the creditors travelling drapers. Order, 10s. in the £ at 6s. per month. Apart from the Order he was bound under the judgments to pay 22s. a month. Here the Treasury have already had £2. 8s. 6d. Court fees, and will get a further £3. 4s. fees on the Order.”

In the three last cases the insolvency was chiefly due to a careless wife. The porter's wife was quite young and an easy prey for the travelling draper.

From these cases it is at least clear that if such debtors are to be left to their various creditors, a large portion of their time will be spent in evading the service of Judgment Summonses or appearing in Court, either by themselves, or more usually by wife and baby, to show cause why they should not go to gaol. Without the assistance of some form of bankruptcy and discharge their case is hopeless, and their future must be one of chronic insolvency.

One of the chief objections to the present system raised by creditors is the exorbitant fees charged by the Treasury. Parliament enacted that these fees should “not exceed” 2s. in the £ on the total amount of the debt. The Treasury interpreted this to mean that there should always be 2s. in the £, whatever composition was paid, and ordered accordingly. So, if a man's total debts be £50, the Treasury draw £5, whether the debtor pays 20s. in the £ or 2s. in the £, and draws this in priority to creditors and whether the Order is fully carried out or not. As we have seen, the Treasury have often, before the Order is made, drawn considerable sums on judgments forming part of

the Order, and creditors contend, and I think rightly, that these fees are excessive.

Some time ago I collected the views of the Judges on these fees, and forwarded them to the Treasury. Speaking generally, they were adverse to the fees, but the Treasury, although they have the power to mitigate the fees, cannot see their way to do it. I put this matter in the forefront of possible reforms, because it can be done by a stroke of the departmental pen without legislation, and if done would do much to render these orders more useful to—and therefore less unpopular with—creditors. I have often pointed out to grumbling creditors that these fees were probably not intended by Parliament to be exacted, for I have never thought it part of my duty to apologise for the rapacity of a Government department. And when I saw the figures for 1909, “Treasury income from fees on Administration Orders £12,824, money paid to creditors £45,059,” I could only concur in the view that it was little short of a scandal that such an income should be drawn by any department out of so miserable and helpless a class as the insolvent poor, especially when it is done at the expense of those to whom they owed money.

The Treasury, of course, have a departmental view perfectly sane and satisfactory after its sort. If I understand the view aright it is this:—These Orders do not pay their way according to our calculations. There is an income of nearly £13,000 a year coming to us under an Act of Parliament, and our duty is to take what is provided, asking no questions for conscience sake. If one could get beyond the department to the individuals composing it, and make them realise in the midst of their great affairs that this sum of £13,000 a year, trumpery but acceptable, at Whitehall, is a grievous tax in the cottages of the insolvent poor, some reform would perhaps be made. Indeed, I cannot but think that the departmental view of the small work of the County Court is altogether wrong in principle, and that the time is at hand when Parliament should enforce a more modern view of its duties on the department. The constant cry is that the Courts do not pay. The answer is that they ought not to be asked to do so. The toll-bar principle ought to be gradually abolished, and the Courts of the country ought to be

as free to Her Majesty's poorer subjects as the high roads. Nowhere is this more true than in the County Court, where the fees throughout are exorbitant and excessive, pressing with the greatest harshness on those who are already over-burdened with debts.

These and other matters have, however, been reported upon by commissioners and mentioned in Parliament. The only immediate reform that can be made is the reduction in Treasury fees. That can be done forthwith and without legislation if Parliament desires it, and ought to be done without delay. After that it will be time to put forward a more satisfactory scheme of small bankruptcies, open to all weekly wage-earners, whatever the amount of their debts, with an official receiver responsible to the creditors and the Court. Parliament ought at least to find time to carry out the recommendations of the Select Committee of the House of Lords in their report on the working of the Debtors' Act, printed in 1893. The most important suggestion there made was: "That the question of costs in respect of Judgment Summonses and Orders of Commitment is one deserving serious consideration, and that it would be advisable that a Departmental Committee of the Treasury should carefully consider the matter as early as possible." This question of costs and fees in all small proceedings is one that wants an immediate and searching investigation and reform of a not wholly departmental character.

Meanwhile faith, which will remove mountains, enables me to believe that the Departmental Committee of the Treasury are giving it a wise and most deliberate consideration. Hope also buoys me up to look forward to a time when Parliament will amend the Statutes of Limitations in regard to small debts, curtail imprisonment for debt, and enact at least as favourable laws for the insolvent poor as exist for the insolvent rich. Charity, meanwhile, compels me to grieve that so little is done to stop the reckless credit which is offered to the poorer classes, and to urge the consideration of such measures as may assist the insolvent poor, who of all our fellow citizens seem to me to demand pity and sympathy, in place of punishment, rigour, and harsh laws.

## WHY BE AN AUTHOR?

“Of making many books there is no end; and much study is a weariness of the flesh.”

*Ecclesiastes xii., 12.*

The connecting of the making of books with study is an old world idea that it is difficult for a latter-day reader to understand. A modern world recognises that book-making in all its branches is a natural pursuit for those of the unemployed who honestly strive to live by their wits. But if the making of books was allowed to be a national nuisance in the days of Solomon, much more must it be so to-day, when books are fast ceasing to be saleable, and have to be given away with out-of-date or up-to-date newspapers, pounds of tea, and other doubtful merchandise.

If, therefore, the supply of authors could be mitigated, much of this long-standing trouble might be abated; and it becomes a reasonable thing for a citizen—especially one who has himself been guilty of some of the minor literary misdemeanours—to inquire why authors become authors, instead of following some useful trade, and what human motive it is that drives people to authorship. I do not pretend that I have found the answer to the question, “Why be an Author?” If I had I should have solved one of the riddles of the universe. But I can, perhaps, set forth a few suggestions upon the lines of which future scientists will be able to pursue the problem to its ultimate solution.

To make a rough attempt at the classification of the common motives of authorship is a bold thing to do. Experimentally I should set down—“in the order of going in,” to use a cricket phrase—the four following, namely:—

- (1) Vanity, or conceit.
- (2) Greed.
- (3) The fun of the thing,

and

(4) Having a message to deliver.

And first of vanity or conceit. How easy this is to diagnose in the literary works of others; how impossible to admit, even for a moment, that it is at all a permissible suggestion about the motive of our own work. And yet if one will be honest with oneself, what is there in life that ministers to the delightful pleasure of vanity so thoroughly and satisfactorily as the sight of one's first printed production. I remember well the first book I ever published. It was, curiously enough, a *Life of Queen Elizabeth*, a subject I returned to in later years. It was not a large book—but then at the time I published it I was not a large person, being only nine years old, and the physical act of writing was burdensome to me; spelling also had more difficulties about it than perhaps it has to-day. No, it was not a large volume: to be exact it contained two pages demi octavo of rather large print. It was not however, intended to be printed in book form at all. It was rather a first effort at journalism, and was written for the pages of an excellent periodical called *Little Folks*, which had offered a prize for the best life of the Maiden Queen. The prize, no doubt, was, as these things often are, carelessly adjudged to some budding author, who has probably never been heard of since. Anyhow, I did not get it, and my MS. was returned,—you send a stamped envelope if you want it returned, never forget that—mine was returned “highly commended.” That Editor has saved himself a lot of nasty abuse from literary historians of the next century by those two words, “highly commended.” He made a mistake, no doubt, about the prize; but I, who have had to give many hundred decisions in my later years—not perhaps verdicts of such moment, but concerning smaller matters, where right decision is equally advisable—know the difficulties of coming to a true result, and have long ago readily forgiven him. Doubtless the poor fellow did his best, and if he is still alive—more power to his elbow, if he has gone

Where the Rudyards cease from Kipling,  
And the Haggards ride no more

then—peace to his ashes.

The world was not however to lose this masterpiece. I remember showing it to my father when it came back in its stamped envelope, and he put it in his pocket, gravely expressing a desire to read it. I am not sure that he did read it, but he had it printed—at Guildford, I believe, when he was away on circuit.

I remember him placing the parcel in my hands on his return and my delight in opening it, and my wild surprise at the discovery of the contents, and the awed silence that came over my soul when I saw the print on the pages and knew I was an author. I can hear my father's good-natured laugh over the affair, and my mother's insistence on my autograph on the front page "with the author's compliments." I spelt compliment with an "e." It is absurd having two ways of spelling one word. Afterwards I have a dim remembrance of walking about on air for a few days, and finding it difficult to sit on chairs for any length of time, and quite impossible to learn lessons. All my spare time was taken up by reading the great work in solitary corners, and marvelling at the beauty of the language and the respectability of the spelling. When I went for a walk in Kensington Gardens I shrank from the gaze of the populace, much as a real grown-up author might do, who had lived at the Isle of Man or Stratford-on-Avon. After a time I became normal again, but the mischief was done: I had, in the seventeenth century phrase, "commenced author."

Looking back at the matter from the cold, grey standpoint of a grandfather, there is this to be said for my first book. It is out of print. It is so rare that I doubt if an American millionaire could buy one. The last copies of it that I saw fell out of an old desk many years ago, and were made into paper boats by my children. Luckily I have plenty more materials for paper boats for the next generation when they shall need them.

I have written down this little experience because, to my mind, it is perhaps the one certain instance I can testify to, of a book being written wholly and entirely from motives of vanity or conceit. The prize did not attract me in the least; it was, I believe, a book of religious tendency. There was no greed

about the matter. I did not do it for the love of the thing, for in those days I spent my spare time in carpentering and producing pantomime in a toy theatre. As for any sense of having a message to deliver that was absurd, because I copied the bulk of it out of Little Arthur's History of England, carefully paraphrasing the language to hide from the over-curious the source of my authorities. There is no doubt that this book was written and produced solely by the author's—and perhaps his parents'—strong sense of vanity and conceit. I can speak about the author impersonally to-day for he seems to me such an entirely different person from myself.

I have asked many living writers whether they have ever knowingly written anything purely from motives of vanity and conceit. They all answer me in a pained and haughty negative. For myself, I rather glory in it. It is good to have done something that nobody else has achieved. It is a big thing to have written at least one book that does not lie on the shelves of the British Museum, a book the original edition of which no gold can buy, a book that has given, to one reader at least, moments of more thrilling joy than any book that was ever printed.

But although we may accept the statements of living authors, that they never feel moved to authorship by vanity, yet if we look at the records of those who are gone we shall find schools of literature whose mainspring has been conceit. Of such are the French *Philosophes* of the reign of Louis XV. of whom Carlyle writes: "They invented simply nothing: not one of man's powers, is due to them; in all these respects the age of Louis XV. is among the most barren of recorded ages. Indeed, the whole trade of our *Philosophes* was directly the opposite of invention: it was not to produce that they stood there, but to criticise, to quarrel with, to rend in pieces, what has been already produced;—a quite inferior trade: sometimes a useful, but on the whole a mean trade; often the fruit, and always the parent of meanness in every mind that permanently follows it."

