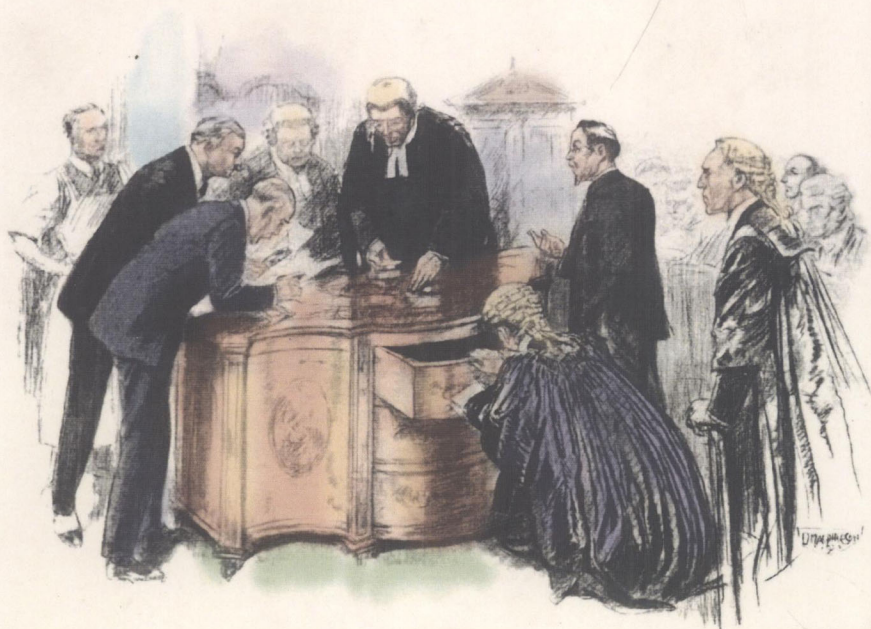


# Fraud, Fakery and False Business

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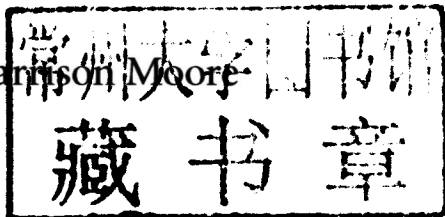


Abigail Harrison Moore

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'Old Furniture Case'*

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## **FRAUD, FAKERY AND FALSE BUSINESS**

*In loving memory of Vanessa Elizabeth Moore.*

For Tilly.

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I have been thinking about this case throughout my daughter's first six years in the world and I could not have finally produced this book without the love and support of a great family, wonderful friends and my husband, Dean, who always believes in me.

## *List of Illustrations*

Figure P.1	Vignettes in the Official Referee's Court During the Fascinating 'Antique Furniture' Case.	2
Figure 1.1	Armchair belonging to Percy MacQuoid.	37
Figure 1.2	Walnut Armchair.	38
Figure 2.1	Another View of the Drawing Room of Mr Percy MacQuoid's House.	73
Figure 2.2	The 'Royston Hall' Oak Room.	76
Figure 3.1	Torcheres from Edgcote Park and the oak buffet.	124
Figure 5.1	The Cream Lacquer Cabinet.	165

## *Contents*

Acknowledgements	ix
List of Illustrations	xi
Prologue: 'New Furniture for Old'	1
1 The Emperor's New Clothes: Adolph Shrager	7
2 'Make Us Rich': Dighton and Co. and the Market for Furniture	47
3 'The Faker's Bible': Percy MacQuoid, Herbert Cescinsky and the Role of the 'Expert'	101
4 'Disputed Fragments': Shrager's Collection of 'Fine Furniture'	131
5 'Et tu Brute?' The Verdict	153
Notes	171
Bibliography	205
Index	217



## *Prologue: 'New Furniture for Old'*

'New Furniture for Old' was the heading under which *The Manchester Guardian* inaugurated its coverage of a trial held at the Kings Bench Division in London from 14 November 1922 until 27 February 1923.<sup>1</sup> The case garnered daily coverage in all of the national newspapers, attracted much comment in editorials and drew the attention of publications on the other side of the Atlantic. And yet it has rarely been written about since, except as a footnote in the biographies of the people most intimately associated with the 'alleged antique furniture fraud'.<sup>2</sup> This book revisits *Shrager v. Dighton*, and reconsiders it as both an interesting and instructive example of the complexities of class, taste and identity in the 1920s, and as a case that offers us useful ways of thinking about how value in the antiques trade continues to be created by the marketplace today.

