



THE DRAMA OF THE LAW

BY HIS HONOUR JUDGE
EDWARD ABBOTT PARRY

Contents

CHAPTER	PAGE
I. INTRODUCTORY	7
II. CONCERNING TRAGEDIES	28
1. LADY ALICE LISLE	28
2. WILLIAM TERRISS	37
3. DR. KENEALY	44
4. THE SANDYFORD MYSTERY	52
III. CONCERNING COMEDIES	61
1. THE JACKSON CASE	62
2. THE LAW AND LADY ROSINA	68
3. THE ABDUCTION OF MISTRESS PLEASANT RAWLINS	75
IV. CONCERNING THE ETHERAL TRIANGLE	83
1. CATHERINE OGILVIE	85
2. THE MAYBRICK CASE	92
3. THE THAW CASE	104
V. CONCERNING ONE-PART PIECES	119
1. WILLIAM ROUPELL	120
2. CHARLES MACKLIN	128
3. HENRY JAMES PRINCE	135
VI. CONCERNING FARCE	143
1. MRS. FOXBY	144
2. THE TENPENNY	150
3. PIGOTT	157
4. WHISLER v. RUSKIN	163
VII. CONCERNING MELODRAMA	171
THE TICHBORNE TRIAL	171
1. THE MYSTERY	172
2. THE RETURN OF THE PRODIGAL	181
3. ARTHUR ORTON	190

Contents

CHAPTER	PAGE
VIII. CONCERNING CROOK DRAMAS	199
1. WHITAKER WRIGHT	201
2. JABEZ BALFOUR	209
3. GOUDIE	216
IX. CONCERNING A DRAMATIC HERO	224
CHARLES PEACE	224
1. HIS GREATNESS	226
2. THE LAST PHASE	233
X. CONCERNING MORE MELODRAMAS	241
1. DR. BURDELL	242
2. THE DRUCE CASE	249
3. THE MYSTERY OF MERSTHAM TUNNEL	262
4. DR. SMETHURST	269
5. A BABY WITHOUT A NAME	277
XI. CONCERNING SUPERNATURAL PLAYS	286
1. DUNCAN TERIG	287
2. THE BURY MURDER	294
3. ANNE TURNER	300
XII. CONCERNING A GREAT TRICK ARTIST	309
JACK SHEPPARD	309



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2. CHARLES MACKLIN	128
3. HENRY JAMES PRINCE	135
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2. THE TENPENNY	150
3. PIGGITT	157
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CHARLES PEACE	224
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2. THE LAST PHASE	233
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2. THE DRUCE CASE	249
3. THE MYSTERY OF MERSTHAM TUNNEL	262
4. DR. SMETHURST	269
5. A BABY WITHOUT A NAME	277
XI. CONCERNING SUPERNATURAL PLAYS	286
1. DUNCAN TERIG	287
2. THE BURY MURDER	294
3. ANNE TURNER	300
XII. CONCERNING A GREAT TRICK ARTIST	309
JACK SHEPPARD	309

The Drama of the Law

• Chapter 1: *Introductory*

TO observe an analogy between the drama and the law does not seek to exalt the art or to degrade the science. It is merely a recognition that drama and law are complementary to each other and that common humanity is refreshed by the thought and satisfied that it should be so.

A history of drama would be a history of civilised society. As far as we can learn nearly all the peoples of the earth have loved drama and expressed themselves dramatically. I am not certain that the ancient Egyptians were playgoers, and of course there are the Puritans, but apart from mummies and Nonconformists humanity is nothing if not dramatic. A world without drama would be of no use to humanity, and whether we approve of it or no the fact remains that in all popular art, religion and law there is a strong element of drama. Drama, as the Victorian journalist used to say of his wares, "meets a felt want" in human nature.

It is probably for this reason that from the earliest dawn of civilisation we find that justice has seen fit to cast her manifestations in a dramatic form. Even to-day when we think of a trial or a lawsuit we picture it to ourselves in terms of drama, applauding the hero or

The Drama of the Law

heroine, execrating the villain of the piece, chuckling at the comedian in the witness-box and expressing approval of the modest demeanour of the small-part man who walks on to the dim bench and gives the necessary cues to the great actors in the limelight. And as we read the report of a law case we recall the familiar scenery of a court house, the traditional costumes of the characters and that dramatic setting which we inwardly approve of as essential to the administration of justice.