And indeed in all critics there must be a marrow of conceit stiffening the backbone. Else how could they—who fell out of the ranks footsore on the march to battle—come along so complacently when the fight is over, to talk to the soldiers

covered with the grime and sweat of their work, and tell them how easily it might all have been done without soiling the pipeclay.

All critics however do not write merely from this motive. There are many of course writing from the far higher motive of greed. Then there are some few who do it for the rare fun of the thing—to enjoy the intense annoyance it gives to foolish, sensitive artists—these are the mud flingers and corner boys of the trade, and of course a few critics have lived who played the game and knew it and brought a message of heaven-sent sympathy to the artist. Maybe such a one exists to-day, in some corner behind the clouds, struggling to let his rays shine encouragement on honest endeavour.

But apart from the writings of critics vanity and conceit have always been strong motives of authors. They are found especially in schools of literature, where the form is preferred to the substance. Take our eighteenth century writers and read the story of their lives. Can it be denied that they were a vain crowd? Even Swift, Pope and Addison—the greatest of them—were not without it. As for the smaller fry, with their degrading squabbles and jealousies—their very faces seem to me pitted with the small-pox of conceit. And throughout this period you have one symptom;—the writer exalting the letter above the spirit,—and when you find that, it is invariably the indication of disease, and the disease is vanity.

This is not only the case in writing. It is so in nearly all pursuits. When you begin to believe in technical excellence of form as an end in itself, it is necessary to become to some extent narrow, vain and conceited or you will not achieve your end. In those arts in which form is more essential to the art than substance, vanity and conceit are more commonly found. Thus actors, singers, dancers, and schoolmasters are often not without vanity. You may notice, too, that the minor technical pursuits of life produce a certain conceit. It is occasionally observable in the semi-professional lawn-tennis amateur. In a lesser degree too by many golfers the same vice is sometimes displayed, but more often in the club-house and on the first tee than during the progress of the game. When a man is deeply bunkered style becomes a secondary consideration.

But generally speaking all writers who think literature an affair of quantities, metres, syntax and grammatical gymnastics, all men who reverence literary form rather than practical substance, are bound to write in a spirit of vanity and conceit, which is the only petrol that can push them along the weary road they have chosen. It oppresses you to-day to find this spirit in nearly all the great writers of the eighteenth century. How Oliver Goldsmith stands out amongst them as the one great writer with a human heart; how we readers of to-day love him and reverence him with an enthusiasm we cannot offer to Addison himself.

But enough of conceit and vanity, let us turn to our second motive—a far pleasanter and more everyday affair—greed. I should put Shakespeare among the first and greatest whose motive was greed. I cannot imagine anyone taking the trouble to write a play from any other motive, certainly not from a lower motive. Shakespeare's main desire in life, if we may trust his biographers, was to become a landowner in Warwickshire—possibly a county magistrate. What an ideal chairman he would have made of a licensing bench. Would Mistress Quickly's license have been renewed? I doubt it. Shakespeare wrote plays for the contemporary box office to make money out of them and thrive. As Mr. Sidney Lee tells us he “stood rigorously by his rights in all business relations.” There being in those days no law of copyright he borrowed all he could from common stock, added to it the wonderful flavouring of his own personality and served up the immortal dramatic soup which nourishes us to-day. After this fashion of borrowing, if Emerson be right, the Lord's Prayer was made. The single phrases of which it is composed were, he says, all in use at the time of our Lord in the rabbinical forms. “He picked out the grains of gold.” It is the same if you think of it with Æsop's fables, the Iliad and the Arabian Nights, which no single author produced. And so must all great work be done, for we are nothing of ourselves and if we do not take freely of those who are gone before we can do naught. But only those have the right to borrow who can embroider some new and glorious pattern on the homely stuff they appropriate. Shakespeare had no vanity and conceit; no doubt he wrote for the fun of the thing, as all writers who are worth their salt must

do, possibly—though I for one doubt it—he knew of the message he was delivering to the world; but that he wrote his plays primarily for greed, the few records of his life that we possess seem to me to prove beyond reasonable doubt. Unless, of course, you are mad enough to believe Bacon wrote the plays. Then indeed the motive power of the author was greed—greed of a baser sort than Shakespeare’s—for the great Lord Chancellor never did anything that I know of, except a few trivial scientific experiments, from any other motive.

But when I speak of Shakespeare and greed, I speak as a modern and not as an Elizabethan. Greed in Shakespeare’s day meant the greed of filthy lucre, the insatiate greediness of evil desires. It was an insanitary word in those days. But greed to-day means something quite otherwise. When I speak of greed as the main motive of authorship I use the word, not with any old-fashioned dictionary meaning, but in an up-to-date, clear-sighted, clarion, socialist sense. You speak to-day—those of you who are in the movement—of the greed of the capitalist, the greed of the employer. In this way I speak of the greed of the author. The greed of anyone to-day is the greed which urges him to endeavour to enrich himself and provide for himself and his family by using his brains in producing things. Incidentally he may employ a vast number of people with less brains or no brains, incidentally he may ruin himself after he has used his brains, and paid a large number of people in publishing the result of his brain-work; but do not let us in an age of socialism gainsay that it is pure greed to use your brains for the purpose of putting money into your own pocket. It is true this kind of greed led to Columbus discovering America—but if he had not done so how many fewer capitalists there would have been. Sir Walter Raleigh, too, was a bad instance of a man moved by greed; we cannot acquit Drake, or the great Lord Burghley or even my own historical heroine the Maiden Queen herself. The greed of Elizabethan England is a thing to shudder at, if you are a real socialist, and Shakespeare, I fear, must be found guilty from a modern standpoint of having written his plays from the simple motive power of greed.

I am the more certain of this for the only Shakespearean play of modern times “What the Butler Saw,” was written, I

am ashamed to say, from similar motives. I happen to know that this is a play after Shakespeare's own heart. I learned it in a vision. I am not a believer in dreams myself, but there must be something in some of them, and mine is worthy of the consideration of the Psychical Research Society. It was after the first night of the Butler in London, and after a somewhat prolonged and interesting supper with some of those responsible for the production,—in psychical research supper should always be confessed to,—that I had a curious dream of the people who were present at the theatre. Many who appeared had actually been present, others had not. Milton and Oliver Cromwell, both came up to me and hoped it would not have a long run—Wordsworth, I remember, wanted to know what the Butler really did see, and Charles Lamb, winking at me, took him away to tell him. It was then that Shakespeare came and patted me lightly on the shoulder, saying "It's all right, my young friend"—young of course from Shakespeare's point of view—"I couldn't have done it better myself."

Many will wonder why this story has not long before this gone the round of the press. The answer is that I am not a business man. I once mentioned the dream to a spiritualist, who said that there was no evidence that it was the shade of Shakespeare—it might have been the astral body of one of the inhabitants of the Isle of Man. I replied that then we should have heard of it long ago.

As an instance of dramatic justice it is interesting to know that the production of this play costs its authors money. Incidentally it made money for others, actors, actresses, scene-shifters, proprietors of theatres, dramatic critics and the like, to the tune of tens of thousands of pounds. Some day when I publish the play, as I hope to do, I will set out in detail its financial side, which is quite as amusing as the play itself. But the main point, which from a socialist point of view is so entirely satisfactory, is that the brain-workers who wrote it, and the capitalist who produced it lost over it; but that it provided work and bread and cheese for a large number of people who might otherwise have filled the ranks of the unemployed. It is a fitting termination to the work of an author whose motive power is greed. The only fear is that if this were

always to happen, there might come a time when there would be a shortage of authors ready to supply food and wages for others at a cost to themselves. Personally, I do not think this is all likely to occur, for authors seem to me a class of persons who will always be actuated by vanity, and a greed of so unintelligent and unbusinesslike a character that they will go on writing for others, rather than themselves to the end of time. I in no way regret the results of “What the Butler Saw.” I fear my greed is of a very poor commercial standard. I had plenty of fun for my money. It is something to have written a masterpiece, and it is something better to have seen it beautifully acted. I am very poor at taking the amusements of life seriously, and even when playing golf I often find myself looking at the scenery instead of at the ball. Indeed, I am not sure that I did write “What the Butler Saw,” from any really high sense of greed, and that may account for its having turned on me and bitten me financially. I have more than a half belief that I wrote it for the fun of the thing.

And this brings me to my third motive of authorship, writing for the fun of the things. All the best writing in the world—short of the very highest and most sacred work—is done for the fun of the thing. Some people prefer the phrase the love of the thing, and say it is the love of the beautiful, or the love of mischief, or the love of romance that moves them to writing. But I prefer to call it writing for the fun of the thing, because that describes to me exactly what I mean. All games should be played in this spirit, and writing is a far less serious game with most of us than games like bridge or chess or golf or cricket.

Charles Marriott—not the national novelist of our high seas, but Marriott the modern—who has a gracious gift of hinting great ideas in simple phrases and never shouts them at you, so that if you are a deaf reader you do not always get the best out of him—Marriott says in “The Remnant”: “Quite in the beginning, when men went out to kill their enemies or their dinner, there was always one man who wanted to stay, at home and talk to the women, and make rhymes and scratch pictures on bones.” There are two great truths in this. One is that the first author was an artist. He scratched pictures on bones long

before he made rhymes. Of course he did it for the fun of the thing. There could be no other reason, the motives of vanity and greed were not open to him. There was no publisher in the cave-dwellers' days to seize his bones, and pay him a royalty on them, and build a big cave for himself out of the proceeds of the speculation, whilst the bone-scratcher slept in the open. I think a cave-artist had a good time. He enjoyed his life in his own way, and I believe got better food for his work than many an artist of to-day. But modern artists have forgotten the great truth that to paint well you must paint for the fun of the thing, as the cave-man scratched his bones, and as children draw to-day if you give them paper and pencil, and don't look on and worry them. Few artists now paint for the fun of the thing without vanity or greed, but when they do they sometimes find an echo in the shape of a patron as mad as themselves, who buys pictures for the fun of the thing, and not because the critics tell him that this or that is good. The recent McCullough collection at Burlington House was worth showing despite the sneers of the superior persons, because it was an honest collection of what one man had really liked. What annoyed the critics was that a man had bought the pictures because he loved them, and not because he had been told he ought to love them.

And then there is another great truth in what Marriott says. The cave-artist stayed at home to make rhymes and pictures for the women whilst the men went out to get the dinner. How few writers remember that the real judges of literature are and must be the women of the country. Women necessarily fill the churches and lecture halls, and the lending libraries, and the theatres, and the picture galleries—only in music halls do men predominate. It is for women primarily that all literature and art are made to-day, just as they were in the cave-dweller's time. To follow out this interesting theme and account scientifically for the phenomenon would take a longer essay than this. Moreover, one would run up against the problem of the women who want to vote and many other dangerous questions. The cave-dwellers really knew all about it. The men went out to get the dinner in those days merely because there were no shops in Cave Street—but the researches of all professors show that even in those days the women ordered the

dinner. And the voice that orders the dinner, and the hand that rocks the cradle will always rule the world.

