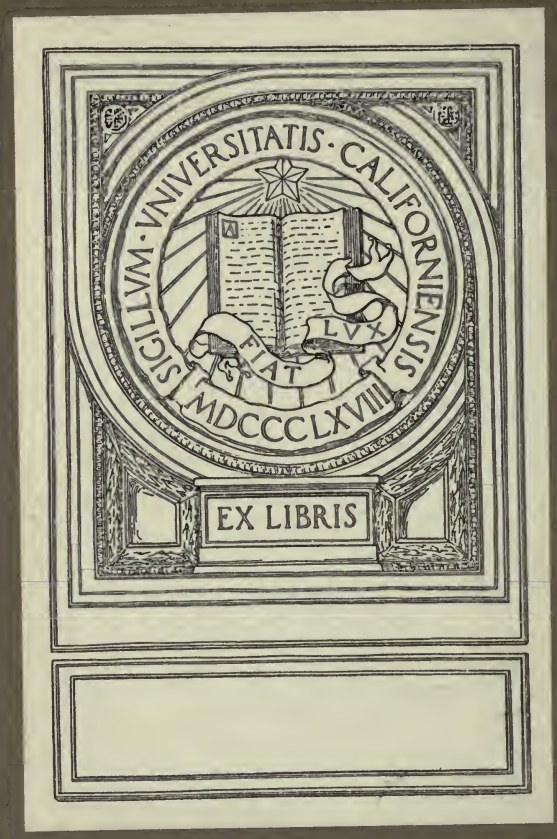
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KATHERINE OF ARAGON

FROM AN ENGRAVING AT THE BRITISH MUSEUM

2

THE TRIALS OF FIVE QUEENS

KATHERINE OF ARAGON
ANNE BOLEYN, MARY QUEEN OF SCOTS
MARIE ANTOINETTE
AND
CAROLINE OF BRUNSWICK

BY

R. STORRY DEANS

WITH TWELVE ILLUSTRATIONS

SECOND EDITION

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TO

MARGARET

PREFACE

IT was the practice of ancient divines, when they sought to bring home to their hearers the full measure of the bliss of the faithful, to picture the tortures of the damned; and to assure the congregation that they, looking on from the regions of the blessed, would find additional felicity in watching the distress of the lost writhing in the flames and reek. It may be that this argument appealed to some feeling in the human heart; for happiness, after all, is comparative; and the cosy room, the warm fire, the comfortable easy chair, seem cosier, warmer and more comfortable when the night outside is wet and cold.

We, who have lived our lives under the golden rule of Victoria the Great and Edward the Peacemaker, who have seen royalty happy, fortunate and beneficent, can with difficulty imagine times when subjects rebelled; and when kings and queens were sent to the scaffold. And when we think of the perfect regularity and amiable family life of Windsor, Balmoral, Osborne and Sandringham, we are unable to realise the miserable domestic tyranny of a Henry VIII. or the escapades of a George IV.

It is a long time ago since I thought of writing this book. It was on a day when the country was stirred to its depths; for it was engaged in a distant war, whence tidings came almost hourly of victory and defeat, of triumph and disaster. One afternoon the news arrived in the City that Queen Victoria was about to drive into London, to show herself to her faithful people. The City Fathers had barely time

to don their gowns and hurry to the boundary; but the news spread like wildfire; and by the time the Queen's carriage reached the Embankment, a huge crowd had assembled there. Alsatia poured forth its denizens, grimy with printer's ink and engine oil. Crowds of work-girls, trim and bareheaded, lined the pavement, mingled with the gentlemen of the Temple. And as the simple carriage drove slowly along, there rose such a cheer of welcome as I had never heard. The face of the Great Lady who had thus come, in so homely a fashion, to visit her loving subjects, was seamed with lines wrought there by a long life of public care, and by private sorrows, numerous and grievous. But as I saw her pass, I could not help thinking of other queens—queens who had lived a life of more brilliant gaiety; but to whom had been denied, in their last moments, the crowning consolations of public regard and private affection.

I thought of Katherine of Aragon, proceeding to this same Blackfriars to face, not a passionately grateful people, but an unfaithful husband and partial judges; and fancy leading to fancy, there passed before me in review those royal women who, in past ages, loved and reigned and suffered.

This was the germ of the idea for a book on the misfortunes of queens, which afterwards took shape as the work I now present to the reader.

R. STORRY DEANS

GARDEN COURT, 1908

THE TRIALS OF FIVE QUEENS

THE DIVORCE OF KATHERINE OF ARAGON

CHAPTER I

THE HISTORY UP TO TRIAL

THE childhood of Katherine of Aragon was passed amid the clash of arms. She died amid the clamours of controversy. As a girl she witnessed the consolidation of Spain and the bringing of the whole Iberian peninsula under the spiritual supremacy of him who filled the chair of St. Peter. As a woman she saw, and was even the occasion of, the splitting off of her adopted country from the jurisdiction of the Supreme Pontiff.

It was in the year 1485 that Katherine first saw the light. Her mother, Isabella of Castile, was then busily engaged in the great enterprise that made the reign of Ferdinand and Isabella the most notable epoch in Spanish history. But Isabella the Catholic was obliged by the exigencies of motherhood to turn aside from the conquest of Granada, and retire to the convent of de Henares. Here was born, somewhat prematurely, it is said, the little girl whose matrimonial fortunes were to have such momentous consequences.

The babe was hardly three weeks old ere the indefatigable mother once more hastened to the scene of action, where her courage and energy were needed to sustain alike the courage and the patience of the soldiers of the Cross. The infant Katherine was borne along with her mother, and her first nursery was built in the midst of the camp of the besiegers of Granada. As the child grew, she played her infant games what time the interminable siege went on—skirmish and sally, attack and retreat. A strange childhood.

As the manner of the time was, a treaty of marriage was early set afoot. Indeed, Henry VII. of England, almost as soon as a son was born heir to the joint pretensions of York and Lancaster, approached Ferdinand and Isabella with proposals for the espousals of Arthur and Katherine. The prospective bridegroom was then a year and eight months old; the prospective bride just over four years. The proposal was acceptable to the Spanish sovereigns, and the marriage was agreed to; though not without a good deal of sharp bargaining between the wily Ferdinand and the equally astute Henry Tudor. Seldom have royal diplomatists been so equally matched. I doubt if Henry had any equal among the crowned heads of Europe except Ferdinand; and I doubt also if Ferdinand could not easily outwit and delude any of his brother rulers except Henry. The records of the time reveal both monarchs to us as greedy, grasping, not to say avaricious men. When, therefore, they came to settle the question of dowry, the bargaining was close and keen. Very few Yorkshire horse copers could give much start to either of the royal fathers when it came to the point of beating down the price. At last it was settled that the princess should marry the Prince of Wales at the earliest possible date; and that her dowry should be 200,000 scudos in hard cash—half on Katherine's arrival and the other half two years afterwards.

Before this, the Spanish ambassador, Dr. de Puebla, who had been sent to negotiate the marriage, had seen the young Prince of Wales, first dressed, and then stripped to the skin. The boy was of exquisite form, and beautiful complexion; and the ambassador reported in rapturous terms to his sovereigns of the beauty of the future husband of their daughter.

A proposal to send Katherine to England immediately, to be educated, was not embraced by the Spanish sovereigns; but they consented to send her to England at an early age, so that her habits might easily become English and not Spanish. Queen Isabella, looking on the match as a certain thing, began to educate her daughter for the position she was to occupy; and especially saw to it that Katherine learnt to speak French fluently, because Spanish was not understood at the English court. There can be no doubt that Katherine was highly educated and most accomplished according to the standard of that time. Latin she wrote and spoke with correctness and fluency before her sixteenth year; and she was well read in divinity and the classics. As might be expected in the daughter of Isabella the Catholic, her religious

training had been most strict; and she was, even as a girl, somewhat of a devotee. Her tastes were of the quiet order—she loved to sew or embroider, listening the while to the singing and playing of her ladies, rather than the more robust occupations of dancing, hunting and hawking.

The definite treaty of marriage was not signed for many a long year after the kings, Ferdinand and Henry, had expressed their approval of the project. The two wiliest politicians in Europe were a little afraid of each other. On Ferdinand's part there was the lurking fear that some pretender (one remembers Perkin Warbeck and Lambert Simnel), set up by the remains of the Yorkish party, might oust Henry VII. from his kingdom. In such a case, either the match would be nought, or else the Spanish power must be lent to keep Henry on his throne. And all rulers have objections to spending their strength and treasure in sympathetic wars. Henry, on the other hand, knowing Ferdinand's overweening ambition, and his desire to extend his borders at the expense of France, feared that he might be drawn into some war on Ferdinand's account. At last, however, in 1496, the treaty was definitely concluded; Arthur being then nine and Katherine eleven years of age.

Historians have been puzzled by the fact that Arthur was twice betrothed by proxy to Katherine—once when he was twelve (1499) at Bewdley, in Worcestershire, and a second time when he was fourteen at Ludlow Castle (1501). The explanation is this: Ferdinand had procured a dispensation from the Pope, allowing the marriage to be solemnised when the prince attained the age of twelve, two years earlier than the canon law allowed. Hence the first betrothal. But as some question might, conceivably, arise as to the validity of such a dispensation,[1] Henry insisted on a repetition of the ceremony after the canonical age had been reached. Such a ceremony had all the effect, in the eyes of the Church, of a marriage; but it was agreed that a further marriage ceremony should be performed by the parties in person.

It was in May of the following year that Katherine set out for England. Her journey was protracted almost beyond belief. Although she left Granada on the 21st of May, and arrived at Corunna towards the end of June, she did not embark until the 17th of August. The Bay of Biscay was in stormy mood; and for a month the unfortunate young woman was tossed about on

[1] Because Arthur, the person principally concerned, was too young even to concur in asking for such a dispensation.

its rough waters; until she was obliged to put back and land at a little port near Bilbao. Re-embarking on the 27th of September, she again encountered the worst kind of bad weather; but eventually the wind shifted to a favourable quarter, and Plymouth Sound was reached on the evening of the 2nd of October.

When the news of her arrival, carried over the country by beacons blazing from hill to hill, was assured, great was the rejoicing. Up to the last minute there had been fears in the minds of those who knew Ferdinand that the marriage would never come to anything. And it must be remembered that if the alliance was useful to Ferdinand it was most important to Henry, for it gave an appearance of solidity and permanence to his throne and dynasty that had been wofully lacking before.

It was not until the 4th of November that the young couple met. If all accounts be true, they were as bonny a maid and as pretty a youth as one would wish to see. He with his fair hair, of typical English colour, his ruddy cheeks, his round, healthy English face: she with fair hair also, slightly touched with the red inherited from her mother, plump as a well-developed young woman should be, with graceful manners. They talked with two bishops to interpret for them; and then she danced some of the charming dances of her country; and he took the hand of Lady Guildford and stepped a measure in English fashion. This was at Dogmersfield, in Hampshire.

By easy stages the party proceeded from that place to London, where, on the 14th of November, the marriage was celebrated at St. Paul's amid the joyous acclamations of the citizens. The young bridegroom, clad in the silks and satins of that brighter age, made a brave figure, as, standing at the door of St. Paul's, he solemnly endowed his bride with one-third of his lands as her dower.[1] It would seem that the married life of this boy and girl

[1] "Also there be two other kinds of dower, *viz.*, dower which is called dowment at the church doore, and dower called dowment by the father's assent. Dowment at the church doore is where a man of full age seised in fee simple who shall be married to a woman, and when he commeth to the church door to be married, there, after affiance and troth plighted betweene them, he endoweth the woman of his whole land or of the halfe, or other lesser part thereof, and there openly doth declare the quantity and the certainty of the land which she shall have for her dower. Dowment by assent of the father is, where the father is seised of tenements in fee, and his sonne and heire apparent, when he is married, endoweth his wife at the monastery or church doore, of parcel of his father's lands or tenements with the assent of his father." (*Coke upon Littleton*, bk. 1, ss. 38, 39 and 40). It appears that Arthur's dowment of Katherine was *ex assensu patris*, because Arthur was not "of full age" as required to make the dowment *ad ostium ecclesiæ*.

couple was sufficiently happy. Alas! it did not last long. After the usual feastings and junketings, joustings and dancings in honour of the marriage, the prince was sent to Ludlow Castle (Shropshire) to keep his Court, as was customary in those days when the Prince of Wales habitually took a personal concern in the government and business of his principality. Considerable discussion took place in the Privy Council as to the wisdom of allowing the bride to accompany her husband; but eventually Henry yielded so far as to comply with Arthur's wishes on the subject, and to Ludlow they went together. The objection raised in the Council had been, "They're ower young to marry yet"; and I think it probable that Henry imposed some restrictions on cohabitation, if not a total bar. To Ferdinand he wrote to say that he had "risked his son's health" to please Katherine; and this can only have one meaning. But Henry VII. was such an habitual liar that one is not bound to believe him—indeed in the same letter he puts Ludlow Castle as being about forty miles from London. What, precisely, was the degree of intimacy between the boy bridegroom and his girl bride I am not prepared to say. There is evidence each way, which will be more amply discussed hereafter.

Whatever the relations, they were rudely severed within five months of the marriage. On the 2nd of April, 1502, Arthur died of the sweating sickness—swept away with hideous suddenness; and Katherine found herself in dire distress. Her father immediately demanded her return; and, not less eagerly, the repayment of the 100,000 scudos of her marriage portion. Henry Tudor might have found it in his heart to part with Katherine; but it would have cost him a cruel pang to disgorge the fat Spanish crowns—every one of them, according to the treaty, of full weight and of the value of four shillings and two pence. Rather than repay the dowry, Henry would find the youthful widow—the virgin widow, she said—another husband. He had another son, young Henry, now heir-apparent, of the age of eleven years; and him did the King of England put forward as a suitor for the hand of Katherine. One version of the story goes that the Spanish sovereigns themselves proposed this match. While negotiations were in course, Henry VII. became a widower; and, with the most extraordinary lack of seemliness, he promptly proposed to marry Katherine himself. Isabella the Catholic quashed the proposal without hesitation; and demanded either her daughter and the dowry or a prompt espousal of the princess to the young Prince of Wales.

In 1503 (23rd June) a treaty for the marriage was signed. The parties were to be married immediately the prince attained the age of fourteen; and, meanwhile, each of the monarchs, a party to the treaty, was to endeavour to obtain from the papal Court the dispensation necessary in the case of persons so nearly related by affinity as were Henry and Arthur. The Prince of Wales attained the age of fourteen on the 28th of June, 1505; but no marriage took place. Ferdinand would not send the second half of the dowry; and Henry VII. would not allow the marriage to be solemnised until he saw the other 100,000 scudos. Meanwhile, poor Katherine led a miserable life. Henry VII. disclaimed all responsibility for her maintenance until the full dowry should be paid; Ferdinand would not remit a single stiver; and in the end Katherine was obliged to run into debt. Jewels she had, and plate; but her father forbade her to sell or pledge these. Either her credit was very low, or she strove steadfastly to keep her debts to the lowest possible sum—at any rate we find her complaining that in the four and a half years she had been in England she had only had two new dresses. Her maids could not be paid, and grew dreadfully shabby. In short, a very Cinderella of princesses was this Katherine of Aragon, daughter of the greatest monarchs in Europe. Long before Prince Henry attained fourteen the Pope had granted a dispensation for the marriage; and a copy appears to have been sent to Isabella, who died at the time when her husband was still hugging his 100,000 scudos, and her daughter was almost starving in a foreign country.

At last Ferdinand sent the second half of the dowry; and Katherine's lot improved somewhat. She was allowed money to buy a frock or two, and her maids were paid. But still no marriage. Having locked up the crowns in his strong-box, Henry began to impose fresh conditions upon Ferdinand, and the Aragonese monarch replied by ordering his daughter back to Spain. As might have been expected, the English king declined to let her go. And the tortuous diplomatic game recommenced. Katherine was the one to suffer, as before; and, indeed, her life became almost intolerable. Penury, insults amounting almost to cruelty—these were her daily portion; and, to prevent herself breaking down altogether, she betook herself to the consolations of religion. She became more and more strict in her observance of the forms of religion; and conversed much with certain Observant Friars—a reformed Order then somewhat powerful in England. From that time forth, Katherine of Aragon was re-

nowned for her piety in England as much as her mother had been in Spain.

In April, 1509, a thrill at once of relief and apprehension must have made itself felt in Katherine's blood when she heard that Henry VII. was dead. If she was Cinderella, he was her wicked ogre. But would the new king marry her? Not long was she left in doubt; for in June, 1509, about seven weeks after his accession, the young sultan graciously cast the handkerchief. The Spanish ambassador intrigued amongst the lords of the Council. And, amidst tremendous applause, the royal pair were married on the 11th of June, 1509. Henry VIII. was but eighteen at the time, while Katherine was twenty-four. A fortnight after, they were crowned at Westminster Abbey.

All writers, and all contemporary chroniclers agree that the first few years of Katherine's married life were happy, even blissfully happy. She, for the first time in her life, was mistress of her own actions, or nearly so. Her seniority, and the years she had spent in suffering, distress and anxiety, gave her a mind much more mature than her husband's; and she was able to exercise enormous influence over him. In fact, until the rise of Wolsey, Katherine was the most powerful personage in the kingdom. In addition to the sudden leap from anxious dependence into royal power, the change in Katherine's domestic circumstances was enormous. For a long time Henry VII. had treated her with such harshness as to make her position rather that of a prisoner than of the promised bride of the kingdom's heir. At one period, she was not allowed to see Prince Henry for five months, although he was living in the same house. Now she could enjoy the society of her lover to her heart's content. And what a lover! Young, stalwart, one of the handsomest men of his time, he had every physical qualification that could be desired. Mentally, also, he was not lacking. He had some learning, and much mother-wit. And, as his manner was lively and cheerful, he was a very pleasant companion. Add to this, that he was of an ardent temperament, and was hotly in love with Katherine, and she with him. What a matchless Prince Charming to deliver Cinderella from the kitchen!