The case was complex, involving a large number of people and going on to appeal in June 1923. It is therefore important to introduce the *dramatis personae* involved in the courtroom drama before assessing its significance (see Figure P.1). The first hearing began on 23 January 1923, and went on for 26 days, ending on 27 February. The presiding Official Referee was Sir Edward Pollock. The plaintiff was Mr Adolph Shrager, who, with his wife, Adele,<sup>3</sup> had invested huge sums of money in a furniture collection, mainly purchased at the Savile Row shop of the defendants, Mr Harry Walton Lawrence and Mr Basil Lewis Dighton. Both were partners in Dighton and Co. The plaintiff was represented by a legal team that included W. J. Disturnal KC, and Roland Burrows, instructed by A. F. and R. W. Tweedie. On the side of the defence, Lawrence was represented by Alexander Neilson KC, instructed by Lawrence Jones and Co., and Dighton was represented by the Right Honourable Sir Ernest Pollock KC, MP and Mr Jowitt KC, instructed by Downing, Middleton and Lewis. Sir Ernest Pollock was the nephew of Sir Edward Pollock. A number of experts were called as witnesses for both sides. At the beginning of the case there was an unwarranted appearance by Sir Edward Marshall KC, who announced that he represented the British Antique Dealers Association, and that any member of the council of that large body was at the Official Referee's Disposal free if he required any assistance. The witnesses for the plaintiff, Shrager, included Reginald Matthews, the director of Tibbenham's Ltd of Ipswich, who had designed and supervised the making of 'the Royston Room', one of the key items purchased by Shrager; Herbert Cescinsky, a furniture maker and historian; and Frederick Litchfield, an antiques dealer and historian. The defence called on the evidence of Percy MacQuoid, a famous



Figure P.1 'Vignettes in the Official Referee's Court During the Fascinating "Antique Furniture" Case', *The Sphere*, 3 March 1923, p. 216b. *From Top Left:* Usher, Adolph Shrager, Sir Edward Pollock, Cyril Asquith and Percy MacQuoid. *From Bottom Left:* W. Disturnal KC, J. Alan Bell, Sir Ernest Pollock, Alec Neilson KC and Basil Dighton in the Dock (drawn by D MacPherson). Reproduced by permission of David Beevers.

historian and collector of furniture, and Sir Charles Allom, the owner of a major decorating firm which sold both antique and reproduction furniture. There were a number of minor witnesses for the defence as well. These included Edward John Cooper, the London manager of the Coalport China Company; Edward Horace Benjamin, a partner in the Kent Gallery who sold to, or shared with, Dighton, 18 of the objects under consideration in court; Mr Herriot, who owned a business in Fitzroy Street, London, which cleaned antique furniture; Robert Sale, a cabinetmaker who made two cupboards purchased by Shrager; Lionel Harris, the owner of the Spanish Art Gallery and an associate of Dighton through the Kent Gallery, and Dighton's other business interest, the Cambridge Tapestry Company; and Frank Partridge, a dealer in antique furniture who went on to purchase a number of pieces from the Shrager collection when it was sold at Puttick and Simpson in June and August 1924 after the trial. The case went to appeal on 23, 24 and 26 July 1923, when it was heard by the high court judges, Lords Justice Bankes, Atkin and Younger.