If you want to test the value of writing for the fun of the thing in relation to the work produced take the case of Southey. Southey was, among the many mansions of literature of his day, the most eligible mansion of all. He was a most erudite and superior literary man. But though what he wrote was important and well paid for when he wrote it, to-day the world has no use for it. But once in a way Southey wrote a story for the fun of the thing and it will live for ever. I refer of course to "The Three Bears." Southey, strange to say, wrote that wonderful story. He invented the immortal three, the Great Huge Bear with his great rough gruff voice, and the Middle Bear with his middle voice, and the Little Small Wee Bear with his little small wee voice. And such a work of genius is it that already it is stolen and altered and the name of the author is almost unknown. And just because he wrote it for the fun of the thing it will go on living as long as there are children in the world to tell it to. Porthos, Athos, and Aramis, Dumas' three musketeers, may vanish into oblivion, but the three bears will be a folk-lore story when the affairs of this century are a prehistoric myth.

Remember too, Southey's companion, Wordsworth, the "respectable poet" as De Quincey unkindly called him. Did he ever write anything for the fun of the thing? Had he any fun in him to write with? Wordsworth serves his purpose to-day, no doubt. He is there for professors of English literature to profess. He is there for serious-minded uncles to present as a birthday gift, in one volume bound in whole morocco, floral back and sides, gilt roll, gilt edges, price sixteen shillings and sixpence, to sedate nieces. But do the sedate nieces read his poetry? As Sam Weller says: "I don't think." Coleridge again, when you set aside the few poems that he did write for the fun of the thing, presents the somewhat mournful spectacle of a literary man spending a literary life doing literary work. You read of him starting this periodical and that periodical, roaming about England in search of subscribers under the impression that he had a message to deliver; when, sad to say, all the while he was ringing his bell and shouting "Pies to sell"

the tray on his head was empty of any useful food for mankind.

Compare these great names with that of their humble companion, Charles Lamb. He never wrote an essay or a letter except for the fun of the thing. He had to go down to an office day by day and do his task. He might have kept pigeons or done a little gardening or played billiards, but he preferred to read books and to go to plays and write about things he loved. Not that his hobby was in its nature a higher thing to him than another man's, but it was his naturally, and he simply wrote because he enjoyed writing, in the same way that he drank because he enjoyed drinking. And what is the result? Southey has departed into the shadows, when you take Wordsworth off the young lady's shelves you have to blow the dust off the top of the volume, and Coleridge is only to be found in school poetry books which are carefully compiled by economic editors of poems which are non-copyright. But Charles Lamb has more friends and lovers to-day than he had in his own lifetime. He wrote for the fun of the thing and the fun remains with us to-day, bounteous and joyful, bubbling over with humour and delight, and overflowing with affection and respect for everything that is best in human nature.

And perhaps part of what I mean by writing for the fun of the thing is to be found in a phrase that used to be uttered about writings that they "touch your heart." It is a curious old-fashioned phrase. It would be interesting to enquire what it is that keeps a book alive through after-generations. I think that this capacity of "touching the heart" has much to do with it. Shakespeare, Dickens and Goldsmith had this quality; so in a different way had Izaak Walton and Samuel Pepys. It may be that this magic power is the salt that keeps a man's writings sweet among the varied temperatures of thought through which they survive. Qualities of brain and intellect vary century by century, but what we call the heart of man is the same to-day as it was when King David wrote his psalms. Therefore, unless our writings appeal to the heart it is impossible for them to attain everlasting life. Much of the literature of to-day is, I fear, as Touchstone says—"damned like an ill-roasted egg all on one side." For the fashion of the

hour is to despise the heart and to sneer at the simple folk whose hearts still beat in harmony with the silly domestic notions of love and honour and charity and family life. To-day who would be a writer must write for the brains and intellects of the learned—meaning by the learned those who have passed sufficient examinations to render it unnecessary they should ever think for themselves again. And even this is outdone by the new school who pride themselves that the brain is as old-fashioned an audience for the author as the heart, that the proper portion in the twentieth century is the liver. If a book stirs the bile of all decent people it is to-day a popular success. So unintelligent a view do some take of the movement that they try to throw opprobrium upon it by the use of the epithet “yellow” as in the phrase “Yellow Press”: whereas, yellow among the inner brotherhood is the holy colour as typical of the movement as it is of jaundice itself. Personally, I should like to send many of our great novelists and playwrights of to-day to Harrogate for the season. I believe that a course of ten ounce doses of the “strong sulphur,” at that charming watering place would diminish the risk for them of a far longer course of far stronger sulphur in the hereafter. Their writings may have a vogue for a time and after all their position in literature will not be decided by anything I say, or anything their friendly and scholarly critics say, except in so far as we are atoms of the general mob of mankind whose taste is final. For as Newman said: “Scholars are the tribunal of Erudition, but of Taste the educated but unlearned public is the only right judge.”

But before I deal with the last motive of authorship which I suggest, let me say a few words about an entirely different answer to the question I am putting “Why be an Author?” There are wise men who declare that a man is an author from pre-destination; because he cannot help himself, because he is built that way. In other words that to be an author is a habit like drink or gambling. I can see that if this theory gains ground, libraries are going to have a rough time of it in the future. No doubt there are people—like myself—who waste a great deal of time in reading and writing which might be better used by digging in the garden, or cleaning the boots. As education proceeds upon the lines of to-day this bad habit will

grow more popular. Young folk will take to spending their evenings, and even their Sundays, in libraries and meeting together over books as they do over football. Older folks will imbibe books much as they imbibe beer. Respectable employers of labour will see the danger of it—indeed, many of them to-day are clamouring against plays and fiction and other literary products as evil in themselves. They will, I think, rightly begin by persuasion. They will form Blue Ribbon Societies and a United Kingdom Alliance for the total suppression of the Book Trade. Then will come, in the natural order of things, a Licensing Bench to license libraries. On this no magistrate will sit who has ever written a book, or been connected with the publishing trade, but magistrates who are total abstainers from reading and writing will properly form a majority of the tribunal. And in the city of Manchester, which is a city of Libraries, which library will they close first? I should say the Ryland's Library. For there is a seductive beauty about its surroundings, and the books it gives you to drink are of such wondrous flavour and served in such rare goblets, that to the poor erring man, who like myself is not a teetotaler among books, the temptation to leave his worldly duties and forget his tasks among its luxurious pleasures, is one that wise magistrates will not permit. Then, too, the landlord—I mean the librarian—is such a kind-hearted fellow. Always ready to give you another—and nothing to pay. Charles Lamb would never have got to the East India Office if the Ryland's Library had been in his path. For my part I always used to approach my County Court in Quay Street from the other side, saying to myself as I crossed Deansgate, "Lead us not into temptation."

Do not think that this idea of a future licensing authority for literature is by any means a fanciful one. We have seen a Yorkshire town council turning Fielding's works out of a free library to their own eternal disgrace, and a Library Committee in Manchester boycotting Mr. Wells. Already Town Councils decide what sort of plays we may go and see, and what sort of dances are good for us, and absolutely settle for us what we are to drink in between the acts, putting all the whisky on one side of the street and all the soda on the other. When, therefore, the town council mind wakes up to the fact that from a respectable

employer of labour point of view the author habit is as dangerous a habit as the drink habit, the licensing system will most certainly extend. And I feel sure when things progress and authors themselves are made to take out licenses I shall run a serious risk—unless I mend my ways—of having my license endorsed.

But for my own part, I do not believe in an author habit any more than I greatly believe in a drink habit. Given sanity I believe a man can keep off authorship if he tries. I never seriously tried, but I think I could stop, if I wished to, even now. And there would be a danger in any system of state or municipal control of authors that you might hinder or prevent the author who has a message to deliver. Surely there are enough amateur censors to bully and destroy the man with a message without setting the Town Council at him. And the man with a message after all is the only man who can plead justification to the indictment “Why be an Author?”

Of course there are messages and messages; purely business and temporary messages, and heaven-sent messages of eternal import to mankind. Of temporary messages, sermons, and scientific treatises should be published by telegraph, lest the message become stale news before it reaches its destination. All books written by craftsmen and schoolmen to impart knowledge are instances of books written by people who have messages to deliver. Lamb calls some of them *biblia a biblia*—books that are no books. In a sense he is right, the more so because this class of book is generally written by an author, wholly unable to explain the very limited message he sets out to deliver. Reading a text-book is too often like listening to a stutterer over the telephone. You know that he knows what he has to say, but he can't get it over the wires to your receiver. Some literary gift is required even to write a school book. One must have knowledge, power of arrangement, and the gift of imparting knowledge to the ignorant. This last quality depends, I believe, in a great measure on the capacity in the writer to conceive the depth of ignorance in his probable readers.

He must have the rare faculty of putting himself in the students' place. I do not myself remember a single good school

book—but that may be due to my youthful inattention, rather than any critical insight in early life. On the other hand, I can name three books which I regard as models of the kind of message-literature I am speaking about; books that told me clearly and admirably everything I wanted to know about the subjects they dealt with. These books are, Dr. Abbott's "How to write clearly," Sir James Fitzjames Stephen's "Law of Evidence," and Mr. H. Paton's "Etching Drypoint and Mezzotint." The last book I regard as a model of what a practical treatise on a craft should be. Although himself an etcher of experience and great ability, he is able to follow the mind of the ignorant and its possible questions, so accurately, that he provides answers to the questions that arise from time to time in the mind of the duffer bent on making an etching on a copper plate. I have never seen the process done, but with the aid of this book I have made many etchings—and what I have done other duffers can do. I do not say these etchings of mine are masterpieces, but I do say that the book so delivers its message that the most ignorant may hear and understand. Mr. Justice Stephen's book on Evidence is a most wonderful piece of codification. The English Law of Evidence has about as near relation to the real facts of life as the rules of the game of Poker. It is one of those things that must be learned more or less by heart, there is no sense or principle in it. Until Mr Justice Stephen published his book the law was a chaos of undigested decisions; since the publication it has been as orderly a science as a game of chess. It has still no reality about it, but the moves and gambits and openings are analysed and can be learned. As to Dr. Abbott's "How to write clearly," let no one think evil of the work on account of anything I have written, any more than Mr. Paton's volume should be judged by the artistic quality of my etchings.

As to the greater messages of life which we have had delivered to us by the hands of the great authors, these are as I have suggested, the real answer to the question, "Why be an Author?" The writings of men like S. Paul and the author of the Book of Job and S. Augustine, and in our own day, of Thomas Carlyle and Charles Dickens, all seem to me to have been written in reply to some such command as was given to S. Paul himself to whom it was said: "Arise and go into the

City and it shall be *told* thee what thou must do.” The writer who has a message to deliver is generally told what it is and he never, I think, fails to deliver it. He does not need motives of vanity or greed—nor is there any question of writing for the fun of the thing—he is told by some force beyond and outside him what he must do, and he does. He is a happy messenger boy sent on his errand by the Great Postmaster, whose messages he delivers.