For a while the young couple lived in one continual round of gaiety. Feasts and joustings, balls and pageants trod on one another's heels so close that life seemed a perpetual holiday. Then the ladies of the Court began to perceive that something was about to happen. It did happen—all too soon. For, on the

31st of January, 1510, Katherine gave premature birth to a daughter —stillborn. The queen, who had longed for maternity, wept much; but Henry consoled her with a caress and a coarse jesting promise —the which, by the way, he kept to the letter; for within a year, on the 1st of January, 1511, a son was born. Great was the joy of the twenty-year-old father. He nearly killed Katherine with his kindness and his attentions; and promptly had the babe christened "Henry," declared him Prince of Wales, and assigned to him a separate household. The English manner is to celebrate everything by feasting and junketing; and Henry was typically English; but his mirth was suddenly cut short when, on the 22nd of February (1511), the little prince expired. The king was sobered for a while, but was soon reassured by the news of the queen's pregnancy.

Ferdinand, that old fox, was engaged in hostilities with France; and he found means, through Katherine, of obtaining Henry's adhesion to a league against the French monarch. Holding Calais, England could invade France with some ease, and such an enterprise was highly popular with the English people. All the world knows how Henry won his maiden battle—the Battle of the Spurs—and how, after the English forces had gained many successes, the English king was sold by Ferdinand, his ally, who treacherously concluded a separate peace in which Henry was entirely overlooked. While Henry was earning his spurs across the Channel, the Scots invaded England in great force; and Katherine had to strain every nerve to array an army to meet them. Meet them she did, however, with great success; for the Battle of Flodden was the most crushing defeat ever sustained by the North Britons. Not even this signal piece of wifely service could save the queen from the vehement reproaches of her young husband at the treachery of her father; and, indeed, the ultimate effect of the bad faith of the Aragonese monarch is incalculable.

Katherine had, in the midst of the turmoil of 1513, given birth to a second son; but the child died within a few hours of its birth. She was, however, soon pregnant again; and while in this condition she received the vehement upbraidings of Henry on the treachery of Ferdinand. So violent was Katherine's agitation, that it brought on a premature delivery, and the child was stillborn (Nov., 1514). This was the first rift in the lute. The previous year, when Henry had returned to winter in England, "there was such a loving meeting that every creature rejoiced".

From 1514 we can trace the rumours of divorce—the story being that the king was about to divorce the queen because she

bore him no live children. For a long time the rumour merely smouldered; but the fire was undoubtedly lighted in 1514. After a little while, Henry's anger died away; and the old life was resumed; but with the difference that the queen had to suffer her lord to make love to some of the ladies about the court, and to shut her eyes with the tolerant good-nature expected of queens in all ages.

With the people, Katherine had been becoming more and more popular. Her sufferings at the hand of Henry VII. had gained her their sympathy. Her unaffected kindliness and piety had won their love; and her conduct of the campaign against the invading Scots had roused their admiration. She put the seal on her popularity when she interceded on her knees to the king for the pardon of the 'prentice lads of London who had sacked the houses of the foreigners on Evil May Day.

On the 18th of February, 1516, was born the Princess Mary, the only offspring of the marriage who lived; for the fifth and last confinement of the queen (Nov., 1518), resulted in the birth of another weakling, who died in earliest infancy. Meanwhile Ferdinand died; and Charles V., Katherine's nephew, succeeded to far more than the kingdoms of Castile and Aragon. Naturally enough, in the wearisome and faithless game of politics in which France and the Empire each strained every nerve to enlist the alliance of England, Katherine was on the side of the Empire; and used all her influence to prejudice the king against the French alliance. Nevertheless, she accompanied Henry to Calais on his visit to Francis I. and had her share in the splendid festivities of the Field of the Cloth of Gold (1520).

In 1519, as a result of an intrigue with one Elizabeth Blount, an illegitimate son was born to Henry VIII., and as the boy grew, and increased in strength and comeliness, the king showed for him a marked preference over the little Mary. In fact, the sight of the lad, who was created Duke of Richmond at the age of six (1525), caused Henry to long more and more for a son to succeed him. "Why," he asked himself, "should all my legitimate sons die; while this one lives and thrives?" Then Anne Boleyn appeared; and the king was at her feet.

In about 1526, the Princess Mary's hand was in question. Francis of France began to treat for the alliance; and one of the French king's commissioners was the Bishop of Tarbes. The bishop, by what or by whom moved nobody knows, expressed some doubt of Mary's legitimacy. Being asked his reasons, he said that Henry could not lawfully marry his brother's widow.

This was the official story, at any rate; and it is doubtless just as true and just as untrue as official stories usually are.

My own belief is that the doubt of the legality of the marriage was first suggested to Henry, either as the result of his own cogitations, or as the effect of a suggestion from outside, based on the question: "Why should all the three sons born of the marriage die practically at birth?" In a superstitious age, the natural and probable answer would be: "Because your marriage is displeasing to God—therefore He will not allow your heir to live". Follows the question: "Why displeasing to God?" And the only answer that can be made is: "Because you married your brother Arthur's wife". Reasoning back from effect to cause is common enough. It only depends how you reason.

Clear it is that in 1525 the king began to affect scruples and express doubts. A suit—a collusive one, without doubt—was begun before Wolsey, the cardinal legate, charging the king with the ecclesiastical offence of cohabiting with his brother's wife. Wolsey summoned the king to appear to the suit; and the king handed in a formal written answer. But the cardinal dared go no further on his own responsibility, and he replied that the case was so very difficult that he must consult some learned theologians. The general opinion of historians is that Wolsey first suggested the divorce; and the fact of the secret proceedings makes the theory probable. The contemporary Roman Catholic account has it that Wolsey suggested it to Langlands, Bishop of Lincoln, the king's confessor, and gained the bishop over to impress upon Henry's conscience doubts of the lawfulness of his marriage.

It was on the 22nd of June, 1526, that the king gave Katherine notice of what was in his mind. She was in some sort prepared; for faithful friends had warned her of the secret proceedings before Wolsey. So that she was not altogether surprised when she was informed by the king that they must live separate—he begged her to keep the matter secret, for her own sake. By whom circulated, I am unable to say; but the rumour became, the same day, "as notorious as if it had been proclaimed by the public crier," that the king and queen had separated. The public, on the whole, took Katherine's side; for she was popular with the great mass of the nation, who saw in her a model woman and devoted wife. It may be said that Henry himself never accused Katherine of even a tendency to levity of conduct; and to the last was compelled to acknowledge her as a woman of noble qualities and conspicuous virtue.

Whether Wolsey was the *fons et origo* of the divorce idea in the king's mind, I cannot say; but in any case it is very certain he set himself with all his influence and all his talents to assist in bringing about a dissolution of the marriage. His object was plain—at that time he had engaged England with France in a league directed against the Emperor; and if Katherine were out of the way, a French princess could be brought in. That this object—the political—was not Henry's also, is plain. Henry's one idea was to leave behind a lineal heir to the crown of England.

Before long, other motives began to mix themselves with these. The king met and loved Anne Boleyn (*q.v.*); and thenceforth his object became not merely children, but children by Anne Boleyn. Wolsey, also, when he found that the Pope would not listen to the suit with favour, and that the result of a divorce would be to place not a French princess, but the fierce young Anne Boleyn on the throne, abated somewhat of his ardour. Not so Henry. The king petitioned Rome, his ambassadors filled the papal courts with their clamours. Stephen Gardiner, Dr. Bonner, and other learned canonists and divines, wrestled daily with the Pope and the cardinals.

Now there can be little doubt that the Pope was a mere opportunist in the matter. He knew well enough that he must decide against Henry if he judged according to the law; but I fear that aspect of the case appealed to the Holy Father very little. What did appeal to him was the fact that Charles V. was the strongest potentate in Europe; and that Charles V. would probably depose him if he complied with Henry's wishes. On the other hand, he was unwilling to offend Henry and his ally, Francis. So he resorted to the usual expedient of people who are too weak to do right and not strong enough to do deliberate wrong. He temporised; hoping that in a little while the King of England would tire of Mistress Anne Boleyn; and then, like many men before, and since, would return penitent to his lawful spouse.

The first aim of Wolsey was to secure a judgment against the marriage; and with that end in view he resisted all suggestions that the cause should be tried in Rome. Let it, he said, be tried in England. The Pope could send or appoint a legate with full powers; and it would be more seemly to do this than to ask the King of England to appear in a foreign Court. What with threats, and what with persuasions, the persistency of the English representatives finally bore fruit; and in May, 1528, the king was notified that legates *à latere* would be appointed.

The next move was to secure that Wolsey should be a member of the commission; and, strange as it may appear, the Pope actually appointed him as one of two legates to hear and determine "the king's matter"—as the suit was generally called in those days. The other legate was Cardinal Campeggio, an Italian, said to be an excellent lawyer. Campeggio had visited England before; and was not fond of it; but he yielded to the Pope's desires. Great was Henry's joy when he heard the news of Campeggio's appointment. "Now," he thought, "the case will be tried in a few months, and properly disposed of." To make sure of a final sentence, the English delegates to Rome had insisted on the instrument appointing the commission being drawn with full powers; for they dreaded that the Pope, who had already exasperated Henry by his dilatory tactics, would enrage him still further by ordering the new tribunal to delay as long as possible. Wolsey was delighted when he heard of his messengers' success; but he did not know that before he left Rome Campeggio had solemnly promised not to do that which he ostensibly went on purpose to do—namely, deliver a definite sentence or opinion. In truth, the Pope dared not comply with Henry's wishes, for Charles V., the strongest prince in Christendom, would assuredly have avenged his aunt's wrong. Thus Campeggio left Italy with his hands tied.

To judge by the rate of progress, his feet might have been tied also. He lingered here and he loitered there. Now he felt rather unwell: another time he had no money, and must wait for some: yet again, there were not enough mules for his train. It was September when he arrived in Paris, whence Francis expedited his departure as quickly as might be; yet he did not set foot in England until about a fortnight after that date. When he arrived at Canterbury he was so ill with gout that he could not even bear to be carried in a litter; though he sung High Mass at the Cathedral. Both Henry and Wolsey were furious at this delay, and had little belief in the genuineness of gout so peculiar in its manifestations. Campeggio kept it up, however, until the 22nd of October, when he was carried to the Convent of the Black Friars, at Bridewell, to have audience of the king and to present his credentials. According to Harpsfield, a Catholic historian, "his secretary made an eloquent oration in Latin, in setting forth and aggravating the great spoil late made at Rome, and the ransacking of the said city by the Imperialls, advancing highly the king's singular favour and benefits employed upon the Pope, the cardinals and the whole city". Nothing was said about the king's

"great matter"; but the speech of the secretary was interpreted abroad to mean that the Pope was so angry with the emperor and so grateful to Henry that he would grant a divorce from the emperor's niece. Such a piece of dishonest dealing would have astonished no one in those days; but the divorce of the king was, by the English, "almost universally misliked, especially among the common people".

Many factors contributed to the popular sentiment. There was the sense of the unfairness of the king's conduct towards a woman whose conduct had been blameless; and the further knowledge, or, rather, fear, that if Katherine were misused the emperor would declare war; and then farewell to the whole of the Flemish trade. When an Englishman is thoroughly possessed of the idea that a thing is unfair, he hates that thing. When, in addition, he realises that it will touch his pocket, he cries aloud against it.

So serious became the murmurs of the citizens of London that Henry was fain to speak them fair. He convened a meeting at the convent at Bridewell—a meeting of the nobility, the principal officers of state, and the lord mayor and citizens of London. To them he declared his position. He told the meeting that he admired the "great worthiness," "nobility and virtue, and all princely qualities" of his wife so highly, that, "if I were to marry again, I would of all women match with her, if the marriage might be found good and lawful"; and much more of the same sort. Having worked his audience up to great enthusiasm over his tender affection for the woman whom he had for a long time deserted for mistresses, he told them that he might not lawfully—as he was told "by many great clerks"—continue to be her husband. "I am wonderfully tormented in conscience," said the royal moralist, "for that I understand by these divers great clerks, whom I have consulted, that I have lived all this while in detestable adultery."

The nobles, and the high officers of state sat with solemn countenances—it was as much any man's head was worth to laugh. The sober citizens also sat silent, but they bent their brows to the ground in ominous fashion. The king proceeded with his speech. It was, he said, for the settling of his conscience and the sure and firm succession of the realm that he wished to have the matter decided; that if she should by the law of God be adjudged his lawful wife, there was never anything more pleasant and acceptable to him in all his life. He pointed out that it was not he who had started all this pother—it was "at the last beginning of mine ambassador in France, mention being made for my daughter's

marriage with the Duke of Orleans, one of the most notable counsellors to the French king said it were expedient first to be well known whether she be the king's lawful daughter or no". If this were true, it put somewhat of a different complexion on the case. It is one thing for a husband of nearly twenty years' standing suddenly to try to repudiate his wife and bastardise his child; and another for a husband who, being challenged as to the validity of his marriage by an outsider, brings suit to obtain a decision that shall shut the mouths of objectors. Henry's statement was probably untrue; but it served its purpose. The meeting dispersed; and the threatened rising did not take place.

After the public reception of Campeggio by the king, the king returned the visit at Bath Place, where the cardinal was lodged; and for several hours was engaged in earnest discussion with him. The Italian did his best—at least, so he reported to the Pope—to disuade the king from the divorce; but Henry was hardened in his resolve. I think it just possible that if, at the outset, the Pope had been frank, and had made due speed in the cause, Henry might have borne an adverse decision without flinching. What made him resolved, more than ever, to "go through with it," was the chicanery and delay of the papal Court. Half promises, soothing words, and, above all, procrastination upon procrastination in a matter intimately concerning himself could ill be suffered by one who, for nearly twenty years, had held almost absolute power within his own dominions. He argued his cause with the cardinal; and, especially, pointed out how nearly fulfilled in his case had been the denunciation of the Mosaic law [1]—one child after another had perished.

The cardinal became convinced that Henry was not to be turned from his purpose; and, accordingly, tried to gratify his wishes without incurring the wrath of the emperor. In company with Wolsey, he repaired to the queen; and told her they were appointed by the Pope to hear and determine the question whether her marriage was lawful or no, and to pronounce final sentence. At this the queen was "abashed and astonished," and paused awhile before answering. Then she broke forth, more in sorrow than anger, "Alas, my lords, that now after almost twenty years there should any such question be once moved, and that men should go about to dissolve and undo this marriage as wicked and detestable". Then she told the Italian that Wolsey, his colleague, was at the bottom of the trouble, on account of his feud with the

[1] Leviticus xx. 21, "They shall be childless".

emperor for not having made him Pope. Campeggio now sprung on the unfortunate woman a specious proposal. She was to retire into a nunnery; and embrace religion. From all the ordinary vows, except that of chastity, she was to be freed by the Pope; and Henry was to allow her a sufficient maintenance. Then the king should be specially allowed, by papal dispensation, to marry again. The queen at once inquired if Henry was ready to agree to this, and was told, Yes. But she, true daughter of her mother, refused to be a party to any such arrangement. She had, she said, no sort of wish to remain unmarried. She refused, absolutely, to give up the married state.

The Pope's proposition was somewhat alarming. If Katherine was Henry's wife, then the proposal was to allow a man to have two wives at the same time. And Henry's assent was also very odd. He denied the Pope's power to grant a dispensation against affinity, but was prepared to admit that the successor of St. Peter was able to licence bigamy.

Henry's willingness to accept those terms shows, better than anything else, the value of his conscientious scruples. If, as he alleged, his conscience troubled him, then he could accept no compromise—the marriage must be declared null. But if, as I believe, his darling object was to leave legitimate male issue to succeed him, then the bigamy proposal suited him admirably.

But Katherine rejected the proposal without hesitation. She could not, in womanly dignity, accept it; and one would imagine that after the treatment she had undergone she was little likely to pave the way for Henry's marriage with Anne Boleyn. The position of Katherine at this time was pathetic in the extreme. The whole world of the Court deserted her, and flocked round Anne Boleyn; she was denied any counsel or assistance from abroad; and her only friends were Chapuis, the imperial ambassador, and Fisher, Bishop of Rochester. Still she set her face like granite, and declined over and over again any suggestion of compromise. To Campeggio she said that she would maintain her matrimonial status till death; and if she could come back to earth again she would still maintain it. In fact, the clashing of the wills of these two people, Henry and Katherine, reminds one of the old problem concerning the concussion of an irresistible force with an immovable object.

At last, seeing that all hope of a settlement was useless, and pushed by Henry and his first minister, Campeggio reluctantly prepared to hold his court.

CHAPTER II

THE FIRST TRIAL

IT was on the 21st of May, 1529, that the trial began. Because, I suppose, the legates wished to assert their independence of all English tribunals, they sat, not in Westminster Hall, the historic forensic ground of England, but in the Parliament Chamber of the convent of Blackfriars. The first day's proceedings consisted of little more than the reading of the commission under which the court sat.

The commission ran thus:—

"Clement, bishop, servant of the servants of God,[1] to our beloved sons, Thomas, Archbishop of York, cardinal *Sanctæ Ceciliæ*, and Laurence Campejus, cardinal *Sanctæ Mariæ in Transtiberim*, our legates *de latere* from the Apostolical See to the Kingdom of England, health and apostolical benediction.

"The relation of very many persons of undoubted credit hath reached our ears concerning the validity of that Marriage which our beloved son in Christ Henry, King of England, defender of the faith, and lord of Ireland (a Dispensation of the Apostolical See being first had) was known to have contracted and consummated with our dearly beloved daughter in Christ Queen Katherine, from whence in those parts a controversy hath arisen which hath so perplexed the minds of men and held them in suspense and expectation [*as to*] what justice and equity will determine in a case of so peculiar a nature, and of so great moment, not yet tried in any public court of ecclesiastical judicature, that is necessary to proceed to some quick and speedy determination herein, to avoid that danger which must unavoidably ensue upon deferring it."

In the light of subsequent events, the suggested urgency, the "quick and speedy determination," becomes a little ironical.