The case was first heard before the Lord Chief Justice and a special jury on 14 November 1922. It soon became apparent that there were 'serious difficulties in the way of trying the case before a jury'.<sup>4</sup> Mr Disturnal KC, the leading counsel for the plaintiff, Shrager, made two attempts to confine the case within limits which would enable a jury to deal with it. The first was by taking the point that Shrager's purchases, although consisting of a number of items, were really one transaction for the purchase of a collection, and that proof of fraud in respect of a few items would entitle him to a verdict and judgement in respect of all. The Lord Chief Justice ruled against this contention. Mr Disturnal then said that, if the action continued before the jury, the plaintiff would content himself by relying on the 96 instances of alleged fraud mentioned in the particulars of the case, set out on 3 October in Shrager's original statement of claim. On 17 November, the Lord Chief Justice ruled the issues too complicated to be heard in front of a jury and the case was referred to the Official Referee's Court. On 28 November 1922, both parties met before the Lord Chief Justice to discuss the terms of the order of reference. Counsel for the defendants, Dighton and Co., asked that the Lord Chief Justice name the senior Official Referee to try the case. Instead, however, the Lord Chief Justice ruled that the case be taken by one of the Official Referees of the Supreme Court in the course of rotation. Unfortunately it seems that there was some confusion over who would be the Official Referee (a fact that became one of the key issues in Shrager's subsequent appeal), but on 21 December a clerk of the plaintiff's solicitor endorsed the order that 'Sir Edward Pollock is the Official Referee in rotation' and the case was allowed to proceed without a jury trial.<sup>5</sup> The few writers who have looked at the case have highlighted major discrepancies in the legal process, principally that the official rota of referees was doctored so that Dighton's QC, Sir Ernest Pollock's uncle, Sir Edward, was falsely entered in the register as the next in rotation as Official Referee.

The major tenets of the case, heard at the Official Referee's Court from 23 January until 27 February 1923, were clearly articulated by Shrager's lawyer, Roland Burrows, in his opening comments:

The action is brought by Mr Adolf Shrager . . . for damages for fraudulent misrepresentation; alternatively for breach of warranty, and he also puts the case in this way, that the goods sold to him upon certain representations and descriptions which are untrue and, therefore, he is entitled to resind this transaction. With regard to this case the story is not a particularly long one although the transactions are rather large . . . the total transactions between the parties, without making any distinction for the moment, amount to the sum of £111,193. The payments made by Mr Shrager to the parties amount to £88,200, leaving a balance of £22,000 outstanding. In point of fact the

other side say the amount is £25,000 odd but I do not think that anything material will turn upon the distinction.<sup>6</sup>

Shrager was sold approximately 500 items by Basil Dighton, to the value of £111,193.<sup>7</sup> The objects were intended to decorate his new home in Westgate-on-Sea, to establish a base that would allow him to launch himself into English society. Struggling to raise the last payment of £25,000, Shrager called in a local carpenter to value one of the pieces with a view to sale. The man judged that the item, purchased as an antique, was, in his opinion, of recent construction. Cescinsky was then consulted and pronounced that a fair proportion of the Dighton consignment was fake and much of the remainder had been grossly overpriced. At the conclusion of the case, Pollock ruled that Shrager's charge of fraud had been motivated by his outstanding debt to Dighton, hence his judgement for the defendant on the claim and counterclaim.<sup>8</sup>

In his article, 'Percy Macquoid and Others' for *Apollo Magazine* in 1974, Ralph Edwards offered a useful summary of the trial that points to many of the features that make both a fascinating historical incident and one still of significance today:

Two or three years before his death, Percy was beguiled, or beguiled himself, into participating in a deplorable affair which, after prolonged controversy and negotiations, ended up in the High Court. Basil Dighton, a prominent West End dealer, had disposed of a large quantity of furniture to a man named Shrager, a minor plutocrat of mid-European origin. He brought an action against Dighton for fraudulent misrepresentation in selling him spurious antiques. Such an action, in which expertise is involved, is notoriously beyond the competence of a judge and a jury without any claims to special knowledge to decide. Percy managed to convince himself – I think with no more than his wife's half-hearted approval – that the dealer was falsely charged and that he should enter the lists on his behalf. To those who saw and heard him in the witness box, as I did at one session – the trial lasted several days – it must have been obvious that Percy was enjoying himself: he flourished his eyeglass, looked jauntily around him and made expressive gestures of dissent or approbation. Shrager's chief witness was Herbert Cescinsky, who had published a large book on English furniture, reproducing many dubious specimens and a few with preposterous dates; nevertheless he had a considerable knowledge of cabinet making and was widely accepted as an authority. Some of the objects displayed in court went far to convince one that Percy must have had in full measure the will to believe. Personal consideration too may have biased his judgement: the plaintiff and

his chief witness did not, to put it mildly, evoke his sympathies. Shrager lost the case, but many of those present in the court must have seen in the trial conclusive proof that the matters at issue were far too technical to be left safely to an unqualified tribunal.<sup>9</sup>