There are many names we all instinctively remember of writers who seem to have had messages to deliver to ourselves, and whose messages we have received with thankfulness, and I trust, humility. It is wonderful sometimes to remember how these messengers have been upheld in their service through dangers and difficulty, and protected against the hatred, malice and uncharitableness of the official ecclesiastical post-boys who claim a monopoly of all moral letter carrying. Take as an instance the author of the Book of Job. It has always been a marvel to me how he ran his message through the cordon of the infidelity and ignorance by which the holy places of his time were surrounded, and landed his book safely and soundly into the centre of the literature of the world. I suppose the creed of the author of the Book of Job was, as Froude puts it, “that the sun shines alike on good and evil, and that the victims of a fallen tower are not greater offenders than their neighbours.” That was a new message then, and very few believe it in their hearts now. Most of us have a secret notion that riches are the right reward of goodness, and poverty the appropriate punishment of evil. It must have required a stout heart to pen that message when the Book of Job was written, and a fearless heart to face the publication of it among the orthodox literature of the time.

I do not know if attention has ever been drawn to the point, but the author of the Book of Job has always settled for me the literary righteousness of the happy ending. Job, you know—as every hero of every story-book ought to—lives happily ever afterwards. The Lord gave him twice as much as he had before, his friends each gave him a piece of money and a ring of gold, and he finished up with fourteen thousand sheep and six thousand camels, and a thousand yoke of oxen and a

thousand she-asses, not to mention seven sons and three daughters—“So Job died, being old and full of days.”

Now-a-days, when every story we read or play we see is deliberately formed to leave us more unhappy than it found us, is it not pleasant to those, who like myself do not believe in the dismal Jemmy school of writers, to remember that the author of the Book of Job “went solid” for the happy ending? I have no doubt the dramatic critic of the Babylon Guardian “went solid” for him, and called him a low down, despicable person—but the critics, if any, have disappeared—the author, too, has disappeared—only his message remains, and will always remain until it is no longer necessary to us. And one reason that it remains is, because he was a big enough author to know that if you write for mankind you must not despise mankind, you must not sneer in your hearts at the very people you are writing for, but you must write for them in a spirit of love and affection, and respect, even to the respecting of their little weaknesses, and you must remember that one of the weaknesses of mankind—if it be a weakness—is the child-like love of a story which begins with “Once upon a time,” and ends with everyone living happily ever afterwards.

I have not answered the question, “Why be an author?” because as I said in the beginning I do not know the answer. In so far as there is an answer, it is given, I think, in the words of the prophet, Thomas Carlyle. He is reassuring himself that the work of a writer is after all as real and sensible and practical a work as that of any smith or carpenter. “Hast thou not a Brain?” he says to himself, “furnished with some glimmerings of light; and three fingers to hold a pen withal? Never since Aaron’s Rod went out of practice, or even before it, was there such a wonder-working Tool: greater than all recorded miracles have been performed by Pens. For strangely in this so solid-seeming World, which nevertheless is in continual restless flux, it is appointed that *Sound* to appearance the most fleeting, should be the most continuing of all things. The WORD is well said to be omnipotent in this world; man, thereby divine, can create as by a Fiat. Awake, arise! Speak forth what is in thee; what God has given thee, what the Devil shall not take away. Higher task than that of Priesthood was allotted to

no man: wert thou but the meanest in that sacred Hierarchy, is it not honour enough therein to spend and be spent?"

That, if any, is the answer to the question, "Why be an Author?"

## WHICH WAY IS THE TIDE?

“O call back yesterday, bid time return.”

*Richard II. iii., 2.*

Dozing in a railway carriage on a journey to Wales I listened dreamily to the faint echoes of an argument between a gentleman of the old school who contended that the country was going to the dogs, and a younger enthusiast who was optimistic as to the present and future of our race. It was at Deganwy that the older man, who had, I thought, somewhat the worst of the argument, pointed to the sea and said, with the air of one who uttered a new thought, that it was impossible for those who stood on the shore to say at the moment which way the tide was setting. The younger man accepted the stale simile with the courteous reverence that is the debt we willingly pay to age when we know that we know better.

A few days afterwards a friend handed me a copy of an old newspaper. His wife had discovered it with other of its fellows during the Spring cleaning. “The things,” she said in her practical way, “were harbouring dirt.” But from my point of view they were also harbouring history, and turning over the single sheet it occurred to me that it might help one to a conclusion about the ever interesting problem “which way is the tide?” The newspaper was, to be exact, the *Manchester Guardian*, of Saturday, January 24th, 1824, No. 143 of Vol. IV. The price was sevenpence or seven and sixpence a quarter if paid in advance, and eight shillings on credit. In the matter of price the tide was clearly with the moderns. There was an excellent wood-cut on the front page, a semi-advertisement—as I took it—of Messrs. David Bellhouse and Sons, of Eagle Quay, Oxford Road, who “respectfully informed the public that they have commenced carriers of timber by water betwixt Liverpool and Manchester” by means of a paddle steam tug “The Eagle,” with a funnel, the height of its mast and a huge square sail and two Union Jacks, one floating at the masthead

and the other astern, and accompanying rafts of timber following the tug. In another column Fredk. and Chas. Barry, sworn brokers, of Vine Street, America Square, London, advertise that the fine fast sailing new brig, Walworth Castle, 240 tons, A.1. coppered, I. Wrentmore, Commander, will sail for Vera Cruz from London, and had only room for about fifty tons of goods. Certainly in the matter of the carriage of goods at sea and by canal we seem to have made progress. When you come to the matter of passenger traffic, it is interesting to read of "The Telegraph," which leaves every afternoon at 3.30 for London through Macclesfield, Leek, Derby, Leicester, and Northampton to the White Horse, Fetter Lane. In the same column we read of the "North Briton" and "Robert Burns," which leave every morning at 4.30, and run through Chorley, Preston, Lancaster, Kendal, and Carlisle, to the Buck Inn, Glasgow, and the splendid service of six coaches to Liverpool, starting at intervals from 5 a.m. to 5.30 in the evening. This column of coach advertisements is fine picturesque reading, but it is a little old-fashioned by the side of a sixpenny Bradshaw of to-day.

Again, if we turn to the report of the Salford Epiphany Quarter Sessions, Thomas Starkie, Esquire, Chairman, we have much to be thankful for in latter-day records. It must be remembered of course that the Sessions of to-day are more frequent, and different Sessions are held in small areas. Still, in January, 1824, there were no less than 240 prisoners, a number far in excess of anything we read of to-day. Nearly all the cases seem to have been cases of stealing, and there were few acquittals. The sentences were terrible, and only those who remember sentences given by some of the minor tribunals in comparatively recent years can credit the fact that such sentences were passed by humane and thoughtful men, in what was genuinely believed to be the interest of society. A long list of sentences begins thus: "Transported for life, William Thomas (16), for stealing one pocket handkerchief." Lower down we find that Thomas Kinsey (21), for stealing thirty pieces of cotton cloth, gets off with transportation for fourteen years. The number of young people that are transported for small thefts is astonishing. Martha Jowett (30), for stealing a purse; John Webster (19) and John Drinkwater (24), for

stealing a gun; Martha Myers (16), for stealing wearing apparel, and Mary Mason (24), for stealing a purse, are all among the list of those transported for seven years. More aristocratic sinners had a better chance of acquittal, and the receivers of the Birmingham notes stolen from the Balloon coach were respited because the jury found that the receiving “was elsewhere than in the County of Lancaster,” and counsel successfully contended that they must be discharged. Certainly in these matters the tide has flowed towards less crime and more humanity to prisoners since 1824.

But whereas human institutions seem to have improved, human nature seems to have been much as it is to-day. Dr. Lamert—the predecessor of many twentieth century quacks—is at No. 68 Piccadilly, ready to be consulted about and to cure “all diseases incidental to the human frame,” and has his testimonials and affidavits as to the success of his treatment almost in the very language in which we can read them to-day. “The greatest discovery in the memory of man is universally allowed to be the celebrated Cordial Balm of Rakasiri,” whose name is “blown on the bottle” and whose properties will cure any disease from “headache to consumptions.” “Smith’s Genuine Leamington Salts are confidently offered to the public under the recommendation of Dr. Kerr, Northampton,” and other eminent medical men, whilst from Mottershead and other chemists you can obtain Black Currant Lozenges “in which are concentrated all the well-known virtues of that fruit.” In this backwater of life the tide seems to be running, if at all, the other way. In the matter of gambling, too, it would be hard to say whether State lotteries, well protected from private imitations, were worse for our morals than free trade in bookmaking, coupled by uncertain and unequally worked police supervision. In the paper before me, “T. Bish, of the Old State Lottery Office, 4 Cornhill, respectfully reminds his best friends the public that the State lottery begins the 19th of next month.” There are to be seven £20,000 prizes and many others, and “in the very last Lottery Bish shared and sold 18,564, a prize of £20,000, 1379 a prize of £10,000, and several other capitals.” Bish of 1824 was but one evil more or less honest in his dealings and controlled by the State. Bish of 1911 is a legion of bookmakers, more or less dishonest and wholly

uncontrolled. Still I am far from saying things are not better so, and even here could we discern it clearly the tide may be flowing the right way.

In the interest taken in art and literature it would be hard to say that we do not see signs of earnestness and enthusiasm in this one newspaper of 1824 that it would be hard to find in a single copy of a journal of to-day. The people of Liverpool are sinking sectarian differences and starting a mechanics and apprentices' library, and already have 1,500 volumes. It is true that the whole thing was done very much on the lines of the gospel according to Mr. Barlow and Mr. Fairchild, but it was being done with enthusiasm. The elder Mr. Gladstone sent ten pounds and a letter of "correct ideas," which was read to the meeting, but unfortunately we shall never read the "correct ideas" which were "basketed" by the then subeditor. The Library was to contain no works of controversial theology or politics, and the *Liverpool Advertiser* sees with regret that "Egan's Sporting Anecdotes" was amongst a number of volumes contributed by an American gentleman. The Pharisee, we must admit, is with us to-day, and even in well governed cities sometimes finds a place on Library Committees. But here is another announcement in this wonderful number of the newspaper which lovers of art will read with pious interest. "There is to be a General Meeting of the Governors of the Manchester Institution, to consider a report to be submitted with reference to the building and to the general welfare of the Institution." Below this is printed "amounts already advertised £14,610," and then follows a list of between thirty and forty new hereditary members subscribing forty guineas apiece.

A hundred years hence a newspaper of our own day will be unearthed to tell future generations of a City Council refusing supplies for continuing the great work that these city fathers started with their own monies. Could we to-day from a far richer Manchester and far wealthier citizens obtain hereditary subscribers at forty guineas apiece for a new theatre or opera house or art gallery, if such were required in Manchester? It is at least doubtful.

Two other announcements that cannot rightly be evidence of human progress, but which may make us worthily envious of

the good old days that are gone:—at the Theatre Royal, Mr. Matthews is playing in “The Road to Ruin” and the musical farce of “The Bee Hive,” and on Wednesday he will have a benefit with three musical farces including “The Review.” It would be worth owning one of Mr. Wells’s time machines to take the chance of dropping into Manchester in 1824, if only to go to the Royal and see the show. And here is another echo of glad tidings. “We have been informed that the author of Waverley has contracted with his bookseller to furnish him with three novels a year for three years, and that he is to have ten thousand pounds a year for the supply, and that four novels have actually been delivered as per contract.”