The commission proceeded to state that: "we, whom God hath appointed Servant of his Servants, to administer to all men

[1] This is the true official style of the Roman pontiff.

impartial justice in judgment and truth," not being able to hear the cause personally, had appointed the two cardinals, to the end that "a decision may be made of the above-mentioned Cause, concerning the aforesaid Marriage, according to the rules of justice, judgment and truth, whereby this Dispute may, as it is most expedient it should, obtain a firm, valid, certain and speedy conclusion and end".

For these purposes, his holiness appointed their eminences judges of the cause,—"do hereby give and grant a plenary authority," jointly or singly—without any liability to any appeal or question concerning their jurisdiction. The legates were to do the following things:—

(1) Hear and examine all and everything which might relate to the validity of the marriage.

(2) Hear and examine all and everything which might relate to the validity of any apostolical dispensation.

(3) If the dispensation should be found to be sufficient, effectual and valid, to declare it so; but if it should be found to be invalid, ineffectual, insufficient, surreptitious or arreptitious, or on any account null and void, then so to declare it.

(4) To "define, determine and finally sentence" on the question of the marriage, pronouncing the same to be "valid, just, lawful and firm, or on the other side unjust, invalid and unlawful".

(5) If the marriage should be found unjust, invalid and unlawful, to pronounce sentence on nullity.

(6) "If it shall thus appear that the dispensation is invalid and the marriage null, that you do judicially, deliberately, summarily and clearly pronounce a sentence on divorce, and grant a faculty and licence in the Lord to the foresaid King Henry and Queen Katherine to marry again."

The commission went on to give the most ample powers. The first of these was to do and finally determine all the things contained in the commission in as ample a manner as the Pope himself could have done. The second, which is somewhat remarkable, is to declare that the children by the first marriage as well as by the second were legitimate.

The commission is dated the 6th of the Ides of June, 1528.

Immediately the commission had been read, the clerk of the court summoned Henry, King of England, and Katherine, Queen of England, to appear. Both came forward; but Katherine, taking no heed of the cardinals, prostrated herself at Henry's feet.

Every account of the proceedings shows that the spectacle was as moving as the occasion was unprecedented. And all chroniclers agree that the speech of the rejected wife was full of the eloquence of true pathos. She reminded him in piteous accents, heightened a little by her broken English, that for eighteen years she had been to him a loving, true and faithful wife. She spoke of the children she had borne him; of the one that lived and the others now in Paradise. Simply, but with sufficient dignity, she reminded him that this marriage which now he sought to impeach had been arranged by the two kings who were reputed the wisest monarchs in christendom—her father and his own. She reminded him that she was a stranger in a far country. In short, she made such an appeal to his justice, his mercy and his pity as would have melted any heart but his. In truth, the bluff king did turn very red with shame, and was quite unable to look at the sorrow-stricken face turned up to him. Muttering something to the effect that right should be done, he left the parliament chamber. Katherine and her ladies also retired. The only thing done by the legates that day was to take to themselves certain assessors, some of the most skilful canon lawyers in England. They were John Langlands, Bishop of Lincoln; John Clark, Bishop of Bath and Wells; the Abbot of Westminster, John Islip, and the Master of the Rolls, John Taylor.

The procedure of the ecclesiastical courts has always been of the slowest. On this occasion, they were no exception to the rule. Instead of proceeding with the trial at once, the court merely issued a citation to the two august parties to appear upon the 18th of June and state their case. The king, acting in precisely the same manner as an ordinary litigant in an ecclesiastical suit, executed a power of attorney (the records tell us that it was sealed with green wax) appointing two proctors to act for him. The reader should know that at this time, and, indeed, down to the middle of last century, a mere member of the bar had no right of audience in an ecclesiastical court, neither had an attorney the right to do business there. The work performed by the attorney in a common law court was in the hands of a proctor in an ecclesiastical court; and instead of a barrister, was employed an advocate who was obliged to be a Doctor of the Civil Law. These people formed a close corporation; and were able to exact the most exorbitant fees from those who were obliged to use their services. This is by the way.

King Henry appointed Dr. Sampson and Dr. Bell his proctors,

with full authority to refuse to accept the judgment of the court and if need were to appeal.

The queen, on her side, was by no means without advice. Before the first sitting of the court she had asked Henry's permission to consult with learned men; and the king had told her she might take for her counsel anybody she chose. Accordingly, she had selected Warham, Archbishop of Canterbury; West, Bishop of Ely; Fisher, Bishop of Rochester, and Standish, Bishop of St. Asaph, as her counsel. Warham and West were Doctors of the Law, and Fisher and Standish, Doctors of Divinity; and every one of the four was of great eminence, high reputation and profound learning. It is unfortunate that we do not know what advice was given by these counsellors; but we do know that the Bishop of Ely had been a witness, in the year 1505, of Henry's protestation against the marriage. We also know that the Bishop of Rochester had taken a considerable part in the negotiations with the Pope; and that the Archbishop of Canterbury subsequently signed a petition to the Pope urgently entreating him to grant a divorce.

When the 18th of June arrived, the king appeared by his proctors. But the queen, who probably could not find a single ecclesiastical practitioner whom she could trust, appeared again in person. She refused, however, to acknowledge in any way the jurisdiction of the legates. Apparently she had made up her mind to fight the matter out to the bitter end; and had, I think, been advised by some person of skill, probably the imperial ambassador or some canonist procured by him, to put the court in a difficulty by refusing to plead. She declared that she wished to enter a protest. The first ground was that the court sat in England, within the power of her adversary in the suit. The second ground was that one of the judges was a subject and servant of her adversary. Each of these grounds was sufficient to form matter of objection; for the reason, stated broadly, that she could not have a fair and impartial hearing in a court so constituted, and sitting where this court sat. A third ground was that no one, not even the Holy Father himself, could declare any marriage null and void which had been solemnised and consummated after a dispensation from the Pope; but if any tribunal could enter upon such a cause, only the Pope himself could do so. It was incompetent to delegate his jurisdiction to anybody.

There can be no doubt that from the point of view of the legal tactitian, Katherine was well advised. Her object was delay.

She hoped and expected that her nephew the emperor would speedily find a means of coercing the Pope; or at any rate of persuading him that it would be dangerous to grant a divorce against a member of the imperial house. She, or her adviser, calculated that Campeggio would hardly dare to pronounce a final judgment in face of an objection to his jurisdiction. Henry's ambassadors to the Papal Court, Gardiner and Fox, had tried to obviate the risk of such a preliminary objection by obtaining the insertion of the words "nor liable to any appeal or question concerning your jurisdiction" in the commission. In an ordinary case, the precaution had sufficed; but in a suit where the objecting party was such an influential person as the aunt of the greatest sovereign in Europe, it turned out to be of no avail.

When the queen had made her protest, she required it to be noted on the record of the proceedings. She herself had previously caused her protest to be written out and noted by a notary public. Then Katherine swept out of court, leaving the unfortunate cardinals in somewhat of a quandary.

Campeggio would have been quite pleased to adjourn the further consideration of the case until such time as Katherine's objection could have been referred to Rome and there tried—that is for an indefinite period of years. But Wolsey and the canonists who had been called in as assessors overbore him; and compelled him to proceed. Thenceforth, up to a certain point, the proceedings went on in precisely the same form as an ordinary suit for nullity. Letters monitory were sent to the queen by the court, declaring that if she did not appear they would proceed in her absence. The Bishop of Bath and Wells carried these letters to her majesty. To the lay reader these letters monitory would appear to be a mere waste of time and quite unnecessary; for the person to whom they were addressed had already with her own lips declared that she would not appear. But according to the ecclesiastical forms of those days, it was necessary to go through the formality. The letters monitory, like many other proceedings, were invented simply for the benefit of the practitioners in the courts. It is abundantly evident from the records of Parliament and from other sources of imformation that the procedure of the ecclesiastical courts was at that time a crying scandal; and the general opinion of the country was that it had been made tedious and costly with the sole object of mulcting the suitors in heavy costs.

On the day appointed by the letters monitory, Katherine did not appear. Her name was duly called three times. Then she

was pronounced contumacious. Dr. Sampson and Dr. Bell were then allowed to present the articles on behalf of the promoter.[1]

The allegations contained in the Articles, shorn of that verbiage so dear to the heart of the canon lawyer were as follows:—

(1) That Prince Arthur did *in facie ecclesiæ* marry Katherine.

(2) That this marriage was consummated and was confirmed by the cohabitation of the spouses until the death of the prince.

(3) That after the death of Prince Arthur, King Henry, his brother, married the said Lady Katherine *in facie ecclesiæ*, and had children by her.

(4) That the said second marriage was prohibited both by the Divine and by the ecclesiastial law.

(5) That the said second marriage was, therefore, null and invalid to all intents and purposes.

(6) That the said second marriage had caused great scandal amongst clergy and laity, the report of which coming to the Pope's ears had caused him to appoint two cardinals to hear and determine the matter and to pronounce sentence.

(7) That the said King Henry prayed the court to adjudge his said marriage null and void or otherwise do right in the matter.

The layman might imagine that under the circumstances, when one party absolutely refused to appear, and the other had formulated his claim, the court would proceed forthwith to hear such evidence as might be necessary to support the allegations of the promoter, and then to pronounce judgment in his favour. But this was not the way of the Papal commission. A further adjournment took place; and the king's Articles were ordered to be served on the queen; and she was again cited to appear on a day named about a month afterwards.

When the day arrived Katherine once more refused to come to court and was again declared contumacious. On this occasion some little progress was made with the trial. The court ordered to be produced the dispensations that were alleged in favour of the marriage; and also appointed a Dr. Taylor, Archdeacon of Buckingham, to examine the witnesses.

Having carried the reader thus far, let me set forth as plainly as may be the contention of those who argued that the marriage was null and invalid, and the defence offered by those who said the marriage was lawful.

[1] This term, now commonly used in an unsavoury connection in the city, was the proper way of describing the person who is commonly called a plaintiff or petitioner. He who brought a suit in an ecclesiastical court was called the promoter.

The case for the king was that, by the law of the Church, marriage with a deceased brother's wife was prohibited. Further, such a marriage was prohibited by the law of God.

In answer to this, Katherine's friends admitted that the law of the Church was against such a marriage; but that the Pope had power to dispense with the prohibition in any particular case; and that in this case he had done so. Henry's reply to this was to admit that the Pope could dispense with the law of the Church; but to deny that he could dispense with the law of God. In the second place, he denied that the dispensation had been properly obtained; and in the third place he alleged that the particular document produced in court as a dispensation was in truth a forgery.

The answer made to these contentions was that the question of affinity of a deceased brother's wife was a matter of ecclesiastical and not of Divine law; and further that the dispensation produced was genuine, and had been obtained properly.

Let us first see what were the documents which constituted the alleged dispensation. It will be necessary to set out in full certain parts of them, and to epitomise the rest. There were two documents, a Bull and a Breve. The Bull was produced in the original, bearing the seal of the Pope. It was addressed to Henry and Katherine; and was produced by Henry himself. These were its terms:—

"Julius Bishop, servant of the servants of God, to our beloved son Henry, son of our most dearly beloved in Christ, Henry, King of England, and to our beloved daughter Katherine, etc., etc., . . . Your petition lately exhibited to us, did set forth that you, daughter Katherine, and Arthur (eldest son of the most illustrious and our most beloved son in Christ, Henry, King of England) since deceased, for the better preserving and continuing the leagues and treaties of peace and friendship between our most dear son in Christ Ferdinand, our most dear daughter in Christ Elizabeth, most Catholic King and Queen of Spain and Sicily, and the foresaid King and Queen of England, did lawfully contract a marriage in words *de præsenti* and did perhaps consummate it by carnal knowledge; which Prince Arthur died, leaving no issue by the said marriage.

"Now whereas your petition did further set forth that to the end that the said amity and good friendship may be still strengthened and continued between the foresaid Kings and Queens, you did desire that a marriage might be contracted between you, in order

to which you did supplicate that we would of our Apostolical grace and favour grant you a sufficient Dispensation on account of the premises.

"We therefore out of our hearty inclination (etc., etc.) . . . hereby absolving you and either of you from all sentences of prohibition, suspension, ex-communication, and all other ecclesiastical answers and penalties on any occasion or pretence whatever, either by any person or law inflicted upon you, or that in the case forementioned may be by suit yet depending; and as we do hereby judge you absolved, so in compliance with your so reasonable request, by our Apostolical authority, out of our mere and special grace and favour, by the tenor of these presents, we do dispense with you, so that any impediment through the foresaid affinity . . . notwithstanding, you may lawfully contract marriage together *per verba de præsenti*, and when it is so contracted, although it should already have been either publicly and openly, or privately and clandestinely contracted, and perhaps by carnal knowledge consummated, that you therein may lawfully continue and remain, and we do by the same authority absolve and free you and either of you from all censure and sentence of ex-communication which you may have incurred by having *de facto* entered into this contract of marriage before this Dispensation.

"And we do further pronounce all the children legitimate, either already or yet to be born from the said marriage, either now or to be hereafter contracted."

There was a proviso that Katherine should not have been compelled to enter into the transaction by force or fraud; and a further proviso that if the marriage had been contracted and consummated before the grant of Dispensation, both Henry and Katherine should make confession and submit to penance.

It it not unimportant to mention the date, which was "the year of our Lord 1503, 7th of the calends of January".

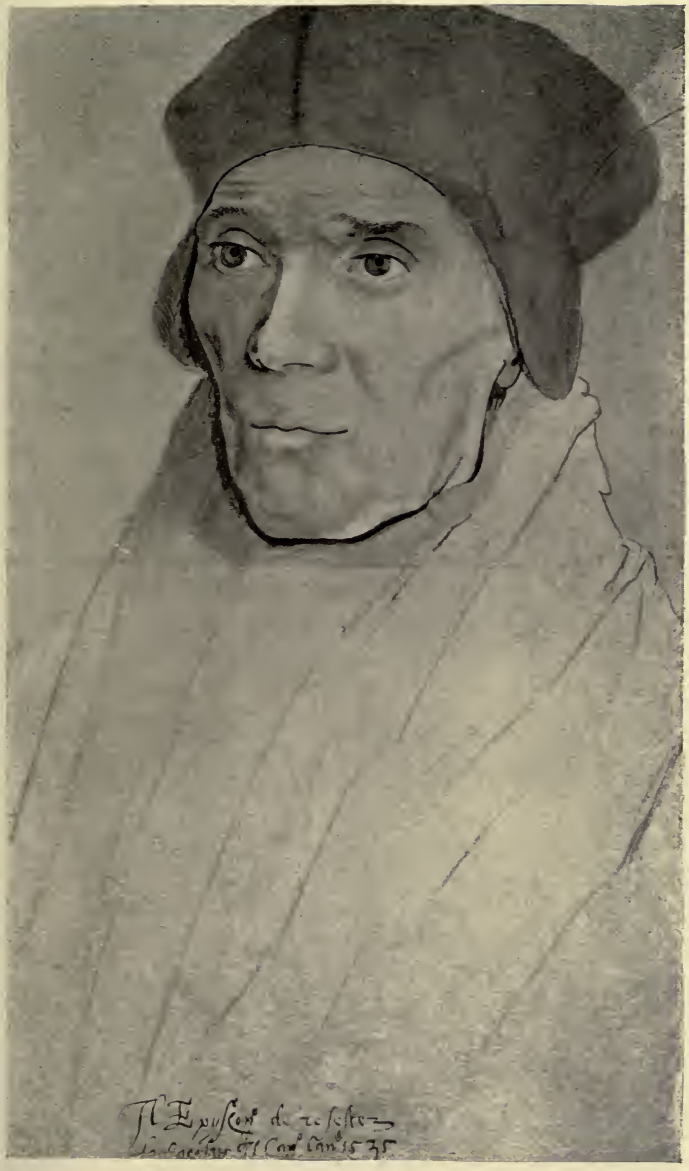
The second document produced was the Breve, and it ought to have been in exactly the same terms as the Bull; because it was the official duplicate of the Bull, sent to Katherine's royal parents to be filed by them as a record of the transaction. Unfortunately for Katherine's case, when the emperor was applied to for the Breve, he refused to let it leave the Spanish archives. He professed to be afraid—perhaps he was—that the original would be "lost" if it were allowed to be sent to England. So he caused a copy to be made by the hand of Balthazar di Castiglione of Mantua, Nuncio of the See of Rome, and a notary of the

Apostolical See, who had been sent from the papal Court to obtain the original. The original and the copy were read over and compared in the presence of the emperor, Charles V., and the copy was vouched as genuine by the very respectable witness of seven of the imperial council, who signed and sealed the copy, and whose signatures and seals were, in turn, certified as genuine by one John Vergara, canon of Toledo, and public notary. The seven councillors who thus pledged their credit for the genuineness of the copy included the celebrated Henry of Nassau; Nicholas Perronet, better known as Granville, the famous chancellor of the empire; the imperial chamberlain; and three Knights of the Golden Fleece.

Not only did these knights and noblemen pledge themselves to the correctness of the copy; but they declared, by the notarial act accompanying it—as also did Di Castiglione the nuncio—that the original was "whole and entire, no ways vitiated nor cancelled, nor on any account or in part of it to be suspected, but free from all manner of suspicion or colour of deceit". Thus the apparent genuineness of the original, as well as the fidelity of the copy were verified in as solemn a manner as could be conceived. Yet this was the document challenged by Henry's lawyers. Let us examine it a little.

The first few clauses of the Breve corresponded word for word with the Bull. Instead, however, of the clause, "Now whereas your petition did further set forth that to the end that the said amity and good friendship," etc., the Breve had it "Now because Prince Arthur dying without issue by this marriage in all likelihood this bond of peace and amity between the said kings and queen would not last so firm as if strengthened and supported by a new tie of affinity"—exactly the same sentiment, but expressed (and that is the important point) in rather different language. Again, instead of "You did desire that a marriage might be contracted between you, in order to which you did supplicate that we would of our Apostolical grace and favour grant you a sufficient dispensation," the Breve ran, "You, therefore, for these and certain other causes, desire lawfully in words *de præsenti* to contract Marriage; which desire as you may not in the premises fulfil without our Apostolical Dispensation therein first had, you therefore have made it your humble request that we would," etc. Here is a considerable difference in the turn of expression.