What makes the case so interesting and instructive for both the social and furniture historian is the way that social prejudices and antique objects clashed together to reveal the dark underbelly of the trade as it developed in the early years of the twentieth century. The trial has become a *cause célèbre* in the discourse, featuring, on one side, Shrager and Cescinsky, and on the other, Dighton and his expert, Percy MacQuoid. The case, which can be tracked through a complete transcript commissioned by MacQuoid to celebrate his role in Dighton's triumph over Shrager, demands that we ask some important and relevant questions about the development of the discipline of furniture history in relation to the early twentieth-century rise of the furniture dealer and the furniture historian and the market for antiques. This book, then, is concerned with rethinking an important trial, ostensibly about furniture, but drawing in key contemporary themes including class, discrimination – against immigrants and Jews – and the politics of the 1920s. By revisiting and reconsidering the judgement we can also consider the implications of the case today. Much discussion of the world of antiques is still concerned primarily with notions of value. The key question on everyone's lips in the multitude of popular television programmes on the theme is '... but how much is it worth ...?' What the Shrager–Dighton case demonstrates is how value is created in the marketplace, and how ephemeral that value can be. As Herbert Cescinsky, drawing from his experience of the case and quoting Shakespeare, put it in the frontispiece of his later novel *The Antique Dealer*: 'ALL THAT GLISTERS IS NOT GOLD'.<sup>10</sup>



## *The Emperor's New Clothes: Adolph Shrager*

The scenes in the courtroom during the Shrager–Dighton trial in early 1923 can be viewed as a microcosm for a much wider set of social and cultural distinctions that are key to our understanding of the period. The fact that Adolph Shrager lost both the first trial and the appeal, despite demonstrating on numerous occasions that he had a clear case against Dighton, raises questions about issues of race and class, where the establishment, in the form of the English gentleman dealer Dighton, of ‘seemingly impeccable social credentials’, backed up by the Marlborough-educated, well-married MacQuoid, closed ranks against Shrager, a European Jew, presented by the opposition as a war profiteer, supported by Cescinsky, the journeyman cabinetmaker.<sup>1</sup> Shrager acts as a cipher for the growing class of nouveaux riches, and their attempts to infiltrate the elite world that was so socially and culturally evident in Victorian and Edwardian England.<sup>2</sup> Joseph Mordaunt Crook sees the Victorian era as marking the beginning of a period when it seemed possible to ‘buy’ gentility more than ever before.<sup>3</sup> That said, as caricatured in Anthony Trollope’s *The Way We Live Now* (1875), full social acceptance, despite wealth, was still slow. Trollope’s Mr Longstaff is described as being:

Intensely proud of his position in life, thinking himself to be immensely superior to all those who earned their bread. There were no doubt gentlemen of different degrees, but the English gentleman of gentleman was he who had land, and family title-deeds and an old family place, and family portraits . . . and a family absence of any usual employment.<sup>4</sup>

These measures of status, which demanded more than wealth, were still applied in the 1920s and can clearly be seen to be at work in the condemnation of Shrager, ‘a businessman all [his] life’ who ‘between 1914 and 1919 . . . prospered very much’<sup>5</sup> and in the comparison of Cescinsky, the cabinetmaker in his workshop, to MacQuoid, the gentleman historian, travelling from the country house of one friend to that of another. Despite a move, especially after the First World War, towards a new type of elite that looked beyond the rite of birth, Mordaunt Crook sees its acceptance as ‘a slow-motion conjuring trick; the reinvention of the British aristocracy as a self-renewing plutocracy’, and

certainly Shrager was taken in by the conjuring trick, believing that he could purchase his way to acceptance by 'taking a house and filling it with, say, £100,000 worth of furniture'.<sup>6</sup> As their personal wealth increased, the nouveaux riches turned pounds and guineas into more substantial things. In the trial, Ernest Pollock points out the tax benefits of such a practice:

At the time when these things were bought, there was a tremendous boom in furniture . . . one of Mr Shrager's ideas was to invest in furniture, so he was to form a collection and the collection would be worth the same or more money as time went on. One has heard that during the period when excess profits tax was in operation and other items of high taxation people flew to diamonds and jewels and the like in which to invest their money in the hope that it would come out better – and at any rate such things were not the immediate subject of taxation – and that by no means illegitimate object was in Mr Shrager's mind.<sup>7</sup>