When one reads an announcement such as that, and thinks of the joy of unpacking the parcel of books when it arrives, and cutting and reading three new masterpieces a year hot from the press, the novel reader of to-day may be excused if he sighs over a golden age that will never return. Nevertheless, man cannot live by Waverley novels alone; and what is this we read a little lower down the column? “Average price of corn from the returns received in the week ending January 10:

Wheat, 57s. 4d.”

Of a truth in essential things the tide has flowed steadily in the right direction since this year of 1824, and is not on the turn—as yet.

## KISSING THE BOOK. [4]

“The evidence you shall give to the Court touching the matter in question shall be the truth, the whole truth, and nothing but the truth—So help you God.”

*The Oath.*

When the clerk in an English Court of Justice administers the usual oath, he finishes with the words “Kiss the Book,” spoken in an imperative mood, and if the witness shows any hesitation in carrying out the unsavoury ceremony, he does his best to compel performance. The imperative mood of the clerk has not, to my thinking, any legal sanction. Kissing the Book is not, and never has been, as far as I can learn, a necessary legal incident of the oath of a Christian witness or juror. Why, then, does the twentieth-century Englishman kiss the Book by way of assuring his fellow-citizens that he is not going to lie if he can help it? The answer is probably akin to the answer given to the question: “Why does a dog walk round and round in a circle before he flings himself upon the hearth-rug?” Naturalists tell us that it is because the wild dog of prehistoric days made his bed in the contemporary grass of the forest after that fashion. Both man and dog are victims of hereditary habit. Probably the majority of men and dogs never consider for a moment how they came by the habit. But when, as in the case of kissing the Book, the habit is so insanitary, superstitious and objectionable, it is worth a few moments to consider its history, origin, and practical purpose, and then to further consider whether mankind is not old enough to give it up, and whether we should not make an effort at reform in the healthy spirit that a growing schoolboy approaches the manly problem of ceasing to bite his nails.

In a modern English Encyclopædia of Law it is suggested that the habit of kissing the Book did not become recognised in the English Courts until the middle of the seventeenth century, and that it only became general in the latter part of the eighteenth century. For my part, I cannot subscribe to that

view. It is true that there is very little direct authority in any ancient law book on practice which enables one to say what the practice was. But that is because the old lawyers did not consider “kissing the Book” essential to the oath, and the practice was so universally followed that there was no need to describe it.

Shakespeare wrote “The Tempest” about 1613. He gives Stephano, when offering Caliban the bottle, these lines: “Come, swear to this; kiss the book:—I will furnish it anon with new contents:—swear. (*Gives Caliban drink.*)” And a few lines later on Caliban says, “I’ll kiss thy foot; I’ll swear myself thy subject.” To me, reading the scene to-day, and bearing in mind that it was a low-comedy scene written to amuse the groundlings, the conclusion is irresistible that Shakespeare drew his simile from the common stock of everyday affairs, and that the idea of kissing the Book was as familiar to the average playgoer at the Globe or the Curtain as it is to-day to the pittance at His Majesty’s. Beaumont and Fletcher, too, in *Women Pleas’d*, II, vi, have the lines: “Oaths I swear to you ... and kiss the book, too”; and no doubt, if diligent search were made in the Elizabethan writers other such popular references could be found.

Samuel Butler, who, we must remember, was clerk to Sir Samuel Luke, of Bedfordshire, and other Puritan Justices of the Peace, and therefore had administered the oath many hundreds of times prior to the Restoration, has the following passage in “*Hudibras*” concerning a perjurer:—

“Can make the Gospel serve his turn,  
And helps him out; to be forsworn;  
When ’tis laid hands upon and kiss’d;  
To be betrayed and sold like Christ.”

This is, I think, conclusive that in 1660, in the common form of oath, the practice was for the witness to lay the hand upon the Book and afterwards to kiss it.

Fleetwood, the Recorder of London, writing to Lord Burghley, describing Serjeant Anderson taking his seat as Chief Justice of the Common Pleas in 1582, notes that: “Then

the clarke of the corone, Powle, did read hym his oathe, and after, he himself read the oathe of the supremacie, and so kist the booke.” This, of course, was a ceremonial oath, but it throws light upon the custom. Although the direct references to kissing the Book are few and far between, several interesting specimens are given in *Notes and Queries* from early Irish records, showing that oaths were taken both upon holy relics and upon the Holy Gospels, *corporaliter tacta et deosculata*, in the time of Henry VI., and that in the reign of Edward I. kissing the Book was an incident of the official oath of the Exchequer. It is possible that a close study of the records of a Catholic country would throw light upon the origin of kissing the Book, which, from a Protestant point of view, is doubtless as superstitious a custom as kissing relics or the Pope’s toe or a crucifix. It was said by John Coltus, the Archbishop of Armagh, in 1397, that the English introduced the custom of swearing on the Holy Evangelists into Ireland, and that in earlier days the Irish resorted to croziers, bells, and other sacred reliquaries to give solemnity to their declarations. That kissing the Book is directly evolved from the superstitious but reverential worship of holy relics can scarcely be doubted. When Harold pledged his solemn oath to William the Conqueror, we learn in the old French *Roman de Rou* how William piled up a reliquary with holy bodies and put a pall over them to conceal them, and, having persuaded Harold to take the oath upon these hidden relics, he afterwards showed Harold what he had done, and *Heraut forment s’espoanta*, Harold was sadly alarmed. Curious, but interesting, is the form of oath here described. Harold first of all *suz sa main tendi*, held his hand over the reliquary, then he repeated the words of his oath, and then *li sainz beisiez* kissed the relics. It is almost the same ceremony that we have to-day, and in the same order. The Book is held in the hand, the words of the oath are repeated, and then the Book is kissed.

The Rev. James Tyler, in his interesting book on oaths, quotes an eleventh-century oath of Ingeltrude, wife of Boston, that she swore to Pope Nicholas, as one of the earliest examples of kissing the Book. It runs thus: “I, Ingeltrude, swear to my Lord Nicholas, the chief Pontiff and universal Pope, by the Father, the Son and the Holy Ghost, and these

four Evangelists of Christ our God which I hold in my hands and kiss with my mouth.” This early example of the habit shows that kissing the Book was contemporaneous with kissing bells, crucifixes and relics, and that the religious origin of the custom is similar. In the Roman Catholic ritual the priest still kisses the Gospel after he has read it, and I have been told that this is done in some Anglican churches. It is curious that the ceremony should survive in the law courts and have died out in most of the churches. But in these things the average man violently strains at gnats and complacently swallows camels. The Roman ceremony of kissing the Book—which is done reverently by the priest as part of a religious ceremony—would distress a Protestant, who watches the kissing of the same Book in a modern police court without the least sign of moral or mental disturbance.

Of the ultimate origin of kissing as a sign and pledge of truth much could be written, and it would be an interesting task to trace the history of the ceremonial kiss to its earliest source. The perjury of Judas was signed by a kiss, and Jacob deceived his father with the same pledge of faith. So also false, fleeting, perjured Clarence swears to his brother: “In sign of truth I kiss your highness’ hand.” The kiss as a pledge or symbol of truth is probably as old in the world as the degraded ceremony of spitting on a coin for luck, and is what students of folk-lore call a saliva custom, the origin of which seems to have been a desire on the part of the devotee for a union with the divine or holy thing.

So much for the ancient origin of the kissing portion of this ceremony. It is shown to be of superstitious if not idolatrous origin, and I hope to show beyond doubt that in the view of English lawyers it is not, and never has been, an essential part of the English Christian oath. That is to say, an English Christian has a legal right to take the oath by merely laying his hand upon the Book, and the act of kissing the Book afterwards is a work of supererogation, and of no legal force or effect whatever.

No lawyer that I know of has ever suggested that a witness or juror must kiss the Book. Nor, on the contrary, has any lawyer sought to forbid a man to kiss the Book. I take it that

any reverent and decent use of the Book as a voluntary addition to the oath would be allowed. The general rule of English law is that all witnesses ought to be sworn according to the peculiar ceremonies of their own religion, or in such manner as they deem binding on their consciences. If, therefore, a Christian wishes to kiss the Book he may do so, but the only formality that need be legally observed is the laying of hands upon the Book. As Lord Hale says, “the regular oath as is allowed by the laws of England is *Tactis sacrosanctis Dei Evangeliiis.*” Lord Coke, too, says “It is called a corporal oath because he toucheth with his hand some part of the Holy Scripture.” Modern antiquarians have sought to show that the word corporal was used in connection with the ritual of an oath, and referred to the “Corporale Linteum” on which the sacred Elements were placed, and by which they were covered. Some suggest that the word comes from the Romans, and draws a distinction between an oath taken in person and by proxy. But for my part I think Lord Coke knew as much about it as any of his scholarly critics, and is not far wrong when he says a corporal oath is an oath in which a man touches the Book.

This form of oath was practised by the Greeks and Romans, and is of great antiquity. Hannibal, when only nine years old, was called upon by his father to swear eternal enmity to Rome by laying his hand on the sacred things. Livy, in describing it, uses the words *tactis sacris*, the very expression that passed into the University and other oaths of modern England. Izaak Walton, in his “Life of Hooker,” sets down a bold but affectionate sermon preached to Queen Elizabeth by Archbishop Whitgift, in which he reminds the Queen that at her coronation she had promised to maintain the Church lands, and then he adds: “You yourself have testified openly to God at the holy altar by laying your hands on the Bible, then lying upon it.”

That this is the real form of an English Christian oath, and that kissing the Book is purely a voluntary ceremony is, I think, made clear in a curious little volume, entitled, “The Clerk of Assize, Judges Marshall and Cryer, being the true Manner and Form of the Proceedings at the Assizes and

General Goale Delivery, both in the Crown Court and Nisi Prius Court. By T.W.” This was printed for Timothy Twyford in 1660, and sold at his shop within the Inner Temple Gate. It is probably the book Pepys refers to when he notes in his diary: “So away back again home, reading all the way the book of the collection of oaths in the several offices of this nation which is worth a man’s reading.”

I am quite of Pepys’ opinion, and a man may read it after two hundred and fifty years with as much profit as Pepys did. It is a quaint little book, and in the preface T. W. writes that “the Government of this nation being now happily brought into its ancient and right course, and that the proceedings in Courts of Justice to be in the King’s name, and in Latine and Court-hand (the good old way), I have set forth and published the small Manuel,” for the benefit of the new officers who may here “find all such Oaths and Words as are by them to be administered.” In the rubric attached to the jurors’ oath is the following:—“Note that every juror must lay his hand on the Book and look towards the prisoners.” In the same way in the oath to the foreman of the grand jury, T. W. writes: “The foreman must lay his hand on the Book.”