Continuing the comparison, we find the Breve omits "absolving you and either of you from all sentences of pro-



JOHN FISHER, BISHOP OF ROCHESTER

FROM A DRAWING IN CHALKS BY HOLBEIN AT WINDSOR CASTLE

hibition, suspension, ex-communication," etc., and says, more simply, "dispense with you, so that it may be and is lawful for you, any impediment arising from your affinity by reason of the premises notwithstanding".

Henry's counsel said, boldly, that the Breve was a forgery. Who was the forger was not stated; but the unavoidable inference was that Charles V. had caused it to be manufactured since the marriage came into question. The case of forgery depended on many facts and arguments:—

(1) There were differences in style and wording between the Bull and the Breve, as already pointed out. This might, of course, prove that the Bull was forged, equally as much as it showed that the Breve had been. But the court was in possession of the original Bull, and pronounced it genuine; while the emperor, pleading the risk of loss at sea, declined to allow the Breve to be produced. The notarial document produced with the copy was of little value, except as showing that in the opinion of the signatories the document produced by the emperor was genuine. No one denied that the copy was correct, as a copy of that which the emperor had produced. As between two originals, one produced to the court, and the other withheld, it was quite legitimate to contend that the one produced was genuine and the other not.

(2) The Register of the Breves at Rome had been searched; and witnesses who had searched were ready to swear that no trace of such a Breve had been found or could be found. If this were true—and there was no one to contradict the assertion—it was an important fact; because, whatever else might be urged against the Roman courts, no one doubted that they kept their records with great exactitude.

(3) Search had also been made in the Chartophylacio or Paper-Chamber of the king (of England) and no trace of such a Breve could be found; nor was it mentioned in the private treaties for the marriage.

(4) That the date was wrong—in that the "*Literæ Apostolicæ per breve sub annulo piscatoris*,"[1] were never dated from the Feast of Nativity, or of the Annunciation, etc., but only with the year; because it was understood that they always began from the 25th of December. Thus, the 26th of December was an impossible date.

I am unable to see how or why Henry's lawyers should take

[1] A "Bull" was "*sub plumbo*," under the leaden seal; but a Breve was "sub annulo piscatoris," under the seal of the Fisherman.

so much trouble to prove that the Breve was a forgery, because, if a Dispensation were good at all, the Bull was a Dispensation in ampler terms than the Breve. It is impossible to say whether there was a forgery or not. I should think not; and for this reason: It was proved by Henry himself, who produced a letter from Pope Julius to that effect, that Isabella of Spain had been very anxious on the subject of the Dispensation; and, when she was dying, had worried the Holy Father to send her a copy. Now the Pope had, at that time, refused to publish a Dispensation. He had, it is true, made up his mind to grant one; but not just then. And he had refused to allow Henry VII. to see a copy or draught of what he proposed ultimately to grant. But when Isabella the Catholic, on her death-bed, Isabella the faithful and obedient daughter of the Church, urgently begged the like favour, his Holiness could not refuse. Under pledge of strict secrecy he sent a copy; of which Ferdinand promptly sent a copy to Henry. When Henry wrote a reproachful letter asking why a copy had been sent to Spain and refused to England, Julius replied, apologising, and pleading the request of a dying woman as his excuse. Probably, I should think, the document in the custody of the emperor was Isabella's copy supplied by the Pope himself; and was quite genuine.

In any case, the objection to the Breve mattered little; for the Dispensation did not depend on it. Even supposing it out of court altogether, Henry had also to get rid of the Bull. How did he propose to do that? Most people, from a cursory reading of history as it is—or at any rate used to be—written, are under the impression that Henry had really no case at all. This is far from the fact. He had some very plausible grounds for asking the court to decide that the dispensation had been wrongfully obtained—obtained, that is, by misrepresentation. The grounds alleged by Pope Julius in his Bull were, that the marriage was necessary to preserve peace and amity between the countries; and that the parties to the second marriage were desirous of celebrating it. The king's lawyers now prepared to show, categorically, that on both points the Pope had been deceived.

They (the lawyers) alleged:—

(I.) That the peace and amity between England and Spain was firm before the grant of the Dispensation, and there was no reason to fear a breach.

(II.) That Henry VIII. was only thirteen years of age; and was thus incapable either of marrying, or betrothing himself, or

expressing any wishes in the matter. It was impossible for a boy of thirteen to apply for a Dispensation to marry.

(III.) That Henry VIII. was represented in the document as being desirous of the match in order to maintain good relations between the two kingdoms. On account of his tender years he must be supposed incapable of such thoughts.

(IV.) That the object of the Dispensation (*i.e.*, peace and amity between the nations) having been falsely represented to the Pope; and one of the supposed petitioners for it being shown to be incapable of a legal act, it followed that the Pope had been deceived into issuing the Bull, which was, therefore, "surreptitious" and void.

(V.) That Isabella died before the marriage; and thus the marriage could not have taken place to restore peace and amity between the parties mentioned in the Bull.

Long and learned were the arguments on these pleas. The most formidable reply to them was that of ratification. It might be true that the Dispensation was founded in fraud, and that Henry VIII. had not been a consenting party to obtaining it; but how get over the fact that he had known of it immediately he did come of legal age; and, knowing it, had continued to live with Katherine. A more complete ratification of a voidable act done in his name could hardly be imagined. For although it was and is a sound proposition that a boy of thirteen cannot do any legal act so as to bind himself thereby, yet it was and is equally sound that if an act is done by a boy of that age, and after he comes to years of discretion he expressly ratifies it or impliedly, by his conduct, confirms it, he cannot afterwards plead that the act was void.

Let us see how Henry met this position.

The canonical age of consent to marriage was fourteen years, the age prescribed by the Civil Law of the Romans. Henry VIII. was born on June 28, 1491. He was married to his brother's widow on June 11, 1509. He reached the age of fourteen on June 27, 1505; and on that day, doubtless at the instigation of that wily politician, his father, who wished to have a further hold over the Spanish king, the young prince executed a Protest against the match, which had not yet been consummated. This Protest was read by Henry in the presence of the Bishop of Winchester and a notary public, as well as certain Doctors of the Civil Law. The place was not an open court, but a private room in the royal palace at Richmond. The notary public took

down the protest in writing, and subscribed it, along with five witnesses, as a public notarial instrument.

The terms of the document were these:—

"Henry, Prince of Wales, Duke of Cornwall and Earl of Chester, alleged that in his minority he had *de facto* contracted a marriage with the most serene lady Katherine, which contract, by reason of his minority, was invalid and of no effect whatever; YET because when he should come to years of consent the contract might seem to be valid and confirmed by reason of tacit consent, mutual cohabitation (etc., etc.). . . . He, the aforesaid Prince of Wales, now nearly arrived at maturity of age, and being just at years of consent, did PROTEST that notwithstanding anything he had done, or might do, he did not intend to ratify the said contract of marriage. Further, of his own motion, without being forced into it, he renounced, disclaimed and dissented from the said marriage contract; and did not consent to receive the lady Katherine as his lawful wife."

This extraordinary Protest was produced to the Legates by Henry's lawyers as an answer to the argument that Henry had ratified his marriage. If it had been followed by evidence that after registering the Protest he had sent a copy to Katherine, and to her father, or had published it openly; or that he had acted up to the spirit of the disclaimer by refusing to cohabit with the lady, I suppose no one could be found to argue that his case was not good. But the evidence was all the other way. Neither Katherine nor Ferdinand had even heard of the Protest. The document had simply been locked up. And Henry had cohabited with Katherine, and called her his wife for eighteen years.

Yet, according to the state of the law—I refer to the canon law; for by the common law the Protest was not worth the parchment it was written on—Henry had some case. By the canon law, as then practised, an instrument executed notarially, as this was, was a public instrument. The making of the Protest before the notary was a public act. And it made no difference at all that the proceedings were, in fact, private. In the eye of the law they were public: and everybody was supposed to know they had taken place. I reserve my comment on these atrocious measures, so characteristic of the age, and of the jugglery of the Canon lawyers, for another place. Let me now carry the reader on to the verbal evidence.

The main body of testimony was directed to prove that Katherine had been really, and not merely nominally, married to

Prince Arthur. She steadfastly denied it, and had all along denied it. Her story was that although she was of age to be a wife, Arthur was never sufficiently mature to be a husband. Indeed, she said, precautions had been taken, on account of his youth and immaturity, and because he was not robust, to prevent him attempting to consummate the marriage.

The importance of the point lay in this: According to the canon law, the ceremony of marriage, without more, or even the ceremony of betrothal was enough to constitute the parties husband and wife. In the subsequent trial of Anne Boleyn the point of pre-contract arose. But by the immemorial practice of Christendom, such relations as these, when there had been no actual conjugal relations, could be relieved against by the Pope. Nothing was more common than for the sons and daughters of princely or ducal houses to be nominally married; and then, if circumstances arose rendering the alliance undesirable, for the Pope to grant a dispensation to dissolve the tie. But when there had been a *de facto* marriage followed by conjugal relations it was very doubtful whether the Pope could assume jurisdiction. There seemed to be a distinction between "those whom God had joined," and those who were simply bound by law.

Arguing by analogy, if the affinity between Katherine and Henry were merely a legal one, there could be no great breach of the moral law in a marriage between them; and no great difficulty in dispensing with the legal tie. But it is obvious in morals that a great distinction must be drawn between that case and the case as it would stand if the affinity were more than a merely legal one. To put it plainly: If H. seduces his brother A.'s wife, who actually shares his bed and board, you have a loathly crime. But if the wife has never shared A.'s bed, and is only bound to him by a legal tie, the crime must seem less sinful in the eyes of most men. And if A. was a mere child, who hardly knew the meaning of marriage, H.'s offence is a lesser one still.

Henry wished to make the point that Katherine had really held conjugal intercourse with his brother; because he conceived that if such were the case he would bring his case within the Divine law which forbids incest. True, the Bull of Dispensation (*v. supra*) expressly declared that the Papal dispensation should have effect even if the former marriage had been consummated. Henry's point was that the Pope had no jurisdiction to dispense against incest. He was appealing from Pope Julius to Pope Clement. Moreover, said Henry, I never knew the facts;

and how could the Holy Father trepan me into the commission of a grievous sin?

The reader sees, therefore, that it was of the utmost importance to the king's case that he should rebut Katherine's statement, made privately to the legates, and published broadcast by her friends, that although she was a widow she was but a widowed maid when she married Henry.

The evidence, publicly tendered, was not of the most delicate.

The first testimony was that of "two ancient ladies, who excused themselves by reason of their infirmities from appearing in person". Their evidence had been taken on commission, at their own houses, by Dr. Taylor, and their depositions were read to the court. The first was Mary, Countess of Essex, who said little to the point. She remembered the marriage of Arthur and Katherine, and so forth, but she was not able to say very much beyond this. The second of the "two ancient ladies," Agnes, the Dowager Duchess of Norfolk, was more intimately reminiscent. She told a long tale, as the reminiscent manner of ancient ladies is; and the substance of it was that she was present at St. Paul's in London and saw and heard Prince Arthur and the Lady Katherine married. She thought the prince was then about fifteen. She remembered his being born. Katherine she believed to be older. She remembered, and most positively and solemnly affirmed, that the next night after their marriage she saw the husband and wife in bed together and alone. Asked if she had heard the tale that a "grave matron" had been put into the bed with the spouses to hinder the *carnalis copula*, she said she heard the tale, but it was quite untrue. She was perfectly certain they slept together and alone.

The Earl of Shrewsbury was the first witness to be called in open court. He swore that Arthur was born at Winchester in 1486, the second year of Henry VII.'s reign; and was married to the Lady Katherine at St. Paul's in 1501, being thus fifteen years of age. He (witness) believed Prince Arthur had conjugal relation after the said marriage. The extreme youth of the prince being brought to the witness's attention, he replied, "I myself not being sixteen, knew my wife; and I see no reason why he should not have done so".

The Earl of Shrewsbury's evidence was confirmed by that of Sir Arthur Poynes, and the Marquis of Dorset. The marquis said he had seen a register of the births of King Henry VII.'s children, from which it appeared that Arthur, the eldest, was born

on 20th September, 1486. The marriage, he said, took place on a Sunday in November, 1501, so that the bridegroom was over fifteen. "At the time," said my lord of Dorset, "he was of a good and sanguine (*i.e.*, rosy, full-blooded) complexion; and, I should say, able for the purpose."

It will be thought by the modern reader somewhat strange that a simple fact such as the age of the son of the King of England should require to be proved by three witnesses. But it must be remembered that in those days there were no registrations of births, marriages and deaths; and the books of churches and chapels were not very well kept. Two more witnesses were called to prove this important point of age, of whom one was allowed to say that he had heard from a knight, now dead, Sir William Woodall, who had been present at Arthur's christening, that the prince was over fifteen when he married.

Sir William Thomas, knight, deposed, of his own knowledge, that Arthur and Katherine lived together in one household, as husband and wife, for five months after their marriage, at various places in and about London, and at Ludlow.

After the worthy knight, came Robert, Viscount Fitzwater, who had been one of Prince Arthur's household. His evidence was positive and circumstantial. Let me reduce it to narrative form: "I remember the day of Prince Arthur's marriage to the Lady Katherine. That night they were put to bed. First the Lady Katherine was taken to the room and undressed by her ladies. When she was in the bed the prince was escorted to the bridal chamber by his gentlemen, of whom I was one. We undressed him, and saw him bedded with the bride. A priest blessed the bed, according to custom; and we all came out, leaving them alone together. This was in the Bishop of London's Palace. The next morning I, and others waited on the prince at breakfast. Maurice St. John did carve, and, at the prince's request, I gave him drink. Maurice St. John asked him—— [*The question may be guessed: it was coarse as the age was.*] To which the prince replied: 'I have been in Spain this night'."

Charles Brandon, Duke of Suffolk, corroborated the Viscount Fitzwater. He had ridden over to the Bishop of London's Palace the morning after the marriage, and had been present when the bridegroom came down to breakfast. He heard Maurice St. John's question and the prince's answer, which he repeated in almost the same words as Fitzwater.

The Duke of Norfolk, lord treasurer of England had also

been present on the same occasion, and had heard the prince's words to Maurice St. John. His recollection tallied with that of the two other noblemen. He added that he believed the prince meant everybody to understand that he had consummated the marriage. Further, there seemed to him (the duke) no reason to doubt the fact, because the prince was "a gentleman of good complexion and nature". Moreover, he (the duke) had been a husband *de facto* when he was but fifteen.

Sir Arthur Willoughby, knight, swore that he had been one of the prince's attendants at the time of the marriage. On the morning after the marriage he was in the prince's privy chamber when the prince called to him, "Willoughby, give me a cup of ale, for [*here follows almost the identical geographical expression deposed to by the preceding witnesses*]". Witness deposed to further expressions used by the young bridegroom, on the same occasion, of the same character; intended without doubt to cause the hearers to believe that the marriage had been duly consummated.

The Viscountess Fitzwater, who had been one of Katherine's maids of honour, and a bridesmaid, corroborated her husband as to the "bedding" of the wedded pair and the blessing of the bed.

There was also some evidence that after his marriage, while living with his wife, the prince began to grow thin and pale; and of the gossip of the household on the subject.

So far, there was ample evidence—evidence on which a jury could reasonably find that Katherine was in fact, as well as in law, the wife of Arthur; and it is fair to state that although Katherine was not represented, and, therefore, the witnesses were not cross-examined as they otherwise would have been, they were cross-questioned by the court itself.

There was even some evidence admitted on the other side. Warham, Archbishop of Canterbury, was called. The Bishop of Ely had the courage to come forward and say that although he could not of his own knowledge say anything about the *carnalis copula*, because he knew nothing, yet he strongly doubted it. Asked why, he said that the queen had often said to him, *sub testimonio conscientiæ suæ*, that the marriage with Arthur had never been consummated. He confessed that they were both of the legal age at the time of their marriage.

But this was not the only stand made by his grace of Ely. "I doubt," said he, "whether your eminences are competent judges in this suit." Asked why, he said: "Because the queen hath appealed to Rome". A long argument ensued. The king's

proctors maintained the proposition that since the commission of the Pope expressly ordered the legates to proceed to judgment, notwithstanding any objection to their jurisdiction, they were bound to proceed. If, after sentence given, either party wished to appeal, that was another matter altogether. The bishop pluckily stood to his guns; and with much learning maintained his original opinion. In the end, the legates decided to go on; but Campeggio was obviously impressed by the bishop's argument.

A churchman even more distinguished, Warham, the Archbishop of Canterbury, also made some stand for Katherine. He was called by the king's proctors; but, before giving any evidence or answering any questions, he made a statement. "I am the queen's sworn counsellor," he said, "and I protest against being asked to reveal any secrets I have learnt in her service." He was then asked whether he thought the marriage between Henry and Katherine valid. But the wily churchman was not to be drawn. "That," he replied, "is the question which the judges of this court have to determine." Equally wary were his answers to other questions. Had he approved of the match at the time? No, not at first. Had he ever had a dispute about it with Richard Fox, Bishop of Winchester? Yes, he had—Fox was one of the persuaders of the match. Did he not at the time remonstrate with Henry VII.? Yes. What were the words he used? "I told him," answered Warham, "that the marriage seemed to me to be neither honourably nor well-pleasing to God, that one brother should marry another brother's widow; and I told him to consider how much older was the Lady Katherine than the Prince of Wales." Did the king take any notice of this? Yes—he seemed disinclined to the match, and witness entreated him to persuade Prince Henry to protest that he would not take the Lady Katherine to wife, and to renew the protestation when he reached the canonical age of consent.

"Then," asked Sampson, "you have always protested against the marriage?"

"I did until after the Bull of Dispensation. Then I contradicted it no more."