All the earliest lessons in practical justice are taught in dramatic form. They are veritable dramas of the law. Every child rejoices in nursery days—at least I know that I did—to listen to that simple legal drama, with its thrilling Grand Guignol moment and admirable happy ending, so excellently staged for the groundlings by the author of the *Book of Kings*. Attention and imagination are captured as the curtain rises on the splendid scene of the Porch of Judgment, featuring King Solomon on the throne of justice surrounded by the learned pundits of the law and guarded by the javelin men who preceded him when he went circuit. But it is a drama, not a spectacle, we are to enjoy. Noises are heard “off,” and enter to Solomon two ladies of the Doll Tearsheet persuasion, but with sufficient human nature left in their composition to yearn for the ownership of a baby child. We see at once that we are in the presence of an action at law or legal drama.

The procedure of this simple suit seems much the same as any you will see in an urban county court or police court of to-day. The first woman or plaintiff states her case with shrill volubility and much circumstance. In representation no doubt the scriptural dialogue would have to be extended and suitably adorned

Introductory

with expletives, but the intimate story of the birth of the two children, the death of one, and the alleged larceny of the surviving infant by the bereft mother, is told in sufficient detail. The second woman or defendant pleads the general issue and denies everything with sullen emphasis.

Then Solomon sums up thus: "The one saith, This is my son that liveth, and thy son is the dead: and the other saith, Nay; but thy son is the dead, and my son is the living." This modern method of repeating the evidence over again in summing up without any effort to lighten the darkness of the problem contained in it is here shown to be of great judicial antiquity. It is also very sound in dramatic construction. It tells the audience over again what they have just listened to, and this is essential in drama to enforce attention to the theme of a play. The mere dullness of the repeated words is masterly, for it leads up to the thrill of the drama when Solomon rises and calls out, "Bring me a sword!"

Solomon,

His stature all majestic, all divine,

Straight as the palm tree, strong as is the pine,"

brandishing his sword and holding up the squalling infant by one leg, is just about to cleave it in two when a piercing shriek from the real mother stays his hand, and he listens with poised blade to her heart-rending plea that she will accept a non-suit if he will "in no wise slay it."

A more careful reading of the text in later years shows me that I was probably a victim of youthful imagination as to the actual "picture" at the fall of the curtain. Neither Scripture nor Oriental legend supports my

The Drama of the Law

vision of the ending of the trial. It seems clear that Solomon, like any modern judge, merely directed his Registrar to divide the estate and give a moiety to each litigant after the court fees were duly paid.

The last act of the drama is certainly ingenious and human. The real mother preferring to lose her child rather than lose its life; the King showing his wisdom in reading the riddle; and the world-renowned tag-btings down the curtain with universal applause: "Give her the living child, and in no wise slay it: she is the mother thereof."

It is clear that in this legend we have a very early and remarkable drama of the law, the fame of which still lingers in the world's memory. If we accept the statements of the court historians of the day the effect of the verdict at the time was very striking. All Israel heard of the judgment the King had judged, they liked the sporting character of it and it gained Solomon a world-wide reputation as one who had the wisdom to do judgment. In fairness to our own judges, many of whom are probably at least as good as Solomon, we should remember that under the modern rules and procedure of our courts any such judgment to-day would be reversed in the Court of Appeal on the ground that the alleged mother's last statement was not evidence. To-day we have to conduct the dramas of the law in closer fetters and these Grand Guignol effects are frowned upon in the highest judicial circles. But the story is a striking example of the dramatic form of a legal action and is evidence how great truths are often best advertised to the world through the medium of drama.