Although it seems probable that kissing the Book was customary at this date, T. W. would, I think, certainly have pointed out that it was necessary if he had so considered it, and the absence of any reference to kissing the Book in a “manuel” published for the very purpose of explaining to the ignorant the correct manner in which to administer the oath, shows that the author did not consider that part of the ceremony a necessary one. The references to the form of oath in old law books are very few. There is a case reported, in “the good old way” of law French, in Siderfin, an ancient law reporter, in Michaelmas Term, 1657. Dr. Owen, Vice-Chancellor of Oxford, refused to take the oath *en le usual manner per laying son main dexter sur le Lieur et per baseront ceo apres*. The doctor merely lifted up his right hand, and the jury, being in doubt, asked Chief Justice Glin whether it was really an oath. The Chief Justice said, “that in his judgment he had taken as strong an oath as any other witness, but said if he was to be sworn himself he would lay his right hand upon the Book.”

There is another curious decision upon the necessity of kissing the Book mentioned in Walker's "History of Independency," in the account of the trial of Colonel Morrice, who held Pontefract Castle for the King. The colonel wished to challenge one Brooke, foreman of the jury, and his professed enemy, but the Court held, probably rightly, that the challenge came too late, as Brooke was sworn already. "Brooke being asked the question whether he were sworn or no, replied 'he had not yet kissed the Book.' The Court answered that was but a ceremony."

The whole matter was very much discussed in 1744, when, in a well-known case, lawyers argued at interminable length as to whether it were possible for a person professing the Gentoo religion to take an oath in an English court. Sir Dudley Rider, the Attorney-General, says in his argument "kissing the Book is no more than a sign, and not essential to the oath." He seems to think that touching the Book is not essential; but the true view seems to be laid down by Lord Chancellor Hardwicke, who says that the outward act is not essential to the oath, but there must be some external act to make it a corporal act. That is to say, that the kind of external act done may be left to the taste and fancy of the person taking the oath. The laying the hand on the Book is convenient, and is the recognised form, but a salute or act of reverence towards the Book would be sufficient, as Dr. Owen's case seems to show.

Apart altogether from the forms and ceremonies of oaths, it is surely well worth considering whether the practice of oath-taking in courts of justice should not be discontinued. Although many good and learned men have argued with great ability that a man taking an oath does not imprecate the Divine vengeance upon himself if his evidence is false, yet the whole history and practice of oath-taking is adverse to their amiable and well-meaning philosophy. The gist of an oath is, and always has been, that the swearer calls upon the Almighty to inflict punishment upon him here or hereafter if he is false to his oath. In early days oaths were only taken upon solemn occasions, and in a solemn manner. In modern life they have been multiplied, and become so common that little attention is paid to them. Even in this country prior to Elizabeth there was

no statute punishing perjury, and the oath was the only safeguard there was against the offence. The statute then passed shows of what little use the oath was even in those days as a preventive of perjury. But then few people could give testimony in courts, and there may have been some semblance of a religious ceremony in the affair. To-day that is gone, and necessarily gone.

All writers who have seriously considered the matter condemn the multiplicity of oaths on trivial occasions as taking away from the ceremony any practical value it may have. Selden, in Cromwell's day, says: "Now oaths are so frequent they should be taken like pills, swallowed whole; if you chew them you will find them bitter; if you think what you swear, 'twill hardly go down." What would he think of our progress to-day in this matter? Defoe, at a later date, lays down the principle that "the making of oaths familiar is certainly a great piece of indiscretion in a Government, and multiplying of oaths in many cases is multiplying perjuries." England has been called "a land of oaths," and familiarity with oath-taking has always bred contempt of the oath. In the old days of the Custom House oaths it is said that "there were houses of resort where persons were always to be found ready at a moment's warning to take any oath required; the signal of the business for which they were needed was this inquiry: 'Any damned soul here?'"

Without suggesting that there is a great amount of perjury in English courts, for Englishmen respect the law and have a wholesome dread of indictments, we cannot pride ourselves on a system that uses what ought to be a very solemn ceremony on every trumpery occasion. In the County Courts alone a million oaths at least must be taken every year in England. And upon what trifling, foolish matters are men and women invited by the State to make a presumptuous prayer to the Almighty to withdraw from them His help and protection if they shall speak falsely.

Two women, for instance, have a dispute over the fit of a bodice; each is full of passion and prejudice, and quite unlikely to speak the truth, the whole truth, and nothing but the truth. Is it fair to ask them to take an oath that they will do so, and, in

the language of Chaucer, to swear “in truth, in doom and in righteousness,” about so trivial a matter? Or, again, in an arbitration under the Lands Clauses Act, is it fitting that six land surveyors should condemn themselves to eternal penalties when everyone knows that, like the barristers engaged in the arbitrations, they are paid for services of an argumentative character rather than as witnesses of mere fact? As Viscount Sherbrooke said in an excellent essay on the oath, written at the time of the Bradlaugh case, “If you believe in God it is a blasphemy; if not, it is a hollow and shameless cheat.”

Any practical, worldly scheme to prevent perjury is of more use than a religious oath, and one might quote many historical instances in proof of this. Two widely apart in circumstance and period will show my meaning. The Ministers of Honorius on a certain occasion swore by the head of the Emperor, a very ancient form of oath. (Joseph, it may be remembered, swore “by the life of Pharaoh,” and Helen swore by the head of Menelaus.) The same Ministers, says Gibbon, “were heard to declare that if they had only invoked the name of the Deity they would consult the public safety (by going back on their word), and trust their souls to the mercy of Heaven; but they had touched in solemn ceremony that august seal of majesty and wisdom, and the violation of that oath would expose them to the temporal penalties of sacrilege and rebellion.” In like manner I remember a Jew, annoyed by apparent disbelief of his oath, saying before me in a moment of irritation, “I have sworn by Jehovah that every word I say is true, but I will go further than that: I will put down ten pounds in cash, and it may be taken away from me if what I say is not true.” What sane man will say that the oath, as an oath, is of practical use when for centuries we find instances such as these of the way it is regarded by the person by whom it is taken. But it will be said that if a man pleases he can to-day affirm. Undoubtedly that is so, but the average Englishman has a horror of making a fuss in a public place, especially about a matter of everyday usage. The other day I suggested to a man who was suffering from cancer in the tongue that he might take the Scotch oath instead of kissing the Book. He did it reluctantly, as I thought. Once, too I made the same suggestion to a witness at Quarter

Sessions who was in a horrible state of disease, but he preferred to kiss the Book—which was afterwards destroyed.

The average man is like the average schoolboy, and would any day rather do “the right thing” than to do what is right. All of us have not the courage of Mrs. Maden, who was refused justice in a Lancashire county court as late as 1863 because she honestly stated her views on matters of religion. As Baron Bramwell pointed out in deciding the case, the judgment he was giving involved the absurdity of ascertaining the fact of Mrs. Maden’s disbelief by accepting her own statement of it, and then ruling that she was a person incompetent to speak the truth. Truly no precedent in English law can be over-ruled by its own inherent folly.

Later on, too, in our own time, we can remember the fate of Mr. Bradlaugh in his struggles with Courts and Parliament, and we can read in history the stories of George Fox and Margaret Fell. The cynic may say that these people made a great deal of fuss about a very unimportant matter; but, after all, the attitude of George Fox on the question of the oath was a very noble one.

“Will you take the oath of allegiance, George Fox?” asks the Judge in the Court of Lancaster Castle.

*George Fox:* “I never took an oath in my life.”

*Judge:* “Will you swear or no?”

*George Fox:* “Christ commands we must not swear at all; and the apostle: and whether I must obey God, or man, judge thee, I put it to thee.”

And having read many volumes of man’s answer to George Fox, I am content for my part to think he still has the best of it, and that “Swear not at all” is as much a commandment as “Thou shalt not steal,” or “Sell all that thou hast and give to the poor.” Whether in a work-a-day world of timid people, who cling to the bad habits of their prehistoric ancestry, it is possible to live up to the ideals of these commandments is quite another matter, and I should be the last in the world to throw stones at others in this matter.

I must confess that on the few occasions I have given evidence I have dutifully “kissed the Book” like any other

witness. Whether I should do so again I am not so sure. Probably literary pride would overcome the natural shyness of my disposition, and I should propose to read what I have written here to a long-suffering judge, and claim as of right to take the oath “*tactis sanctis*,” with no ceremony of kissing.

For the more I see of the ceremony the more it jars upon me as a mere matter of reverence to holy things, and the more I read of the matter the more convinced I am of its superstitious origin. When, too, I feel sure that it is of no practical purpose and is as useless as it is insanitary, I begin to think that the hour is approaching when we may, without impiety to the shades of our ancestors, adopt some more reasonable ceremony of commencing our evidence in the law courts than that of kissing the Book.

## A WELSH RECTOR OF THE LAST CENTURY.

“E’en children follow’d with endearing wile,  
And pluck’d his gown to share the good man’s smile.”

—*Oliver Goldsmith.*

“I must tell you this indeed,” as the Reverend John Hopkins, Rector of Rhoscolyn, always began his stories; but I wish I could tell you what I have to tell in his own delightful accent. For the form of words, “I must tell you this indeed,” was only, I think, a trick of speech he used in order to give himself time to translate his Welsh thought into the English tongue, and his English tongue, when it spoke, gave something of the rhythm and music of the Welsh to the foreign language he was using. His was a curious Welsh accent, unlike any I have heard. For though he had lived in the pure and bracing atmosphere of Anglesey—where, as in all the Welsh counties I have been in, they assure me the most classical Welsh is spoken—yet the rector did not speak with the Anglesey tongue, being a South Wales man himself, a “Hwntw” in the phrase of the North, or “man from beyond.” And the beyond he had sprung from was, I believe, in the neighbourhood of Merthyr. He was a son of the soil and of the school of Lampeter, and—the rectory of Rhoscolyn being in the gift of the Bishop of Llandaff—he had, when I first knew him, been sent some twenty years ago to minister on this out-of-way rock, and there he remained to the day of his death. The rector’s duties included ministering in two distant chapels, Llanfair-yn-Neubwll and Llanfihangel-y-Traeth, which was performed by deputy, but wholly or partly at his cost. In the days of Elizabeth, the whole of the duties were performed for ten pounds five shillings; nowadays, I believe, the living is worth nearly two hundred pounds.

But though, as I said, there was the song in his words that there is in all right-spoken Welsh, and the high note lovingly

dwelt on towards the end of the sentence, which only a Welshman can produce without effort, yet I am not artist enough to describe to you in words the difference of the rector's speech from that of his neighbours, only, "I must tell you this indeed," that so it was and always is, I am told, with the "men from beyond."