"Was there not much murmuring among the people at the match?"

"Yea. But after the Bull they were quiet, until the king's conscience troubled him. Then the murmurs revived."

The tendency of this evidence was plain. Warham intended the legates to understand that although he had opposed the

marriage before it took place, and was ready to repudiate it afterwards; yet, in his opinion, the Bull of Dispensation put an end to all opposition; and the marriage was now unimpeachable.

It will be remembered that one of the grounds stated in the commission for inquiry into the validity of Henry's marriage was that it caused a public scandal. Evidence was taken on this point; but I do not deem it of any importance. It was all to this effect: "People said, commonly, that it was unfit one brother should marry the other brother's wife" (*Evidence of Sir Richard Sacheverel*).

The next point to be proved was that Henry VIII. was under the age of puberty when the dispensation was granted. On this point Warham was recalled. He said he had been counsellor to Henry VII. and Henry VIII. for thirty-six years last past, and he believed Henry VIII. to be under thirteen at the time of his marriage; because the late king told him that he was *impubes* after it. He (Warham) had thereupon advised that any protest the prince might make would be of no force, and therefore he should make one a day or two after he reached years of puberty.

The Viscount Rochefort and the Viscount Fitzwater testified that Henry VIII. was born at Greenwich, in the 28th of June, 1491. This fact was also certified by two persons who were sent by the court to examine the archives of state. It was pointed out that as the bull was dated January, 1503, the prince would be less than twelve years old when it was granted.

Further testimony established that Henry VII. died on the 21st of April, 1509; and that on the 3rd of June, 1509, King Henry VIII. married Katherine publicly at St. Paul's. They were crowned on 24th of June, 1509. It will be said, Why this evidence adduced by the king? Does it not absolutely destroy any case he might have of paternal compulsion; and of being too young to understand what he did?

But this is to mistake the point of this particular evidence. The point was that as the marriage was unlawful without the dispensation; and as the dispensation had for its only ostensible cause the bringing about of peace and amity between Henry VII. and Ferdinand and Isabella, the result of Henry VII.'s death was to take away the sole ground for the dispensation. Therefore, it was argued on Henry's behalf, the reason for the dispensation no longer existed, and nothing having been done under it up to the time that reason ceased to exist, the dispensation fell to the ground.

The argument was subtle; but I think it would hardly have been listened to by a court other than one which thought more of logic than of reason, of form than of justice. For the answer was obvious. Had the matter stopped with the death of Henry VII. the new king's right to repudiate the whole transaction could hardly have been challenged. He could have said: "My father obtained dispensation for reasons of state. Those reasons no longer exist. Nothing has been done to anybody's prejudice under the dispensation; and I, as the person principally concerned, decline to go on with the business."

That, however, is exactly what Henry VIII. had not done. So far from repudiating, he used his first moments of sovereignty to act upon the dispensation. On the faith of it he obtained possession of Katherine's person, and retained possession of her dowry which he must have returned had he sent the lady back to Spain. It was no longer possible for him to say that the position of nobody had been altered; or that the parties could be restored *ad integrum.* The *status quo ante* could never be restored. In fact, if ever there was a clear case of what English lawyers call estoppel, this was the case. Henry VIII. was estopped a hundred times over from contesting the validity of the papal bull.

So far as the other part of Henry's case on the bull went, he was able to prove clearly enough that he personally had never asked for a dispensation. The very best evidence was produced of this in the deposition of Fox, Bishop of Winchester. Fox was now a very old man, totally blind and quite infirm. His evidence had been taken in advance for fear he might die. The deposition gave the history of the matter in its early stages; information which the aged prelate was well able to supply from the fact that it was he who had been the principal member of Henry VII.'s council in favour of the match. According to him, Puebla, the Spanish ambassador, first suggested a marriage between Henry and Katherine. More than one bull was *impetrat* for a dispensation, whereof two remained in England and one or two were extant in Spain. These were different bulls but all of the same tenor. They were all obtained without asking the consent of Henry VIII. Being questioned on the subject, he could not remember whether Henry VIII. consented to or dissented from the marriage when he came to the lawful age of consent, but he believed that a protestation had been made. (He gave the names of the persons present, from which it appeared that he referred to the protest already set out.) He added the curious information,

as far as he remembered Henry VIII. was not present at the protestation. If this recollection was correct, then Henry must have acted by a proctor. The Bishop of Winchester further declared that he knew it to be Henry VII.'s intention for his son Henry to marry the Lady Katherine; but that the marriage had been deferred because of some dispute with the King of Spain relating to the dowry.

It was in evidence that after Bishop Fox had made his statement, he at first refused to sign it, on the ground that being blind, he could not see what had been written down, and he had no counsel to advise him. But, being pressed by the king's command, he said he would sign because he had never disobeyed the king.

There was a good deal more of argument rather than evidence, by people who had taken up the queen's cause. Quite early in the proceedings Bishop Fisher offered himself with a book which he had written, the result of two years' study, in support of the validity of the marriage. An altercation took place between Fisher and Wolsey. In the midst of a series of statements and counter-statements made by counsel, a member of the court ejaculated: "No one can know the truth". Fisher broke in with: "I know the truth". Wolsey turned on him sharply: "How do you know the truth?" Fisher replied: "I know that God is the truth, and that he has said, 'What God has joined let not man put asunder'. For as much then as this marriage was made by God it cannot be broken by the power of man."

Wolsey replied rather contemptuously: "All faithful men know as much. But the king's counsel brings forward certain presumptive evidence that the marriage was not good at the beginning, and that it was not made by God. You must therefore go further than that text. You must disprove the presumptions."

Here Dr. Ridley, one of the queen's doctors of divinity, thrust himself into the discussion. "It is a shame and dishonour to all here that presumptions detestable to all good and honest men should be alleged in open court." "How now!" cried Wolsey; "speak more reverently, sir doctor."

Quick as lightning Ridley retorted: "An irreverent tale cannot be reverently answered".

The Bishop of St. Asaph also spoke on Katherine's behalf, affirming that no power, human or Divine, could break the marriage. It is a little difficult to understand the situation. Katherine had declined the jurisdiction of the court, yet her advocate, Dr. Ridley, not only appeared before the court but advanced an argument of

extreme learning and as great length in favour of the marriage. He attempted to prove from the canons that a marriage with a deceased husband's brother was not contrary to the immutable Divine law. But his most powerful argument appears to me to be that based on the xxv. chapter of Deuteronomy. This is the well-known text afterwards cited by the Sadducees when they attempted to argue against the resurrection: "Whose wife then shall she be?" In the text relied on by Dr. Ridley, the Israelite whose brother dies leaving a wife and no child, is to take the widow to himself to wife and raise up issue for his brother. Curiously enough, the issue so born was to be accounted the issue of the brother who was dead and not of its actual father.[1] From this portion of the Mosaic law, Ridley argued that marriage with a deceased brother's wife could not be contrary to Divine law; because it was actually commanded by God to his chosen people under certain circumstances.

It is not to be supposed that the sittings of the legate's court were continuous; or that the arguments and evidence were compressed within a narrow compass. On the contrary, it was not until the middle of July that the evidence and arguments were concluded. Henry had been doing his best to hurry the cause on. He knew that Katherine's appeal to the Pope had been carried to Rome; and that the imperial ambassador at the papal Court was sparing neither threats, bribes nor arguments to induce the Holy Father to invoke the cause to himself—that is, to remove the trial from England to Rome. For a while the dexterity of Henry's representatives prevented this from being done; but it was becoming more and more evident every day that Clement would be forced to take action.

Campeggio also knew of the carrying of the appeal to Rome, and was expecting, almost any day, a message from the Holy Father. He expected it all the month of June, but it came not. Right up to the moment when the evidence was closed and the arguments were concluded, he continued to expect a mandate. When no message arrived, the cardinal was at his wits' end. Deliver judgment against Henry he dare not. He knew the English to be a fierce and bloody race; and he had a strong suspicion that if he should venture to pronounce a decree hostile to the king his red hat would be no more protection against a slit throat than if it had been the bonnet of a peasant.

[1] Deut. xxv. 5-10.

On the other hand, Campeggio could not declare the marriage null and void. He knew too well the disastrous consequences of provoking the imperial anger against the See of St. Peter. Truth and justice were not necessarily the guiding principles of an Italian cardinal of the sixteenth century; but it would be doing Campeggio an injustice not to suppose that he was aware how small were the merits of Henry's case.

When the court met on the 22nd of July, after having heard all the evidence, Henry by his counsel prayed judgment and sentence. This did not in the least suit Campeggio; and the wily Italian soon found an excuse for a postponement. He coolly announced that he saw no hurry. He had been both lawyer and judge in matters of much less moment; and had never known a judge pressed in this fashion. He should require at least thirty days to weigh the arguments and the evidence, and to consider the sentence to be pronounced. This would carry the case over the end of July; and as it was the custom of the courts in Rome not to sit in August and September, he proposed to apply that custom here. He therefore declared the court adjourned until the first of October. Great was the anger of the king and his friends. For a month at least they had been waylaying and kidnapping messengers from the papal Court to Campeggio, hoping to obtain a judgment. The Italian had eluded them. A tremendous scene ensued. Henry left the gallery where he had sat throughout the trial; but some members of the council remained behind. They begged, they implored, they threatened. The Duke of Suffolk smote the table with clenched fist and shouted, "No cardinal or legate ever brought good to England," and confirmed his assertion by an oath of unusual profanity. But Campeggio, though alarmed, could not be bullied into altering his decision; and the court accordingly rose until October.

Meanwhile, a good fortnight before this scene, Pope Clement had been compelled by the emperor to take some notice of Katherine's appeal; and had yielded his consent to the course proposed by Charles. On the 3rd of July, his Holiness signed an advocation of the cause to himself—thus revoking the commission of the legates, removing the trial to Rome, and, in effect, postponing the decision indefinitely. At the same time he signed an inhibition or injunction addressed to the two cardinals, commanding them to do nothing further. This inhibition and the bull of advocation arrived in England in September; but they had been published in Flanders early in August.

Such was the end of the first trial. The legate's court was dissolved. Campeggio returned to Italy, satisfied, no doubt, at having escaped from a tight corner. Thenceforth Henry's relations with the See of Rome were strained; and finally they broke.

CHAPTER III

AN INTERLUDE

IT is not the purpose of this book to enter into the history of the intrigues connected with the divorce of Queen Katherine; but a few words must be spent on them.

Campeggio, as soon as he was recalled by the Pope, applied for licence to leave England. Henry made no scruple of granting it; and dismissed the legate with rich gifts. But when the cardinal arrived at Dover, where he waited for a fair wind to waft him across the Channel, an unpleasant surprise befel him. The searchers of the port boarded his ship; and ransacked his luggage from top to bottom. They went through his papers, they turned out his money, they rifled his clothes; and when Campeggio threatened them with pains in this world and the next they laughed in his face. The reason they gave for the search was that it was their duty to see that no English money or papers were carried to Rome. The real object of their search was quite otherwise. Henry had become possessed of the idea that the Pope had confided to Campeggio a Bull of Decretal, to be published if he (Campeggio) saw fit to pronounce sentence of divorce —a sort of bull in blank. This was what the searchers were looking for. They did not find it; probably for the reason that no such document existed.

It is not easy to see what use Henry could have made of the bull even if he had found one. To publish such a document when it had never really been issued by the Pope could not have had any legal effect. But such a publication would have been quite in accordance with the manners of the time, when good faith in politics was unknown.

Campeggio was exceedingly angry at the outrage. He countermanded the sailing of his ship, what time he sent messengers to Henry complaining of the search, and demanding the condign punishment of the searchers. Much he spoke of the *jus legati;* and of the inviolable character of a legate of the Holy See. He

also complained bitterly of the scandalous rumours which he had heard were scattered abroad concerning Wolsey and himself. "I will not proceed in my journey," he wrote, "until I have had reparation for the wrongs done to my person and dignity."

Henry returned a mocking answer. He was not to be held responsible for the rumours of the vulgar. He humbly conceived that the *jus legati* was nought, since the commission had been revoked by the Pope, and "also by our own regal authority, which alone my loving subjects acknowledge"—a broad hint to the cardinal and his master. He was a little surprised that Campeggio should press the point of his character as legate, seeing that he was Bishop of Salisbury; and, as such, bound to maintain the prerogative of the King of England. The searchers had acted under an order made long ago, and which had been forgotten to be cancelled! He hoped the cardinal would forgive them. As for the cardinal's threat to remain—well! his eminence could see how angry people were at what they conceived to be the unjust usage of their sovereign. He (the king) did not believe that any possible residence in England by the cardinal would remove that impression. In a friendly way, he advised him not to remain an hour longer than could be helped.

Not a word of apology; not a hint at compensation; not the slightest offer to punish the searchers. Campeggio thought it time to leave a country so fierce and barbarous, where neither people nor king feared God or regarded man.

The Cause having been carried to Rome, no progress whatever was made with it, though Henry's agents pressed his Holiness to favour their master's desires. One remarkable suggestion was made, which was that the Pope should issue a dispensation to allow Henry to have two wives! In a letter from Gregory Casalis, one of Henry's agents in Rome, it is put as a suggestion from the Pope—"Some days ago,[1] the Pope in private offered to me this Proposal, as a thing of which he made much account, that your majesty might have a dispensation to have two wives". Casalis says he told the Pope he hardly dared to write to Henry upon such a proposition. But he did write; and it is certain that, had Katherine been sufficiently accommodating, Henry VIII.'s matrimonial record would have been even more astounding than it actually was.

The proposal fell through, however; and the Great Cause waited in the ante-chambers of the papal court.

[1] The letter is dated from Rome, 13th September, 1530.

Meanwhile the English king was putting into practice the advice of a new adviser. After the rising of the legate's court in July, 1529, Henry had gone down, along with the two cardinals, his secretary (Gardiner) and his almoner (Fox) to the village of Waltham. Gardiner and Fox, who were the king's two chief instigators in the divorce, were quartered on a Mr. Cressy. Now it happened that Mr. Cressy's two sons had been obliged to leave the University of Cambridge on account of a pestilence; and they had taken with them one Thomas Cranmer, divinity lecturer and fellow of Jesus College. Cranmer recognised in Gardiner and Fox two old college friends; and the three spent a pleasant time, chatting with the cordiality and confidence of men who renew the friendship of youth. Naturally enough, the conversation turned on the royal divorce. Now Cranmer was a mere don; but he was a clear-headed man. "Is it not obvious," he said, "that if the king's marriage was null and void from the beginning it is of no validity now? what need is there, then, for a dispensation to annul it? If the king can be satisfied of the invalidity of the marriage, let him act at once—let him marry whomsoever he will."

This view, so exceedingly obvious, and so very simple, came upon Gardiner and Fox with the force of a revelation from heaven. "But how," they said, "how can the king be satisfied of the invalidity unless he obtain a decree from the Pope?" Cranmer was ready. "Let him," said he, "as this is a point of divinity, take the opinion of the most learned theologians in the universities of Europe. If they agree, he is quite safe."

The ministers lost no time in communicating to Henry the luminous idea of the Jesus divine. Henry jumped for joy. He sent for Cranmer, approved his plan, and bade him first of all prepare a treatise on the question; and then draw up a case for the opinion of the theologians and canonists at home and abroad.

It is a thrice told story how Cranmer wrote his treatise. How he held a disputation at Cambridge and converted five professors by his arguments—the only time on record that one theologian has ever converted another at a public disputation. How he ceased to be lecturer in divinity, and became a prominent ecclesiastic, statesman and diplomat. How the theologians of the universities were consulted by English agents who carried bags of gold about with them; and how, curiously enough, most of the learned divines were in Henry's favour. How Warham died; and how Cranmer, only three years after that lucky meeting at

Waltham, was nominated by Henry for the See of Canterbury.

The Pope dreaded to seal the bulls confirming the new metropolitan in the spiritualities of his See. He suspected that there was some bargain between Henry and his new favourite; nor were those suspicions lessened by the knowledge that Cranmer had for some time past resided in the household of the Earl of Wiltshire (Anne Boleyn's father); and that the King of England actually pressed the Holy Father to issue the necessary bull even before the customary first-fruits were paid. The bull was passed on 22nd February, 1533, and on 30th March, 1533, Cranmer was duly consecrated at Westminster.

It was customary for a bishop, on his consecration, to take an oath of spiritual obedience to the Pope; and Cranmer took this oath. But before the ceremony he had made a notarial protest, before witnesses, that he did not mean, by taking this oath, to bind himself to anything against the king—in fact, that he took it as a matter of form.

It was not long ere the Pope's suspicions were amply verified. Eleven days after the consecration (11th April, 1533), we find a letter from the new archbishop to the king, asking permission to take upon himself "your grace's great cause of matrimony" by virtue of his high office. The king was graciously pleased to assent to this course.

It should be noted that before this an address had been presented to the Pope by the two houses of parliament, extensively and influentially signed, urging him to grant the decree; and reproaching him for not having done so. The Pope answered in most conciliatory fashion, but refused to bind himself. He held out expectations that he would "gratify his highness in all things wherein we have authority"; but pointed out, with considerable plausibility, that these things must be done in the ordinary course of justice "according to usual methods".

The barbarous islanders were not so dull as to be unable to see through this. They knew something of the necessary delays of legal process; but when a cause had been in the handling for about four years, and had made absolutely no progress, they began to supect something was wrong with the tribunal.

Failing the Holy Father, Henry's councillors had made a determined attack on Katherine. A body of them waited on that unfortunate lady, and pressed upon her the opinions of the universities and learned men. They further offered her, "to quiet the

king's conscience," a new tribunal, to consist of four spiritual and four temporal peers. Katherine waved them aside—"My father, before he allowed my second marriage, took the advice of doctors and clerks; and I believe their opinion rather than any other. Besides, my lords, how can any question it, when it hath been confirmed by the Pope. You ask me to send the cause to eight lords, to quiet the king's conscience. What I say is, God send his grace a quiet conscience. As for an answer to your message, I pray you tell the king, I am his lawful wife, and so will remain until the court of Rome determine to the contrary." From this position she would not budge. She was the king's lawful wife; and she appealed to Rome.