An old writer on acting says: "All dramatic fictions
10

Introductory

please us the more like they are to real adventures and occurrences." This gives the clue to the intense interest that is taken by the general public in a celebrated trial. I cannot agree that this popular desire to read about trials is of a morbid character or that the interest taken in trials is unhealthy and merely a seeking after unwholesome sensations. On the contrary I think it is natural and sensible. Trials are human documents and contain in their dossiers truths about humanity expressed in a simple form of drama that makes them easily understood of the people.

No doubt when you read a trial, as when you read a novel or a play, you are apt to portray yourself as the hero and follow him even into the dock with personal sympathy. All drama I fancy to some extent reacts or re-enacts itself in the audience if it is good drama. That is one of the best qualities of it. Magistrates and schoolmasters seem to think that if a boy reads *Jack Sheppard* he wants to be Jack Sheppard, but that is not at all the truth of it. Whilst he reads no doubt he is Jack Sheppard, just as he has been Jack in the Beanstalk in earlier years, and just as every little girl is Cinderella, and just as every grown-up in his day has been Hamlet. But this spiritual enjoyment of drama does not naturally result in a child or a man making a bodily fool of himself afterwards.

No doubt there are exceptional weak, sensual and feeble-minded persons who should not be allowed to read either truth or fiction. But to normal men and women the study of human nature in recorded trials ought to be a valuable and stimulating exercise.

I remember no book in my father's library that gave me in my school days, in those hours I should have

The Drama of the Law

devoted to home lessons, more of the joy of life than George Borrow's excellent collection of celebrated trials. The *Newgate Calendar*, though bloodier and to that extent more satisfying and sensational, did not tell the stories so dramatically. Pitaval and the *Causes Célèbres* in later years I found too diffuse, but John Hill Burton's *Scots Criminal Trials* are delightful reading, and H. B. Irving wrote with much insight and charm of modern criminals. Although I myself prefer actual records and really enjoy Howell's *State Trials* better than any story made up from that storehouse of social life and history, yet few of us have the time for these things, and books like Borrow's, Pitaval's, Burton's and Irving's are worthily entertaining to the desultory reader.

Because I happened on a library rich in both drama and trials in my early youth I am not urging that all children should be brought up on the *Newgate Calendar*. But I do not believe that the perusal of even that hoary collection of horrors would do any sane boy much harm. I am convinced that both young and old, when they read accounts of criminal trials, approach them with pity and sympathy for the wrongdoers much in the spirit of that good Puritan divine who, when he saw the Tyburn carts making their way westward, murmured in penitence, "But for the grace of God there goes John Bradford!"

It is this strong human interest in crime and trials and lawsuit, that has attracted so many writers of plays and novels to portray these scenes. But to succeed in this endeavour is no easy task. The real facts of these matters are well understood by the populace. Nearly everyone has some first-hand knowledge of trials and law courts, and spectators are unduly critical and alert to

expose errors and omissions of ceremony and detail in the mimic scene of a trial upon the stage.

When, however, a really great dramatist puts on the stage a successful story of crime or litigation the audience accept it with greedy appetite and welcome it with the greater enthusiasm because it is so familiar in its appeal.

Probably the best and most successful drama of crime that the world has taken to its heart is the play which we call *Punch and Judy*. It is a strange truth that this ancient story of crime and execution still remains and is likely to remain a joy for ever to all honest and simple men and women and children. There may exist superior persons who outwardly condemn this candid entertainment and turn up their eyes at the immoral glorification of this callous but successful hero. Yet even these unhappy ones you may on occasion discern at the edge of the crowd on the pitch behind the National Portrait Gallery tortured inwardly by a contest between shame and delight. No nature it seems can really abhor this great drama. The squeak of Punch is a call to humanity.

But one must honestly admit that *Punch and Judy* is a drama of crime of the most hideous and bloodthirsty character. Even Charles Lamb has not attempted to whitewash its black wickedness. Yet with what a chuckle we note our favourite hurl his tender infant from the window, thrash his wife to death with his truncheon, and slay in sequence the negro, the clown, and especially the policeman.

One of the causes of Punch's popularity is perhaps the success he has in evading the myrmidons of the law. Not only does he kill the policeman, but he out-Herods Herod by hanging the hangman by means of a trick, the