The Rector of Rhoscolyn was a bachelor, a man of stout build and middle stature. He had the air of a Friar Tuck about him. His eyes were merry and kindly. If he had changed his long rusty black coat and clerical hat for a cassock and cowl, he would have been a monk after Dendy Sadler's own heart. He loved his pipe and his glass, when the day's work was done, and the talk of books and men, with those who had lived in the outer world, was to him the rarest and most delightful of pleasures. He was outspoken, simple, and generous, an earnest believer in his creed and his Church, a lover of music, and above and beyond all, a man who attracted to himself animals and little children as if by instinct, and gained their love as only those who suffer them to come without affectation can do. He seemed, as far as I could see, to have no enemies. I think it was a weakness in his character—a Christian weakness—that he shrank from causing annoyance or hurt to anyone's susceptibilities. I was his neighbour for some seven summer weeks, and five evenings out of seven we smoked our pipes together, and he poured out to very willing ears the tales of his lonely parish, but I scarce remember an unkindly story among them all. If there was a tale that he feared might give pain in the repetition, it was always prefaced by a smile of great candour, and as he began, "I must tell you this indeed," he placed his fore-finger on his broad nostril and said in a sly merry whisper, with a great rolling of the letter "r": "This is *inter-r-r nos*." That is why some of his best stories cannot be set down here.

But, to understand the man and his ways, you must know how and where he lived. For the surroundings and the man were as if Nature had designed the one for the other, and he was as much in his place in his rectory, on the side of the Mynydd Rhoscolyn, as the Sarn Cromlech is on the slopes of Cefnamlwch. Rhoscolyn is a typical Anglesey parish. No

doubt, when Mona was one of the Fortunate Islands, it had a Druid temple and a Druid priest, and if the latter had come back to the site of his temple he would have found little of change. A church, a plâs, a post-office, a rectory, a life-boat, and a few farmhouses in sheltered corners; but the rest is as it always was. The eternal rocks, the restless waves rushing up into the black water caves, the steep cliffs crumbling a little day by day, the cruel, sharp island rocks hidden at high water and marked by the spray and swirl of the tide as it sinks away from the shore, the purple heather and yellow gorse clothing the cliffs to the edge of the sky, the samphire finding a fearful footway between earth and sea, and, above all, the wild bees humming their eternal summer song, and the fresh breezes, always pure, always sweet, always sweeping backwards and forwards across the promontory. Those things were there in the day of the Druids and they are there to-day.

And in Roman times Rhoscolyn was of more note than it is now, for some say that the name of it is derived from a Roman column that was placed here to signify the utmost bounds of Roman victories. Whether this be true or not, we have in the name Bodiar—which is still the squire's house—the governor's habitation, and in the neighbouring Prieddfod the Præsidii Locus; or, at least, this is what antiquaries tell us, and it is comfortable to believe these things. Telford and his new road thrust Rhoscolyn further away from civilisation, and the railway brought it no nearer as it sneaked into Holyhead, across the Traeth-y-grubyn, behind the shelter of the road embankment. For Holyhead is on an island, and the old main road, with that instinct for the line of least resistance which in old highways tends to such picturesque results, kept south of the wide marsh and crossed the water at Four Mile Bridge—Rhyd-y-bont Pennant calls it, and he rode over it, and knew at least as much of Wales as an ordnance surveyor of to-day. There you can see the most beautiful sunset views of the Holyhead Mountain, at the head of the open water, when the tide is high; and if you turn your back to the town, you will find Rhoscolyn within a couple of miles of Four Mile Bridge and six miles south of Holyhead.

The rectory stands on the slope of the Rhoscolyn Mountain—there are no hills in Wales to speak of, for we speak of them all as mountains. It is four-square, whitewashed, and has a slate roof. There are no trees round it. The only trees in Rhoscolyn are an imported plantation at the plâs. There are a few thorn bushes in the hedgerows, but the wind has carved them into finger-posts, pointing consistently eastward, and they scarcely look like trees at all. The rectory is surrounded by substantial farm buildings, for the rector is a farmer. His old mare, Polly, and the low gig are well-known figures in Holyhead market, and he tells you with a farmer's pride that all through the winter his evening supper is oatmeal porridge and milk, the produce of his own farming. He had no relish, he told me, for oatmeal that was bought at a shop, for he had a countryman's delight and belief in the home-made. His was a good herd of cows, and he knew each by name, and, like all true Welshmen, could call them to him as he walked through his fields. Different Welsh districts seem to have different calls for their cattle, and the real Nevin call, for instance, is another thing altogether from the Rhoscolyn call. These things are a mystery, and are well understood by the cows themselves, who will shake their heads contemptuously at the Saxon imitator.

The church is a pretty modern building, with a belfry, standing on an eminence away from other buildings. The post-office where I was living is its nearest neighbour. There are no streets in Rhoscolyn, nor has it any centre square. It is a parish rather than a village, and its few hundred inhabitants live in scattered farms and cottages. There are generally a few artist visitors, for Rhoscolyn is almost another Sark for the rock-painter, and one or two families find summer homes in the neighbouring farms. There is bathing out of your tent, which you leave on the grass at the edge of the tiny bay, at the mercy of the winds and the little black bullocks that roam about in the flat marshes inland. There are rambles among the cliffs and the heather. An ideal place for a holiday for those who really want a holiday and are content with oxygen and rest.

I think, perhaps, I should have found seven weeks of Rhoscolyn more than enough, if it had not been for the rector. I had met him casually on an earlier visit, and looked forward to

meeting him again. One evening, soon after I had arrived, I was walking for some distance behind him. He was in company with a Nonconformist minister, and at a turn in the road the two parted very amicably with a kindly shake of the hand. It is not always so in Wales. I ventured, when I got up to the rector, to make some remark to this effect. He did not at that time know whether or not I had any ecclesiastical leanings, and with great simplicity he remarked, "I must tell you this indeed, Judge Parry: we must be charitable, you know, even to Dissenters." I have often wondered whether the phrase would be acceptable to the authorities if it were inserted in the Welsh Church Catechism. As it was uttered and acted upon by the Rector of Rhoscolyn, it could give offence to no one who had the least charity and sense of humour.

The post-office was between the rectory and the outer world, and so the rector came in that evening, and many another evening afterwards, and I was always glad to hear the heavy scrunch of his boots on the loose gravel in the front of the door. Seated in an armchair with a pipe, he would proceed to discourse at length of the affairs of the world and his parish with great simplicity and humour.

The recent Disestablishment Bill of Mr. Asquith had troubled him very much. "I must tell you this," he said: "it has given rise to a great deal of ill-feeling. Very wicked things have been said indeed, and the pulpit has been used in chapels on the Liberal side."

I was glad to meet a clergyman of the Church of England in Wales who did not approve of this use of the pulpit, and asked him the kind of thing that had happened. "I must tell you this indeed, though you will hardly believe it," he began. "There was a preacher at the Calvinistic Methodist Chapel at Llan —, who, on the eve of the election, told his congregation this. He said he had once been at a hanging—I suppose," said the rector with a pleasant smile, "that was the hanging of a late member of his congregation, but I do not know—and he went on to say it had been a terrible ordeal for him, and had made him very sick and ill. But he told his congregation quite solemnly that, if he knew any of them on the morrow were going to vote for the Conservatives, he would not only go to

his hanging with pleasure, but he would be there to pull his legs.”

I am afraid I was more amused than shocked, for he added quickly, “I must tell you it was terrible, and it sounds very much worse in Welsh indeed.”

I dare say the story had little foundation in fact; but, like all these election stories, each side firmly believes them for the moment, and as the rector said, “it makes it very difficult not to be angry.”

The bitterness of the election seemed, however, to have quite passed away. By nature, the Welshman is Conservative, almost to the point of bigotry. This is particularly noticeable in his methods of agriculture, horticulture, and sanitation. When he is emancipated, and, like the Jew and the Catholic, his grievance is gone, it will be very interesting to note his further political development.

The rector was a great theologian, and enforced his views with liberal quotations from the Greek Testament, which he could recite in great quantity. He took a simple pride in his knowledge of the Greek, and used it on occasions, I must say, in a somewhat unsportsmanlike manner. He had much sympathy with the Baptists, and was an upholder of the ceremony of total immersion. He told me, more in sorrow than in anger, of the wicked outburst of a Particular Baptist whom he had encountered in a third-class carriage between Holyhead and Bangor.

“I must tell you this, Judge Parry—for you know I have a great weakness for the Baptists, and I should see no objection to the ceremony of total immersion being performed in our Church; well, to-day I met an old gentleman, a grave reverend man, with a white beard, in the train, and he asked me what views I had about baptism. Well, I told him, and then I found he wanted to speak very evil things about the ceremony of baptism in the English Church. So I quoted the Greek Testament to him to explain it, and I could see he did not understand it, so then I quoted a whole chapter to the fellow in Greek, and he got in a terrible rage and jumped up and shook his fist in my face, and said, ‘I will tell you what you are! You

are nothing but a damned sprinkler. That's what you are!' Dear me, it was terrible for a reverend old gentleman with a white beard to use such language to a rector, was it not?"

I asked him if he had ever performed a ceremony of total immersion as a minister of the Church of England, and he told me he had not, but he was very near it on one occasion. "I must tell you this," he continued; "it was when I was curate in Glamorganshire, a fellow, named Evan Jones, came to me and wanted to be baptized. Well, I knew he was a poacher and a bad fellow, and a Presbyterian, but he said he had never been baptized, so I said I would baptize him.

"But I want to be baptized like the Baptists do it,' says he.

"Total immersion, you mean,' says I. 'Well, I will do it then for you, if my vicar will let me.'

"Where will you do it?' asked Evan.

"It would be good to do it at the pond in the middle of the village on a Saturday afternoon, when the school children are there to see, and we can have a hymn,' said I.

"Well, Evan did not like that idea at all, and wanted me to go up to a pool on the hills by a little bridge on the old mountain road; and I did not care to go up the hills with him alone, for he was a bad fellow. But he did not want anyone to come with us, for his wife objected to him being baptized, and he was afraid she might get to hear of it and cause a disturbance. Well, I decided it was my duty to go with the fellow, and I told him I would do so if my vicar would allow me. Now my vicar was a very shrewd, wise old man, and I was very eager to do this if it was for the good of the Church, so I went to him at once.

"What is it, Hopkins, my boy?' he said, looking up from a sermon he was writing.

"Evan Jones wants to be baptized.'

"Who is Evan Jones?' asked the vicar.

"He is a poacher and a Presbyterian, and has never been baptized,' I said.

“Well baptize him then,’ said the vicar.

“But he wants to be immersed.’

“Oh, indeed,’ cries the vicar; ‘Well, why not? Immerse him, if you like.’

“But he wants me to go up on the hills and baptize him all alone in the pool by the bridge.’

“What does he want that for?’

“I don’t know,’ said I.

“But I do,’ said the vicar. ‘He will just be drowning you in the pool, and we shall have all the Dissenters going about saying Hopkins fell in the pool late at night, when he was coming home drunk, and that will be a very bad thing for the Church. No, I will have none of it at all.’

“But what shall I tell him then?’ I asked.

“Tell him to go to—the Presbyterians,’ says the vicar, and I knew well what he meant.”