But beyond simple economics, the idea of collecting appealed because it offered a recognized system of social identification. *The Spectator* in 1872 commented, 'our millionaires are maniacs for collecting things'.<sup>8</sup> Mordaunt Crook in his examination of the nouveaux riches comments that 'often it was through the medium of collecting that the arriviste revealed his cultural identity'.<sup>9</sup> Cescinsky identifies this in *The Gentle Art of Faking Furniture* when considering the motivations of the collector:

There are collectors and collectors – and yet again collectors. Some collect merely for profit, watching the rise in the market; others desire to possess things to which the average man cannot aspire. Yet others seek for unwritten history, some are led away by the lure of the antique, and they are satisfied with anything, however crude and ugly, as long as it is old.<sup>10</sup>

Consumption has been usefully analysed by many writers on the subject as the chief basis of social order and its internal classification systems.<sup>11</sup> This can help us understand why Adolf Shrager was drawn into the antiques market in 1919. Consumer objects constitute a classification system that can code behaviours and groups.<sup>12</sup> Examples in literature of the period, such as F. Scott Fitzgerald's *The Great Gatsby* (written in 1925 but set in 1922), demonstrate this palpably. Despite its American setting, Fitzgerald's depiction of the socially aware climber Gatsby's home in West Egg, 'a colossal affair by any standard . . . a factual imitation of some Hotel de Ville in Normandy, with a tower on one side' with its 'high Gothic library, panelled with carved English oak, and probably transported from some ruin overseas', is very pertinent to



our understanding of the attraction that the old, the antique, the 'historic' objects had for Shrager as he attempted to shift his way up the slippery social pole of England in the 1920s.<sup>13</sup> Other contemporary depictions, such as those in the novels of Henry James and Ford Maddox Ford, support the conclusion that conspicuous consumption was a key way of improving one's classification in the eyes of others, especially as an immigrant to England's shores. In *The Great Gatsby*, Fitzgerald paints a portrait in words of the new twentieth century, structured by consumerism, financial speculation and the rise of Veblen's 'leisure class'.<sup>14</sup> In 1920s London, the act of buying objects of supposed social recognition did not allow Shrager to break down the barriers of his birth, nationality, religion or race. These still conspired against him, not only in the way he was led by the unscrupulous dealer, but also in the ultimate outcome of the case.<sup>15</sup> Shrager attempted to purchase his way into a 'code of social standing', but what is clear from the start of the case, and from the moment he met Harry Lawrence, is that he had little or no understanding of the prevalent hierarchies of class that dominated British society, hierarchies that had even, perhaps, been exaggerated by the battles of the First World War. No amount of 'Chippendale' furniture could provide him with entry into a society whose social codes were so bound up in birth identity and class.<sup>16</sup>

H. G. Wells's *Tono-Bungay* (1909) continued the rant against the new, moneyed classes:

We became part of . . . that multitude of economically ascendant people who are learning how to spend money . . . financial people, the owners of businesses, inventors of new sources of wealth . . . [and they all have one thing] in common; they are all moving and particularly their womenkind . . . towards a limitless expenditure . . . with an immense, astonished zest they begin shopping . . . as a class, they talk, think and dream possessions. . . . Acquisition becomes the substance of their lives . . . [At first] they join in the plunder of the eighteenth century . . . [but they end with] a jackdaw dream of . . . costly decrepit old things.<sup>17</sup>

The impulse to collect within a cultural situation is, according to Mieke Bal, hybridic – a mixture of capitalism and individualism.<sup>18</sup> Russell Belk has noted that the historic rise of consumer culture in Europe occurred at the same time as 'self'-prefixed words and phrases such as 'self-regard' and 'self-consciousness' entered the English vocabulary.<sup>19</sup> In his analysis of Western 'possessive individualism', C. B. MacPherson has traced the seventeenth-century emergence of an ideal self as owner, describing the individual surrounded by accumulated property and goods through the idea of the making and remaking of our cultural selves.<sup>20</sup> The collection is not natural or innocent as it is tied up