The curious thing is that the king claimed from her the obedience of a wife and a subject while at the same time he repudiated her. He was continually, both in person and by his messengers, exhorting her to yield to his commands, when, in truth, if she were not his wife, she was a stranger and a foreigner, and he had no sort of title to consideration or obedience at her hands.

CHAPTER IV

THE SECOND TRIAL

WITH the appointment of Cranmer as Archbishop of Canterbury, the end of Katherine's cause was apparent.

The ordinary course of things in a suit for nullity of marriage was by suit in the court of the bishop or archbishop, with an appeal to Rome. The first step towards the goal of Henry's desire was the passing of an Act of Parliament prohibiting appeals to Rome in matrimonial causes. Obviously, this left the Archbishop of Canterbury master of the situation. Nor was Cranmer slow to use his position to further the wishes of his sovereign and patron. Eleven days after his consecration at Westminster,[1] as the reader remembers, he wrote to Henry a letter in which he humbly craved permission to take cognisance of "your Grace's great cause of matrimony"; and no sooner was permission granted than the new primate set to work with all zeal.

Katherine was now at Ampthill, in Bedfordshire; and to Bedfordshire the archbishop betook himself. The little town of Dunstable, peacefully nestling at the foot of the Chiltern hills, was suddenly invaded by the Primate of All England and his retinue. Proctors, apparitors, doctors of the civil law, and the hundred and one other persons without whom no ecclesiastical court was complete, thronged the streets. Four bishops were there, of London, Bath, Lincoln and Winchester—the last-named being Stephen Gardiner, the king's chief supporter on the episcopal bench. A coarse, rough man this Stephen Gardiner. See him striding through the corridors of the Priory: his dark, deep-set eyes gazing straight out from under thick black eyebrows: the high forehead furrowed with transverse wrinkles: the long nose and compressed mouth: the cheeks, chin and thin upper lip blue-black, as is common with dark men who shave close: the cheek-bones high and prominent: the cheeks them-

[1] The 30th of March was the date of consecration; the 11th of April the date of the letter.

selves sunken—altogether an austere, determined face, as of a man whom no tender sentiment would move from the predetermined path—a man to fear, to respect, but hardly to love. Such was the clothworker's son whom sheer ability and strength of character had raised to be bishop and chief statesman—second only in the realm to Wolsey's other secretary, Thomas Cromwell. And Katherine, who knew how for years he had disturbed the Holy See with his petitions and his threats, was well aware that when Stephen Gardiner sat in the seat of judgment there was but slender hope of mercy.

Besides these great prelates, a crowd of "great clerks" invaded Dunstable, and took up their quarters in the old royal palace and the spacious priory of the Augustinian monks.[1]

The first proceedings of the court, in which the four bishops sat as assessors with the archbishop, were curious. First, they sent a messenger, in due form, to summon "the lady Katherine" to appear before them to answer touching the validity of her marriage. That was well and good.

But on the same day they despatched to the king an ecclesiastical admonition, requiring him to put away Katherine under pain of the Church's censure. A more extraordinary proceeding, even in this extraordinary case, it would be hard to imagine.

Dunstable was only six miles from Ampthill, so that the summoner was soon back with the message that the Lady Katherine declined to appear. The court, however, wished to be quite regular as to form; and accordingly, when she did not answer to her name on the fifth day—being the day appointed—they sent her another summons for the fifth day after that. Again her name was called; and again there was no answer; and yet again she was summoned.

It might be asked why Katherine did not appear and defend herself, if only for the purpose of attracting the popular sympathy. The answer is that Chapuis, the imperial ambassador and her only adviser, strongly recommended her to ignore entirely the proceedings of Cranmer's court. That Henry would break with the Holy See never entered the ambassador's head; or, if it did, it was only to be dismissed as a wild and absurd idea. And short of breaking with the Holy See, Henry dared not persist in setting up a local tribunal as the final court in matters of ecclesiastical

[1] The Augustine hermits (whose name survives in *Austin Friars* in London) were one of the four mendicant orders of the Roman Church. They were numerous and powerful both in England and Scotland.

law. Chapuis expected that a sentence would be pronounced; that Henry, under colour of it, would marry "la concubine"; that having enjoyed her society as a wife for a short time he would tire of her; that then he would make a composition with the Pope and the emperor on the terms of putting away Anne and taking back Katherine, with a clause, possibly, legitimising Anne's children. Such was the course of events as mapped out by the diplomatist. We know now that he did not sufficiently calculate on Henry's strength of character.

Still, the forecast was a clever one; and the advice based on it undoubtedly correct. Had Katherine appeared in person or by proctor at Dunstable, it would have been said she had waived her objection to the tribunal—a doctrine common enough at that time. Henry himself was acting on the same principle at that very period; for he refused to appear at Rome on Katherine's appeal, save to send a proctor to protest against the suit being heard there at-all. Katherine, acting on Chapuis' counsel, ignored the Dunstable tribunal; and, accordingly, when she was called to answer the third summons no voice said *adsum*.

Continuing their proceedings on the ancient lines of the canon lawyers, the court pronounced Katherine contumacious. Not till this had been done could the cause be proceeded with.

The formalities having been rigorously complied with, the business began. First of all, the whole of the evidence adduced in the trial before the legates was read over, with comments by the king's advocates. The reader will not have forgotten the purport, which was that Katherine had married Prince Arthur; that the marriage had been consummated; and that the dispensation of the Pope had been obtained by false statements, on non-existent grounds, and without the consent of Henry.

To this evidence was now added something which was hardly evidence, but which was admitted as the opinions of experts on the vexed question which was deemed to lie at the root of the whole controversy: namely, Was marriage with the widow of a deceased brother so opposed to the fundamental laws of God as to make it absolutely forbidden and indispensable (*i.e.* not competent to be dispensed with by the Pope)?

The opinions were those of many European universities given collectively; and also those of a large nnmber of divines and canonists. Roughly speaking, it may be said that nine English, French and Italian universities, and a whole multitude of doctors had declared for Henry. How the opinions had been obtained is

another matter, and besides the genuine opinions, there is little doubt that some of the documents exhibited were forged.

As to the manner in which the opinions were obtained, an old writer puts it pithily, "Our English angels flew thick among the divines and lawyers in France and Italy". Nor can there be a doubt that the poor scholars were simply bought by Henry's gold.

It may be interesting to the reader to know what was the basis, what were the grounds upon which the universities, divines and canonists founded themselves. The marriage of Herod with his brother's wife was cited, and the condemnation thereof by John the Baptist. "For Herod himself had sent forth and laid hold upon John, and bound him in prison for Herodias's sake, his brother Philip's wife; for he had married her. For John had said unto Herod, It is not lawful for thee to have thy brother's wife" (Mark vi. 18, 19). The learned divines did not mention the somewhat relevant fact that Herodias's husband, Philip, was alive at the time. Another argument was deduced from St. Augustine's writings which, on examination, prove to have nothing to do with the question, but only bore on the sinfulness of a marriage between brother and sister. A precedent was quoted of St. Dunstan, who excommunicated Earl Edwyn for marrying *cognatum* = a kinswoman—by no means necessarily a brother's widow. The inconvenient chapter (xxv.) of Deuteronomy, wherein the Israelites are expressly commanded to "raise up unto his brother a name in Israel" by marrying his widow, was explained to mean that this only applied where the deceased brother had not consummated his marriage. Rather a free interpretation, one thinks. The case of Tamar (Gen. xxxviii. 6 *et seq.*) was explained on the same ground; though one would imagine the better answer to be that the whole chapter of Genesis reveals a state of things not tolerable among Christians.

The great Scriptural reason, however, adduced by the universities and the doctors was that found in Leviticus, chapter xviii. *v.* 16, and chapter xx. *v.* 21. Each of these verses prohibits intercourse with the "brother's wife". The latter runs: "And if a man shall take his brother's wife it is an unclean thing: he hath uncovered his brother's nakedness; they shall be childless". The contention was that this applied to the marriage of a surviving brother with a deceased brother's widow. The controversialists on the other side maintained that it only applied to (*a*) adultery; (*b*) marriage with a wife whom the brother, still living, had divorced;

and (*c*) marriage with a brother's widow who had borne children to the deceased brother.

I do not propose to argue it. The reader may take his choice. It appears to me that if Deuteronomy xxv. *v.* 5 is good law, and Leviticus is also good law, then the only way to reconcile them is to adopt the Roman interpretation of Leviticus, and not that of Henry's advisers. Indeed, it is impossible, in reading the arguments of the king's controversialists, not to feel that they are splitting hairs and juggling with texts.

Be that as it may, Cranmer and his coadjutors were satisfied with the opinions of their seven foreign universities and their well-fee'd divines and canonists. They also had to back them the expressed opinions of the Houses of Convocation both of York and Canterbury. Katherine did not appear; and the arguments on her side were not and could not be heard. Not that it would have made the least difference. Cranmer's mind was made up—I am inclined to think he really did believe in the nullity of the marriage. Gardiner was the king's instrument, neither more nor less. Henry was desperate. And so heavy was the Tudor's hand, so bloody his mind, that no one, save here and there a Fisher and a More dared withstand him.

I cannot refrain from rehearsing the story of the two friars, Peto and Elstowe, of the order of the Observants, who had the courage to face the king and to rebuke him. My authority is the manuscript of Doctor Nicholas Harpsfield, Archdeacon of Canterbury, a contemporary. The story is told thus: "Peto having more regard to the King's soul and the public wealth of the realm than to the safeguard of his own body, having occassion in a sermon he made to entreat of King Ahab, said 'This King Ahab would needs give ear to the false prophets which did circumvent and deceive him, and would not hearken to God's own prophet Micheas, whom he pained and pinched with hard diet and straight imprisonment,' which story he accommodating to his purpose did tell the King to his face:—'Sir, I am the Micheas that you deadly hate for prophesying and telling you the troth; and albeit I know that I shall be fed with the bread of tribulation, yet that which God putteth in my heart I will frankly speak'. Whereupon with many persuasions he dehorted the King from the divorce. Among other things, 'Your preachers,' quoth he, 'resemble the four hundred preachers of Ahab, in whose mouths God hath put a lying spirit. But I beseech your Grace to take good heed least, if you will needs follow Ahab in his doings, you incur

his unhappy end also, and that the dogs lick your blood as they did his, which thing God forbid.'"

It says something for Henry VIII.'s command over his temper that he suffered this open rebuke without revenge. "Though he were wonderfully exasperated, yet he digested and dissembled the matter." But the following Sunday, one of the royal chaplains called Courrant (or Currante) attempted to reply to Peto, who was away at Canterbury on business of the order. The worthy Harpsfield tells the story with much gusto: "But lord, what a stir that Courrant made against that poor friar, being absent, and what nicknames he gave him! At length, as though he had now full conquered him, he began to triumph and insult upon him, crying out, 'Where is Miser and Micher Micheas? Where doth he now Micher? He is run away, for that he would not hear what should be said unto him. Belike he is somewhere lurking and massing with himself by what means he may honestly recant.'

"There was at that time among other in the rood loft adjoining to the pulpit a reverend grave virtuous friar and father, called Elstowe, who, being much offended with this great Golias' bragge, answered out of this said rood-loft, 'Forsooth,' quoth he, 'Micheas is gone abroad, not for any fear of you, but for the affairs of our house and to-morrow will he return. In the mean season, lo, I will be another Micheas, and do offer myself upon the loss and peril of my life to avouch and prove by the Holy Scripture all that he hath said, and do offer myself to stand against you, being one of the four hundred false prophets before any indifferent judge.' Many other things he would have spoken, and much ado there was to stay him. . . . After a day or two they were called before the Council, and after many rebukes and threats a nobleman told them that they deserved to be thrust into a sack, and to be thrown and drowned in the Thames; whereat Friar Elstowe, smiling, 'Make these threats,' saith he, 'to the courtiers, for as for us we make little accompt, knowing right well that the way lieth as open to heaven by water as by land'."

According to the manner of the times, the chronicler records, that Peto's prophecy was fulfilled. After the death of Henry, he tells us, his corpse was carried from London to Windsor to be interred. It rested the first night at the Monastery of Syon "at which time, whereit for the jogging and shaking of the chariot or for any other secret cause, the coffin of lead, wherein his dead corpse was put, being riven and cloven, all the pavement of the church was with the fat and the corrupt putrified blood dropped

out of the said corpse foulie embrued. Early in the morning those that had the charge of the dressing, coffining, and embalming of the body, with the plumbers, repaired thither to reform that mishappe, and lo, suddenly was there found among their legs a dog lapping and licking up the King's blood as it chanced to King Ahab before specified. This chance William Consell reported, saying he was there present and with much ado drave away the said dog."

But despite the courageous rebuke of the good friars, and reckless of what might befall him after his death, Henry pursued his way. Cranmer pronounced the sentence of nullity; and caused it to be read publicly from the Priory of Dunstable before two notaries. This was the sentence:—

"In the name of God, Amen. We, Thomas by Divine permission Archbishop of Canterbury, Primate of all England and legate of the Apostolical See, in a certain cause of enquiry of and concerning the validity of the marriage contracted and consummated between the most potent and most illustrious Prince, our Sovereign lord Henry VIII., by grace of God King of England and France, defender of the faith, and lord of Ireland, and the most serene princess Katherine, daughter of his most catholick majesty, Ferdinand, King of Spain, etc., of glorious memory; we proceeding according to law and justice in the said cause, which has been brought judicially before us in virtue of our office, and which for some time has lain under examination, as it still is, being not yet finally determined and decided, having first seen all the Articles and Pleas which have been exhibited and set forth of her part, together with the Answers made thereto, and given in on the part of the said most illustrious and powerful prince Henry VIII.; having likewise seen, and diligently inspected the Information and Depositions of many noblemen and other witnesses of unsuspected veracity exhibited in the said Cause; having also seen, and in like manner carefully considered not only the Censures and Decrees of the most famous Universities of almost the whole Christian world, but likewise the Opinions and determinations both of the most eminent divines and civilians, as also the Resolutions and Conclusions of the clergy of both provinces of England in convocations assembled, and many other wholesome instructions and doctrines which have been given in and laid before us concerning the said Marriage. Having further seen, and with like diligence inspected all the treaties and leagues of peace and amity on this account, entered upon, and concluded

between Henry VII., of immortal fame, late King of England, and the said Ferdinand of glorious memory, late King of Spain, having besides seen, and most carefully weighed all and every one of the Acts, Debates, Letters, Processes, Instruments, Writs, Arguments, and all other things which have passed, and been transacted in the said Cause at any time, in all which thus seen and inspected, our most exact care in examination, and our most mature deliberation in weighing them, hath by us been used reserving herein whatsoever of right ought to be by us reserved. Furthermore the said most illustrious and most powerful Prince King Henry VIII., in the forementioned Cause, by his proper proctor having appeared before us, but the said most serene lady Katherine, in contempt absenting herself (whose absence may the Divine Presence always attend) by and with the advice of the most learned in the law, and of persons of most eminent skill in Divinity, whom we have consulted in the premises, we have found it our duty to proceed to give our final decree and definitive Sentence in the said Cause; which accordingly we do in this manner. Because by acts, warrants, deductions, propositions, exhibitions, allegations, proofs and confessions, articles drawn up, answers of witnesses, depositions, informations, instruments, argument, letters, writs, censures, determinations of professors, opinions, councils, assertions, affirmations, treatys and leagues of peace, processes and other matters in the said Cause, as is above mentioned before us laid, had, done, exhibited, and respectively produced, as also from the same and sundry other reasons, causes and considerations, manifold arguments, and various kinds of proof of the greatest evidence, strength and validity of which in the said Cause we have fully and clearly informed ourselves, we find, and with undeniable evidence and plainness, see, that the marriage contracted and consummated, as is aforesaid, between the said most illustrious prince King Henry VIII., and the most serene lady Katherine, was and is null and invalid, and that it was contracted and consummated contrary to the law of God. Therefore we, Thomas archbishop, primate and legate aforesaid, having first called upon the name of Christ for direction therein and having God altogether before our eyes, do pronounce sentence, and declare for the nullity and invalidity of the said marriage, decreeing that the said pretended marriage always was and still is null and invalid, that it was contracted and consummated contrary to the will and law of God, that it is of no force or obligation, but that it always wanted, and still wants the

strength and sanction of law, and therefore we sentence, decree and declare, that it is not lawful for the said most illustrious and powerful prince Henry VIII. and the said most serene lady Katherine to remain in the said pretended marriage; and we do separate and divorce from each other the said most illustrious and most powerful King Henry VIII. and the said most illustrious lady Katherine, inasmuch as they contracted and consummated the said pretended marriage *de facto* and not *de jure*, and that they, so separated and divorced, are absolutely free from all Marriage Bond with regard to the foresaid pretended Marriage, we do pronounce, decree and declare by this our definitive Sentence and final decree, which we now give, and by the tenour of these presents publish.

"May 23, 1533."

After the sentence of divorce, matters were hurried on. A bill was rushed through Parliament confirming the sentence and enacting that thenceforth the lady Katherine should be known as the Princess Dowager: to call her queen was made an offence against the law.

The king sent down to Ampthill a powerful commission of great nobles to communicate to the forlorn woman her new position. "The good Queene Katherin was deposed at Hanthill, and from that daie to be called Ladie Katherin, wife of Prince Arthur, dowarie of Englande, she to have by yearelie pencion for her dowarie, eight thousand poundes sterling." The commissioners were the Duke of Norfolk, the Duke of Suffolk, the Marquess of Exeter, Lord Oxford, the lord chamberlain, the lord treasurer and the comptroller of the household.

It is on record how the lady received them; with what courage she defied them: what contempt she poured on the upstart court which had dared to assume the prerogatives of the Holy Father. She flatly declined to call herself anything other than Queen of England; and with her own hand struck out of the document reporting the interview all references to herself as Princess Dowager But her protests were unavailing. Henry, already married publicly to Anne Boleyn, had gone too far to retreat, even had he been willing to do so—and he was not willing.