You rarely saw the rector going through the lanes without a few of the children of the parish at his heels. For they all loved him. He stuffed the pockets of his long black coat with sweets, and was never in too much of a hurry to have a chat with his young parishioners and hear the news of their families, and listen to the recital of a text from the Welsh Bible. He knew even more of his Welsh Bible by heart than his Greek Testament and would correct the least slips in the recital. But when the text was said, it was duly rewarded by bull’s-eyes and toffee, and a few kindly words of encouragement. I heard that, when he was dying, several of the shyest and wildest lads in the place used to haunt the rectory for news of their friend, and when the end came they would not believe that he was gone until they saw the coffin being carried from the house, and then they burst into a dismal howl of mourning and despair. Certainly, the Rector of Rhoscolyn was a friend to all the children under his care.

He did not shine as an English preacher, for to him it always remained a foreign language, though he was a great student of the English classics and always seeking to improve his

English. Milton was a favourite author. His idea of winter happiness was to draw by the fire after his porridge supper and read Milton. As a Welsh preacher he was sought after and I have heard the chanting song of his eloquence through the open windows of the church, as I sat upon the hillside, many fields away, on a still summer evening. He read the service in English fairly well, with some curious tricks of pronunciation, and I remember that we “hurried and strayed from thy ways” rather than “erred,” which in these modern days sounded a very reasonable reading. But in a sermon, the foreign tongue with which he wrestled bravely and visibly sometimes threw him, and one still remembers with a smile phrases such as “I must tell you this, said St. Peter,” and “Excuse me”—another favourite form of words to gain time for translation—“Excuse me, but we are all mortal.” I think, in the use of the last phrase, there was an expression of his constant desire not to give pain, and perhaps a feeling that the well-dressed West-End English congregation that filled his little church from many miles round in the summer holidays were unused to hear these home truths in their own elegant tongue.

But the great charm of the service was the welcome he gave you. The Welsh service was ended, and the English service started at half-past eleven. The rector stood at the door of his church in a prehistoric but very square and dignified top-hat, shaking hands with all as they arrived. He used to scandalise the stricter brethren somewhat by his greeting to me. “Good morning Judge Parry, I am glad to see you. I saw you going down to bathe. I was afraid you would not be back in time for church. How was the water this morning?”

I think he was—like many another good man—at his very best in his own home. Many a visitor to Rhoscolyn will have taken part in one of his picnic cricket matches. We played in a field in front of the rectory, from which the grass had been recently mown with scythes. The pitch was of the nature of rough stubble; but as everyone played between the ages of two and seventy, without restraint of sex, there was, of course, no swift bowling, and the science of the game as we play it in the east was neither wanted nor missed. For there was great excitement and enthusiasm, and the heartiest cheering when

the rector thundered across from wicket to wicket, and this was redoubled when, at length—having been technically out on several occasions—he gave up his bat from sheer fatigue, and hurried off to look after the preparations for his tea. His anxiety that the buns should arrive in time from Holyhead, and that the butter should be put on thickly, and that the tea should be well-brewed, makes his feasts more memorable to me than many an important banquet I have assisted at.

But in his own study, when two or three were gathered together, he was even more at ease and at home. He had never been a rich man, and had always been a lover of books, and his shelves were crowded with the most unkempt collection of dear friends that ever a book-lover had gathered together. Bindings were in many cases conspicuous by their absence, and in a series of volumes one or two were often missing. These were bargains he had picked up on some of his rare visits to English towns. The most of his books were theological, and many were Welsh; but the English classics were well represented. There were no decorative books. Favourite volumes were placed lengthways on the shelves instead of upright, with slips of paper in them, so that the passages he wished to read again could be readily found. He was, I fancy, a slow reader and a thoughtful one. I was often astonished at the passages from Milton and Shakespeare he could quote. These he translated in thought, he told me, into Welsh, to get their real meaning into his mind.

I have heard say that he was eloquent in extempore prayer, and I can well believe it. He used to be very indignant over the alleged shortcomings of some of the Nonconformists in this respect. “I must tell you this indeed,” he said: “there are fellows who will repeat the most beautiful passages of our beautiful Prayer-book in a chapel, and pretend to the poor people it is extempore prayer. I wonder what they think! Do they think God has never heard our Prayer-book at all?” Then he would speak with great respect of the powers of extempore prayer of some of the great Welsh Nonconformist divines, but he always wound up in a spirit of sportsmanlike churchmanship rather than boasting: “Excuse me, but I think I could pray extempore against any of them.”

One of the sights of the rectory was the kitchen. It was a bright example of cleanliness, comfort, and hospitable warmth. In it was the only musical instrument in the house, an harmonium, and here, of an evening, the rector came to play over the Welsh hymns which he and his servants loved to sing. The rector was always rather in fear of his housekeeper and spoke of her with the affectionate awe that a capable domestic rightly inspires in a confirmed old bachelor. I have no doubt that his habit of friendliness with all the children of the parish who visited the rectory freely, and at their own moments, made dirt and trouble for the household authorities, whose views of children were more practical than the rector's, and born of a wider and different experience of their ways and habits.

I remember him telling me, one Sunday evening, a story that, I think, must have been very characteristic of the man and his methods with the little ones about his gate. The story arose quite naturally, and he told it with pleasure, but without the least suspicion that it was in any way a story to his own credit.

“Did you see that young fellow at the church door this morning with a top-hat and a black coat, and a gold watch-chain?” he asked.

“I did not notice him,” I said.

“Dear me! I must tell you this,” he said. “Have I never told you of ‘Schoni-bach’?”

The name “Schoni-bach”—the “Sch” was soft, and the “o” moderately long—was, I felt sure, a Welsh equivalent for Little Johnny, and I waited with interest to hear more about him.

“It is a long time ago,” continued the rector, “since Schoni's father died. You know the thatched cottage on the shore! Well, he lived there. He was the strongest man in the parish, and he could get underneath a cart, a big farm cart, and lift it on his back. On market day, he would go to Holyhead and make bets he could lift a cart, and he would win a lot of money, as much as half-a-crown or three shillings sometimes. But he was not a temperate man, and one day he had been drinking in Holyhead, and they got him to lift a cart, when he slipped, and

the cart broke his back, and he died. Well, his widow had three little children, and Schoni-bach was the eldest. And they wanted her to go to the workhouse, but she would not go. And they were very poor, for she was not strong, poor woman, and there was very little work for her to do, and the little children were often starving. They were wild, naked, shy little things, and would never come near anyone. The poor mother had frightened them by telling them that they would be taken to the workhouse, and if a stranger came near the house, they ran up to the mountain-side and hid among the heather. However, one day I found little Schoni on the hillside near the rectory. He looked very thin and starved, so I brought him down the hill, and gave him a slice of bread and some butter-milk, and he ate it like a dog, I tell you. I told him to come down again, but I was out next day, and he came with his wet, bare feet into the kitchen, and my housekeeper sent him off, I think. However, the day after, I was writing my sermon, and there came a tap at my own side-door—a very gentle, little tap—and I went to the door, and there was Schoni-bach, a little ragged, yellow-haired urchin with bare feet. So I went round to the kitchen, and got a loaf and some butter-milk, for the housekeeper was in the laundry, and the coast was clear. So I asked him where his little brother and sister were, and he went behind the laurel bush and dragged them out. For there they were in hiding all the time, more like little wild foxes than children. Well, indeed, after that, Schoni-bach would always bring them down and tap at my side-door, and he always found out when the housekeeper was away; but how he did it I don't know. He must often have been lying hid about the house, waiting for an hour or more, but he was good friends with my dog, Gelert, who never barked at him at all. But he was very frightened of the housekeeper, who had scolded him for his dirty feet.

“Well, in the summer, they did not come so often, for there were bilberries and blackberries to gather, and more chances of work and food, and before winter came Schoni's uncle, who was a farmer in Canada, sent for him and paid his passage out, and a little after that he sent for his mother and the other children, and so they went away, and a very good thing it was, too, for all of them.

“Well, all this was many years ago. And last Thursday I was writing my sermon, and I heard old Gel start up and growl, and there was quite a gentle little tap at my side-door. I went to the door, for my housekeeper was out, and there was a big fellow with a top-hat and a black coat, and a gold watch-chain. I knew what he would be after, so I said to him, ‘It is no use coming here to sell cattle spice and patent foods and gold watches, for we don’t want them, indeed, in Rhoscolyn!’

“The fellow laughed a bit, and said: ‘Don’t you know me, Mr. Hopkins?’

“‘Not a bit of it,’ I said.

“‘I have often knocked at this door before,’ he said.

“‘I don’t believe you, indeed,’ I replied.

“‘Well, it is true,’ he said. And he looked straight at me, and I looked at him, and then I began to see him again just a little ragged, yellow-haired boy, and I cried out: ‘It is Schoni-bach! Little Schoni come back!’ And I must tell you this, that I was so full of joy to see him again, I could have fallen on his neck and wept. Dear me, but I was glad to see him yet alive!”

The rector sighed to think of the old days, and then went on; “Yes, that was little Schoni outside the church this morning. He was a great fellow among all the young men there, indeed. ‘What do you think of Canada, Schoni?’ they kept asking him. And all he did was to keep his hands in his pockets and rattle his money. That made them stare, I can tell you. Schoni-bach, with a black coat and a top-hat, and a gold watch-chain, and his hands in his pockets rattling his money. That was something for these fellows who have stayed at home to see, wasn’t it? Schoni-bach rattling his money—or, perhaps, it was only a bunch of keys. He was always a smart lad, was Schoni-bach.”

These stories of the old rector’s seem very colourless without the music of his accent, the constant pauses for the whiff of the tobacco, and the kindly smile that accompanied them. To those who never knew him, any written portrait of the man must give but a faint echo of his personality; but to the many English visitors, artists, sportsmen, and others, who have

found their way beyond the Four Mile Bridge to the ultimate corner of Anglesey, and there been made welcome by the rector, these recollections will, I doubt not, call to mind the memory of a kind friend, and a holiday made the brighter by his cheerful hospitality. Characters such as his seem to grow rarer day by day. Few men of his energy and enthusiasm would remain nowadays for a quarter of a century in so narrow a sphere, content with such a simple life. But the Reverend John Hopkins was more than content—he was happy. He had sprung from the people, and was by nature a farmer, and to live upon the land was to him to be at home. But, above all things, he was enthusiastic in his ministry. His qualities are set out without flattery on a bronze tablet that his friends erected in the church he loved so well:

“A servant of God, in true simplicity of soul, he loved books, music, and happy human faces, but his chief delight was in the services of the Church.”

I have written what I remember of the man, and not of the priest, and though I should have no right to chronicle or criticise his ministerial career, I saw enough of him to understand that the keynote to the cheerfulness and simplicity of his character is sounded in the text that the friends amongst his congregation have chosen for his memorial:

“Llawenychais pan ddywedent wrthyf: Awn i dy’r Arglwydd.”

“I was glad when they said unto me, Let us go into the house of the Lord.”



## FOOTNOTES

[1] This was written prior to The Oaths Act 1909.

[2] The figures of 1909 are given because in June, 1911, when this was revised, no later figures were then published.

[3] In 1883, 43,344 warrants of commitment were issued; and, in 1909, 136,630 warrants of commitment were issued.

[4] This was published in April 1909. The Oaths Act 1909, 9 Edw. vii. c 39 abolished the practice of kissing the book.

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