The rest of the tale is soon told. Katherine lived on until January, 1536, always asserting her wifehood. The country sympathised with her; and the expression of popular opinion from time to time drove Henry into a black rage. Heads fell—and these not lowly ones. The Carthusian monks, the Bishop of

Rochester, the Chancellor of England—all these were sacrificed to the Moloch of the king's passion. Katherine was straitly imprisoned at Kimbolton Castle; and her daughter Mary, declared by the sentence of Cranmer to be a bastard, was taken from her. Not even the faithful Chapuis was allowed to see her. When she died, it was freely said she had been poisoned; and colour was lent to the suspicion by the extreme opportuneness of her death for Henry, whom the event delivered from his haunting fear of a war with the emperor. Besides, the king ordered her body to be embalmed and coffined instantly, and the ghastly work was begun eight hours after she died. The embalmer found the heart quite black: he cut it open and found the inside of the same colour: and he also found a black object adhering to the outside of the organ.

It has been shown (in certain articles in the *Athenæum*) that the symptoms are not those of poison, but of cancer of the heart (*melanotic sarcoma*); so that Henry VIII. had one crime less to his account than the world had given him credit for.

Her last thought was of her melancholy position and of her child. She dictated to one of her maids a most pathetic letter to the king: "Domine mi rex marite semper clarissime, salve. Jam advenit hora mortis meae, in quo temporis puncto, amor facit ut te paucis admoneam de salute animae tuae, quam debes cunctis mortalibus rebus anteponere, neglecta prae ea omni corporis cura, propter quam et me in multas miserias et te ipsum in solicitudines plures conjecisti: sed hoc tibi agnosco, ac Deus tibi ignoscat, tam velim, quam precibus piis oro. Praeterea praecor summe, uti ancillas meas respicias, easque suo tempore bene locare nuptii placeat, quod multum nostro este, cum non sint nisi tres, et dare meis ministris stipendium debitum, atque in unum etiam annum ex tua gratia, benignitate, liberalitate futurum, ne deserti vel inopes esse videantur. Postremo unum illud testor: Oculi mei te solum desiderant. Vale."

There are few things in history more touching than this, the last cry of the cast-off wife to the husband and lover of her youth—"Mine eyes desire thee only".

CHAPTER V

THE LAW AND JUSTICE OF THE MATTER

IN asking and answering the question, "Was the divorce of Katherine of Aragon just and lawful?" one is confronted by many difficulties.

As to the strictly legal aspect of the matter: One view of the case is that as Cranmer was a competent judge to try causes matrimonial; and as Parliament had forbidden appeals to Rome, thus making the Archbishop's Court the final tribunal, at any rate the forms of justice were observed; and, therefore, Katherine's divorce was legally pronounced.

To me it seems otherwise, for the reasons I will give. In the first place, Henry himself had submitted to the jurisdiction of the Pope by requesting him to appoint legates to decide the point at issue. It is a rule of law, founded on reason, that when a litigant appeals to a court—and Henry was the plaintiff, it must be remembered—he cannot afterwards object that the court had no jurisdiction. Jurisdiction is admitted by the plaintiff the moment he brings his action in the court in question.

But, it may be said, although Henry had agreed to submit his cause to a legatine court sitting in England, he had not agreed for the cause to be removed to Rome, as it was removed by Campeggio at Katherine's instance.

Again the answer is clear. When a litigant brings his action in any court, he must be taken to submit to the usual practice of that court, including the practice with regard to removal of the cause ("change of venue," as English lawyers call it) and also to the practice relating to appeals from that court. What would be said to a petitioner in the Divorce Court of to-day if, after he had gained his suit before the President, and the respondent appealed to the Court of Appeal, he objected that he had never bargained to go to the higher tribunal? or, to take a closer parallel: A B signs an agreement with C D to submit a dis-

pute to the decision of an arbitrator within the Arbitration Act. After the case has gone on some little time, and is part heard, C D takes a legal point; and requests the arbitrator to state a case for the opinion of the Court of King's Bench. The point if good, is fatal to A B's claim. A B objects that he only agreed to arbitration because he was willing to accept the arbitrator's decision, and not that of the King's Bench. The answer is: It is all very well for you to say that; but by the ordinary practice of arbitrations, an arbitrator may, and in many cases must, state a case for the opinion of the King's Bench. What you thought or intended is no matter. You knew, or ought to have known, the ordinary procedure; and, in any case, whether you did or not, your adversary is entitled to the benefit of that procedure.

So in the case of Henry and Katherine. By the common practice of the ecclesiastical courts of that time, the Pope could revoke any cause to Rome on appeal by either party who showed sufficient grounds; and that is what he did in this case.

"Sufficient grounds," the reader observes. "Did Katherine show sufficient grounds for removing the trial of her cause to Rome?" I think there can be only one answer to such a question. Of her two judges, one was an English subject, entirely at her adversary's mercy: and the other was, so long as he was in England, to some extent in the king's power. Again, the queen was practically defenceless; because she was not allowed to send for an advocate from abroad; and the English advisers she was permitted to have were afraid to oppose the king. Katherine was, in fact, unable to secure a fair trial; and I think that if the Pope had power to change the *venue* he was bound to do so.

We have arrived, therefore, at this point: that up to the removal of the cause to Rome, Katherine was strictly within her legal rights; and was, in the merits of the case, entitled to that removal.

I ask myself whether any subsequent event made any difference to the legality of the queen's position; and I find that the only event could be the Act of Parliament forbidding appeals to Rome. It is quite true that, in law, Parliament "can do anything except make a man a woman or a woman a man"; but I very much doubt if the Act in question, fairly interpreted, touched the cause as it then stood revoked to Rome. No Act of Parliament is to be interpreted as *ex post facto* or as retrospective legislation;

but only as legislation operating *in futuro*, unless expressly stated to the contrary. In other words, rights which have vested in possession are, as a general rule, to be deemed to be left intact. Now at the time of the Statute in question, Katherine's right of appeal to the Pope had vested; and had, in fact, been exercised. I find no words in the statute to render unlawful that appeal.

Admit, then, that Katherine's appeal to the Pope was actually and lawfully pending at the time of the trial by Cranmer, and what is the position? There is a suit between the parties, which had been properly taken to a higher court; and while the suit is pending in that higher court, the plantiff brings a fresh action before another judge claiming identically the same relief as in the first case. Can any lawyer be found who will say that action number two can be tried? Or, for that matter, any layman either?

One is thus led to the conclusion that Henry's divorce from Katherine was improperly obtained, even from a technical point of view.

For the rest, could anything be more absurd than to pretend that the queen had a fair trial in fact? True, she did not appear after being duly summoned; and to such a defendant the court usually shows but slight consideration. At the same time, there is no doubt at all that the archbishop, when he went to Dunstable, had made up his mind to declare the marriage null and void; and the bishops, his coadjutors, had resolved to support him.

What a farce for Thomas Cranmer to sit as judge in the cause at all! Why, he had made his fortune and obtained his present station because of his exertions in the king's behalf in this very business. He had suggested taking the opinions of the universities. He had held a public disputation at Cambridge in which he had triumphantly maintained the proposition against all comers, "That a man may not, by the law of God, marry the widow of his deceased brother". He had written at least one pamphlet on the same side. He was notoriously the friend of the Boleyn woman, who called him "my Archbishop". Equally notorious was his desire to break with the See of St. Peter; for he had married while on his mission for Henry in Germany; and had so declared himself a Protestant.

To appoint a man with his record judge in such a cause was as if Mr. Guildford Onslow had been appointed judge in the Tichborne case; or as if Mr. John Dillon on the one hand or the late Colonel Saunderson on the other had been set to try the issues

dealt with by the Parnell and *Times* Commission. No one accuses any of these gentlemen of deliberate unfairness; nor that any of them would deliberately work injustice; but one knows that they were all so thoroughly and honestly prejudiced that a judicial frame of mind would be impossible.

Yet Cranmer should not be blamed overmuch; for he has to be judged according to the manners of the time and the standards of his own age. In questions between sovereign and subject, judges of that time hardly pretended to impartiality; and the same men who, in ordinary, private suits were models of judicial conduct, became partial and unfair when the king was a litigant. And to show what contemporary opinion was like, although I find in contemporary chroniclers and historians many attacks on Cranmer with regard to his conduct in this divorce, I do not find a single complaint that he, being a declared and convinced partisan, was appointed judge of the cause. Similarly, the reader remembers that the Pope himself nominated Wolsey as a legate *à latere* to sit with Campeggio at the first trial; though his Holiness knew Wolsey to be a confirmed advocate of the divorce. In fact, in those days, in matters of state, judicial impartiality was neither exhibited nor expected.

It will be seen, therefore, that both as regards law and justice Katherine's case is a strong one. She never had either the justice she was entitled to by law or the justice that is called "natural," which, at any rate, demands a fair hearing before an impartial tribunal.

As to the merits of the case—that is, as to whether Henry VIII. was entitled to a decree of nullity, the question is not so easy of solution. To begin with, a marriage with the widow of a deceased brother was *prima facie* unlawful, as being within prohibited degrees of affinity. So far, Henry was right. The question really was whether the Pope had any dispensing power in such a case. Had he?

The argument against the dispensing power was the single assertion that the marriage was absolutely prohibited by God under pain of His curse. With that argument I have dealt in the course of the chapters on the two trials, where I have also set out the theological argument on the other side. But there is another argument of the very strongest kind in favour of Katherine's position. For centuries it had been the practice of the Church, by the Pope as its earthly head, to grant dispensations in cases of affinity. The rule was that such dispensations were only to be

granted when there was some urgent reason; and that of the urgency the Pope was the sole judge. In this view of the matter, the king had no case whatever for nullity. It was admitted that his Holiness granted a dispensation for the marriage, and that ended the matter.

But Henry contended that the dispensation had been obtained by false representations, namely (1) that Henry himself desired it, when he did not; and (2) that it was necessary to promote concord between England and Spain, when in fact there was already complete concord between the parties.

It must be seen by everybody how flimsy is this plea when it is stated that Henry married Katherine, not at the dictation of his father, but on his own initiative after he had became absolute master of his own actions. Further, it is a well-known and universally accepted rule of law and of common sense that a situation originally induced by false representation cannot be revoked after the party complaining has, with knowledge of the representation and its falsity confirmed the situation by his conduct. And what stronger confirmation could be asked for than the fact of the marriage coupled with eighteen years of cohabitation.

The point that was made so much of at the time—namely, whether Katherine had or had not been Prince Arthur's wife in fact as well as in law—seems to me not to be of relevance. But assuming that it is important, what is the effect of the evidence. Katherine asserted positively that she was *virgo intacta* when she married Henry; and that is the only evidence on her side. On the other hand is the positive and circumstantial account of the gentlemen of the household of Prince Arthur. There is also against Katherine a very strong presumption; namely, that Arthur and she undoubtedly lived together for months at Ludlow, when they were both competent. Surgical evidence being out of the question, I do not doubt that on the admitted facts alone, *viz.*, that the spouses shared the same room for a lengthened period, and that there was no allegation of inability on the part of either, any court or jury would be justified in finding as a fact that the marriage was consummated.

On the other hand, the unfortunate lady is entitled to the benefit of her high character for truth and honesty; and is further entitled to say that all the evidence against her is tainted by the mere fact that the witnesses are in the power of the unscrupulous adversary.

Katherine of Aragon was not a great woman, as her mother was great; but her story inspires the utmost respect for her character. And all Europe is still feeling the effects of the upheaval caused by the repudiation of this faithful woman and loving wife.

THE TRIAL OF QUEEN ANNE BOLEYN

CHAPTER I

INTRODUCTORY

THE life of the gipsy-faced, high-spirited coquette who was born plain Nan Boleyn[1] and died Marchioness of Dorset and Queen of England forms a striking chapter of biography—some of that biography which goes to make up history. It is not the mere fact of her marriage to a king—in the days of the Plantagenets and the Tudors the divinity that hedged a king was not so prickly as it became in later times. The hedge could be climbed over or broken through. It is the How and the Why rather than the Fact that are interesting.

On the father's side, Anne was of no very high descent. The family took its rise from one Geoffrey Boleyn, a merchant and Lord Mayor of London (1457). Geoffrey's ascent in the world was typical of that of scores of others. He bought a manor in Norfolk from Sir John Falstaffe, and married the daughter and co-heiress of Lord Hoo and Hastings. Geoffrey was succeeded by William, his son, who also married into the peerage by espousing the daughter and co-heiress of the Earl of Ormond—head of the Irish Butlers. To William succeeded first his eldest son, Thomas, and afterwards his second son, James. The Boleyns had great luck in their marriages, for Sir James Boleyn was fortunate enough to connect himself with the greatest family in England by wedding Elizabeth, daughter of that Earl of Surrey who commanded at Flodden, and who was, for his great victory, created Duke of Norfolk. From this union sprang the famous and ill-fated woman whose lover and husband, for her sake, defied the greatest power in the world; and whose daughter created the maritime strength of England and founded the British Empire.

Sir James Boleyn was a man of affairs; and in 1519 was sent

[1] Other spellings are Bullen, Bulling and even Buling. The pronunciation was undoubtedly "Bullen".

on an embassy to the Court of France. His elder daughter, Mary, had already been a member of that brilliant circle ; and, apparently, Sir James was resolved that his younger child should have equal advantages. For in those days, be it remembered, the Court of the French monarchy was, as it long continued to be, the school of culture and courtly manners. It was the finishing school for courtiers. At the age of twelve, then, we find the young English girl in France; and there she remained for three years, absorbing by every pore the culture, the readiness and the liveliness of the inimitable French women.

In 1522 she was home again; and, as the manner of the time was, her relatives promptly began to look out for a suitable husband for her. While she was in France, the king had entered upon a project for disposing of her hand to Sir Piers Butler—not because Butler wanted her, but because the marriage might settle some disputes about the Butler estates. This, however, was before Henry had seen the young girl.

When he saw her, the case was altered. In March, 1522, soon after Anne's return from the Court of Francis I., there was a masque and revels at Greenwich. The girl of fifteen appeared amongst the revellers. She danced; she talked; she displayed the pretty airs and graces taken on by her in France; and such was her daring, her beauty, her *abandon*, that the king's grace could not help noticing the new beauty. He found her as witty as she was charming. Henry VIII. was, despite his over-bearing temper and arrogant infallibility, a man who appreciated art, beauty grace and wit. Had he been a gentleman of easy fortune in the twentieth century, he would have been an ardent playgoer, a collector of pictures, a member of the Garrick, the Savage and the O. P. Clubs—a giver of suppers, and the arbiter and patron of Higher Bohemia. Matrimony and theology were forced upon him by the necessities of his position.

When Katherine would not consent to be divorced, and not till then, did Henry develop that obstinacy, so thoroughly English, by which he is best known.

I have shown, or tried to show in the chapters on the Trial of Katherine, that Henry's desire for divorce did not arise merely and solely from sensual or carnal cravings. No student of history, no observer of human affairs, can doubt that he could have satisfied any such longings at a much cheaper rate than at the risk of a quarrel with universal Christendom. He wished to rid himself of Katherine because he desired a son. The desire was partly

HENRY VIII

FROM A DRAWING IN CHALKS BY HOLBEIN IN THE MUNICH COLLECTION

natural, partly political. If there ever existed a man of wealth, or station, or distinction who did not desire a son to succeed to his money, his rank or his fame, I have never heard of him. How much more, then, would a king, a king without so much as a brother or a nephew, crave for a son to follow him on the throne and preserve his race from extinction.

Anne Boleyn was a young woman who was bound to be marked, wherever she went. Her beauty of face and form, her graceful carriage, her ready wit and her exhaustless spirits ensured that she should not pass through the world unnoticed. And the king noticed her. Doubtless he contrasted her full-blooded beauty with the anæmic form and wasted, ascetic figure of his elderly wife. Doubtless he found the ready wit and merry humour of the maid of honour a welcome relief after the sad dutifulness and chastened piety of the queen. I make no manner of doubt he said to himself, full many a time, "If I had this to my wife, instead of that, what a King of England I should leave behind me! But, alas! Unless some miracle shall happen, such as befel Abraham and Sarah his wife, the race of Tudor will die with me!"

Thus, or in such wise, began the musings which changed the face of the world. We know what happened to the luckless Katherine. Let us now trace the career of her rival and successor.

There can be little doubt that Henry's proposals were, at first, anything but honourable. There is some evidence that he had found Mary Boleyn, the elder sister, a damsel of complaisant temper—her he married to Sir William Cary. But Anne was of another sort. Complaisance was not her weakness. It may be that her refusal inflamed the ardour of her royal lover. Probably it did. At any rate, the king was so far in love with her as to desire her for his own; and it is certain that he forbade a most brilliant match. Percy, heir of the Earl of Northumberland, desired the charming Nan for his wife; but the king took the young man apart and scolded him, and gave him plainly to understand that the marriage would not be permitted.

There can be no doubt, in view of the letters that have come to light, that the divorce of Katherine was only part of a plan to enable Henry to marry the maid of honour. But it is a moot point whether Anne ever accorded to Henry the privileges of a husband before they were formally married. We do know, however, that in 1527 the favourite was provided with a splendid suite of apartments in the royal palace at Greenwich. We know

that these apartments were near those of the king. We know that she accompanied Henry everywhere; that all the time he behaved to her in lover-like manner; and that all the time Henry was moving heaven and earth to obtain a decree that his marriage with Katherine was null and void. Alternatively, he was asking the Pope for a dispensation to marry Anne notwithstanding his marriage or pretended marriage to Katherine.

It says something for Henry that Katherine was not removed long before by one of those illnesses prevalent amongst persons who stood in the way of princes.

At length Cranmer pronounced the sentence of nullity; and immediately after—to be exact, at Easter, 1533—it was announced to the world that on the previous 25th of January, Henry had married Anne. The announcement was made none too soon. The appearance of the new queen began to give evidence that the king's love for her would bear fruit soon. And for months the Court and the king clamorously expected the arrival of an heir. Wise women, soothsayers, diviners and every other kind of charlatan and impostor began to prophesy. There were omens almost every day. It was to be a boy. So said the wise women and the soothsayers. And they said it so often and so loudly that at last Henry began to believe it a certainty.

On the 7th of September (1533) the long-expected event happened. The child was born. It was a girl.

From that moment the love of the king grew cold. With the unreasonableness of a spoilt child he blamed Anne for his disappointment. He still lived with her. She was still surrounded by all the pomp and circumstance of royalty; but she had ceased to be supreme in the heart of the tyrant. For two years this state of things continued. Henry ceased to pretend to be faithful; and after one terrible threat the queen ceased to reproach him.

The marvellous thing about it is that Anne never lost her abundant high spirits. She may have been as bad as the Pope and his ministers painted her; but nobody could accuse her of cowardice. She saw herself being conspired against. She felt the skill and the power of her enemies. She knew she had lost the shield and buckler of the king's love. Yet she never quailed for a single instant. Gayest of the gay; merriest of the merry; she meant to give her enemies no cause for triumph. She lost her looks, until nothing remained of her beauty but the great, coal-black eyes and the wonderful hair that reached nearly to her knees.

Outside the Court she had never been popular. It is not to be expected that a conservative people would accept the new order of things without some murmurings. The divorced queen was a woman of a character eminently respectable. She had nothing to reproach herself with; and she justly bore the reputation of a blameless wife and a virtuous woman. Sympathy was bound to be with her. As to Anne, people were not so sure. To begin with, she was an upstart; and in all ages and countries the majority resent the elevation of anybody out of one rank into another of so much greater splendour. That the sister of an emperor should be queen seemed natural; but to find Nan Bullen sharing the throne appeared a clear flouting of the decrees of Providence.

From every convent and monastery rumours went forth, and spread over the face of the country—the new queen was no better than she should be; the king was not her first lover, by any means; she was haughty; she was enriching her family at the public expense; she was a heretic; she was a sorceress. And these rumours found a response in the hearts of high and low alike, all of whom, being English, resented the unfairness to Katherine and the promotion of the bold-faced daughter of the Norfolk squire.

At last, more than a year and a half after the birth of Elizabeth, hope revived. The queen was again about to become a mother. Once more the passionate monarch who longed for the perpetuation of his name smiled upon his dearest Nan. Once more she sat upon his knee while he played with her wonderful tresses. Envy and enmity dared no longer raise their heads; and the voice of calumny was stilled for a space.

Alas, for happiness! In the month of January, 1536, there was a premature birth. The child was still-born. And the affection of Henry dropped once more to freezing-point. It was, to him, a repetition of his experiences with Katherine. In the case of that luckless woman he had persuaded himself that God had killed his unborn sons to punish the parents for living in unhallowed bonds. Anne now began to fall under the suspicion of superstition as an unlucky woman. First a daughter; then a dead child! How dared the woman thus reward the affection of a man who had raised her from the very dust to the splendour of a throne!

With his mind in this state, Henry fell an easy prey to the faction who wished for the queen's fall. Hints began to be given.

Rumours began to circulate. And in the fœtid atmosphere of that Court such hints and such rumours throve and grew, as noxious fungi and loathsome insects thrive and grow on dank dunghills.

The death of Katherine had made Anne's position worse rather than better. For while Katherine lived Henry was bound to Anne because no other woman, certainly none of any position, would have married him. It is wonderful with what unanimity the world treated the Boleyn as a concubine. True, she was a wife by Act of Parliament; but in those days it was not accepted doctrine, either in England or elsewhere, that Parliament could legalise aught contrary to the laws of God. Coke's doctrine, that "Parliament can do anything, save to make a woman a man or a man a woman," had not then been propounded. It is not surprising to find that the imperial ambassador always in his correspondence styles Anne "*la concubine*"; because to the court of Charles V. the decree of Cranmer must be unlawful. But it is rather surprising to find that immediately after Katherine's death faction after faction began to form plots to marry the king to their nominee. The French section had a candidate, the imperialists had a candidate, and yet a third section staked their fortunes on a new, homebred favourite, Jane Seymour, once a favourite maid-of-honour of the cast-off Katherine. By their acts rather than their words all these people conspired to treat the marriage of Henry with Anne as a nullity.

The crisis in Anne's fate had arrived; and well had it been for her if, in the hour of her power and influence, she had made for herself friends. But she had not. Or, rather, the friends she had made were friends who were worse than useless.

In the first flush of her youthful triumph over the royal heart the high-spirited girl had shown a wilfulness, a haughty spirit, an unbridled capriciousness that had earned for her the lasting hate of almost every considerable person in the kingdom. In those days when Henry could refuse her nothing, when she even put down the mighty cardinal from his seat, when her lover consulted her on all affairs of State, she had been the object of sycophantic adulation. The proudest peers in England had bowed the knee to her. Statesmen and courtiers alike had dared to do no otherwise.

Everybody knows the characteristic behaviour of a spoilt beauty; and this was the behaviour of Anne Boleyn. This great dame she snubbed. That haughty nobleman she made to cool

his heels in her ante-chamber. And no one dared to resent her conduct, for her power over the king was absolute. There was hardly a nobleman or great officer of State whose dignity and pride she had not offended thus. Some friends she had; but they were people whose goodwill was of no moment—some of the younger courtiers, the supernumeraries of the Court play—young men who aspired to be fashionable, and who thought it good fun to make love to a queen, and something to boast of afterwards.

Even before the birth of the dead son, it had become obvious to the Court that Henry was thoroughly tired of his "sweet Nan"; and the enemies of the luckless woman had begun to consider how they might help him to be rid of her.

By this time, the king was thoroughly enamoured of Mistress Jane Seymour, who had been a maid of honour to Katherine and was a warm admirer of that lady and a close friend of the Princess Mary. Jane Seymour was a young woman of a very different kind from Anne. She was modest where Anne was bold; sedate where Anne was lively; a conversationalist of merit where Anne was merely an agreeable rattle. And her virtue was strong enough to resist the persuasions of her sovereign liege. Henry, at the beginning of the friendship, sent her a purse of gold and a letter. Mistress Seymour kissed the royal seal; but returned letter and purse alike unopened. "Tell his gracious majesty," said she, "that I am the child of honest parents with an unstained name. If the king wishes to make a present, let him keep it for some lady whom he wishes to marry. For me—I will not sell myself."

Such most uncourtierlike maidenliness had the effect of heating the king's passion to boiling point. Jane's brother and his wife were brought to live at the royal palace. Jane shared their apartments. And the sister-in-law played propriety while Henry revelled in the chaste conversation of his lady-love. So open was the courtship than Anne became jealous; and when her long-expected offspring was born dead she imputed the disaster to her agony of mind.

The wretched queen had now enemies enough. The principal nobles hated her for her former behaviour to them and theirs. Chapuis, the imperial ambassador, thirsty for revenge on account of the injuries to Katherine, spared neither gold nor pains to stir up enmity. France would have no objection to see Henry in the matrimonial market again, being convinced that a French princess would be chosen. Every orthodox Roman Catholic would have

thrown up his hat at her death or disgrace. To these powerful factions and parties were added the most powerful enemy of all—the new rival. For Jane Seymour undoubtedly was in communication with Chapuis, intriguing against Anne, and learning from the astute diplomatist how to overthrow the queen. She it was who told Henry that his present connection with Anne was regarded by everybody, himself alone excepted, as an open abomination. Henry began to fear that even if the son were born of Anne, its legitimacy might be questioned.

Last of all—Henry had begun to desire Jane Seymour. Jane Seymour would not accept a status inferior to matrimony. Anne must be either repudiated or removed. This state of the king's mind became apparent to all the queen's enemies, and emboldened them to proceed to extremities.

Anne herself saw her danger. On the occasion of her confinement in January she had sent a messenger to her husband to entreat him to visit her. He came; gazed on her coldly; said, "I will talk to you when you are better"; and stalked sullenly from the room. Soon after he went to London, taking the Seymours with him; but leaving Anne at Greenwich, all forlorn.

It is certain, however, that even so late as April, Henry had no definite plan for putting away his wife. This seems to be proved by the evidence of the imperial ambassador. Chapuis, acting, no doubt, on the emperor's instructions, had consistently refused to acknowledge Anne's position as the wife of the English king, even after Katherine's death. Henry had repeatedly badgered him to make such an acknowledgment, but the Fleming had utterly refused. Now there was to be held at Greenwich, at the end of April and beginning of May, a festival, marked by the usual feastings, joustings and revels. Chapuis was invited to be present; and he wrote at the time to his master that Henry had requested him to meet Anne at the festivities on St. George's Day and bestow on her the kiss of peace. That Chapuis refused makes no difference to the point, which is that on the 20th of April, less than a fortnight before the queen's arrest, Henry was still trying to obtain recognition for her as Queen of England.

If Henry was not taking active steps against the queen, others were. And it is curious to note that Sir Nicholas Cary, master of the horse, and Anne's cousin, was one of the most active of the plotters. The cause of Cary's enmity was sufficiently petty. There was a vacant Garter; and Cary desired it for himself. Anne, however, was moving heaven and earth to obtain it for her

brother, Viscount Rochford. In this way it was the queen's misfortune to make an enemy of a powerful member of the household; for Cary did not scruple to stir up Jane Seymour to overthrow his arrogant cousin.

It was on the 25th of April that the conspirators resolved to make their accusation. Material was found ready to hand; or else was manufactured. The age was corrupt; and it was the easiest thing in the world for a powerful person to find a witness to depose to any fact whatsoever. And it is difficult to avoid coming to the conclusion that Anne had been sufficiently indiscreet in her conduct to give at least a colour to the accusation about to be formulated against her.

There were about the royal household four young men, Sir Henry Norris, Sir William Brereton, Sir Francis Weston, and Mark Smeton. The first three were gentlemen of good family. Smeton was a musician. All four were amongst the queen's intimates, with whom she joked and conversed familiarly; and, as the manner of the time was, they paid the queen the most florid compliments, and professed themselves her servants. Smeton was a man of a kind not even now extinct. He was of a handsome person; and imagined himself irresistible. And after the manner of his kind he was want to boast of the invariable success of his amours. When in the society of other loose fellows, he talked incessantly on this theme; and more than once, it was said, he boasted that the queen herself had fallen a victim to his fascinations. She had accorded him, so he bragged, the most intimate favours; had told him that the king could not live long; and had held out hopes of marriage when she should become a widow.

Norris, Brereton and Weston were three hopeful sparks who had undoubtedly paid court to Anne. They talked a great deal of romantic nonsense to her, to which she had ample time, and possibly inclination, to listen after Henry began his intrigue with Jane Seymour. They sighed, they ogled, they posed; and Anne did not discourage them. And probably not one of them was displeased to be bantered by his friends on the subject of the queen. Many young men would rather be suspected of the worst immorality than deny a "success" which they have not gained.

The scandalmongers had some *primâ facie* case. Anne was undoubtedly, according to all contemporary accounts, of "free carriage". Her friends said that she was so confident of her own innocence that she never tried to rein in her free and jovial temper. Her enemies called her wanton.

This further fact shines through the obscurity, that Weston and Norris had quarrelled over the queen. Whether it was a stage quarrel or a real one, I cannot well make out. But a dispute, or affectation of dispute certainly befel between Norris and Weston and (so I make it) Smeton, as to who had the warmest place in their mistress's affections. Whatever else happened, it appears that the young men talked too much and too loudly. One of them was alleged to have boasted that the queen had promised to marry him after Henry's death. Another was said to have related to a mixed company how the queen had told him that the king had certain diseases, and could not last long.

And the whole four of them no doubt made themselves ridiculous by sighing and posturing, and uttering extravagant compliments and absurd protestations—to which Anne turned a willing ear. Probably she was merely amused—no more. Possibly she was seeking consolation for the neglect of her royal lord. Had Nan Boleyn been a popular queen—had she been identified in the popular mind with some great cause—had her early relations with Henry been always void of occasion for scandal—had she shown consideration of forbearance for Katherine—had she sedulously cultivated the goodwill of the nobility—her conduct might have passed unnoticed. The average man, and still more the average woman, judges not in the least by evidence; but almost entirely by prepossession. And so the imperialists thought her guilty because she represented to them the injury done to Katherine. The Papal Catholics put the worst construction on her conduct because on her account Henry had broken with the Holy Father. The ancient nobility believed the worst of her because she was an insolent *parvenue*. Last, but not least, the courtiers and lackeys of the palace had no doubt of her infidelity, because Henry wished for a new wife.

So hints began to be dropped. Rumour grew loudly vocal. No one now talked of suspicion—it was certainty. And with one accord the Court crowded the rooms where Jane Seymour dwelt with her brother and her sister-in-law. Anne became more and more desperate. She even tried to make friends with Princess Mary. She flirted more openly than before with her foolish young men. She was more and more exacting towards the ladies of the Court.

At last the rumours reached the king's ears—deliberately carried there by one of the Howards. Henry flew into a right royal rage. One suspects that he was but too delighted at any news

that would rid him of the woman who kept him embroiled with Europe and who would not give him a live son.

He called together a few members of the Council, including the lord chancellor, all the judges, and some lay nobility. It is a significant fact that he did not invite the Archbishop of Canterbury; and it is well known that Cranmer was a friend of the queen. The commission met secretly; and the first-fruits of their deliberations was the committal of Brereton to the Tower (27th April). Smeton followed on the 30th; and Viscount Rochford.

But Henry professed to require more evidence. He would watch for himself. For Henry, like most impetuous and passionate men, had a profound belief in his own sagacity; and would have staked anything on the infallibility of his own judgment.

On the 1st of May, following ancient custom, there was high revelry at Court, which was then at Greenwich. Amongst other entertainments was a tournament, at which Anne was present, along with the king and the members of the household, the ambassadors, and other great ones. Sir Henry Norris, one of the three queen's knights was challenger, and Rochford, Anne's brother, was defender. The queen was leaning over the barrier, watching the scene below, when she dropped her handkerchief. Norris caught it; and instead of returning it to its owner, used it wherewithal to wipe his face. Henry rose from his seat, called to a few of his followers, and hastily left the ground. It was obvious that he was seriously displeased; but exactly what was the matter, nobody knew except, possibly, a few who were in the secret. Not only did he leave the tiltyard; but he and his company rode straightway to London, nor did he return that night. Anne remained behind at Greenwich, and she must have known that privy councillors were holding a meeting in the palace. They told her nothing of their deliberations; and the doomed woman must have feared the worst.

Not long was she left in doubt. Next day (May 2), a gentleman messenger came to her apartments with a request, "by order of the king," that she would appear before a Privy Council then sitting. Anne did not hesitate a moment, but went; and there found a council sitting under the presidency of her uncle, the Duke of Norfolk.

It seems almost incredible to us, trained in the modern methods of English justice, to think that for several hours this unhappy woman was examined and cross-examined by the councillors on the subject of her relations with Norris, Weston, Brereton and

Smeton. "I was cruelly handled," she declared afterwards to the governor of the Tower, "and when I declared my innocency the Duke of Norfolk shook his head three or four times and said, 'Tut, tut, tut!'"—an observation incoherent enough, but sufficiently indicative of the council's frame of mind.

So to the Tower of London she went, rowed up in a boat to the Tower stairs; and was kindly received by Kingston, the governor; and allowed to have the rooms she had used at the time of her coronation. "Jesu, have mercy on me," she cried, and fell on her knees and wept bitterly "for a great space". For a while her courage deserted her, as well it might; and she became hysterical, laughing and crying in the same breath. But soon she recovered, and declared to Kingston that she was "the king's true wedded wife," and "free from the company of man as for sin".

No sooner was Anne under lock and key than a perfect shout of joy arose. In London the queen was particularly unpopular because she was the cause of bad trade. The most valuable of the trade of London at that time was done with or through Flanders; and thus the London merchant was almost always an imperialist. Cordial relations with the emperor meant much; and those relations could never be cordial so long as Anne was queen.

As for the imperial ambassador—he fairly jumped for joy. To his master he sent a full and detailed account of the fall of *la concubine*. According to him she had been caught, *flagrante delicto*, with Smeton the musician, on the 1st of May. This we know to be false; because Smeton was in the Tower, and in irons, on the 30th of April; and his arrest had been decided on a day before. Chapuis, however, was only repeating, with the inevitable exaggeration of repetition, the stories told to him.

It required no very great degree of acuteness to perceive that Anne's reign was over. Chapuis wrote jubilantly that she might be expected to be sent to the block any day. Others thought she would merely be divorced. It turned out that both were right.

Weston and Norris followed Brereton and Mark Smeton to the Tower; and it was soon perceived that Anne was to be accused of general incontinence. But the worst charge was to come, and it was this. The Viscount Rochford was Anne's favourite brother. She had procured for him a peerage even in his father's lifetime—an honour somewhat rare. Rochford appears to have been as arrogant as Anne herself. Resting in the fancied security of his sister's favour he had displayed, without any attempt at disguise,

a haughty insolence that would have been insufferable in the heir of all the Howards or the Plantagenets; and was doubly intolerable in one who had neither birth nor service nor ability to show.

The imperialists—the Duke of Norfolk and the Earl of Surrey—Jane Seymour aiding them—had set their minds on ridding themselves of Rochford. They hated him with perfect hatred. Their revenge would have lost its savour if he had been allowed to keep his head on his shoulders; and so they made up their minds to accuse him of something that should ensure Henry's unfailing vengeance.

Under the Tudors, at any rate under Henry VII. and Henry VIII., arbitrary acts of power were almost always veiled under an appearance of strict legality. Of all the sanguinary deeds of tyranny perpetrated by the father and the son alike, there was not one that was not carried out in a strictly legal and formal manner. Did the king wish to punish his enemies, he either procured their condemnation by the Star Chamber or the judges under some existing law; or else he persuaded Parliament to pass a statute that should ensure the necessary decapitations. In reality, the king was an autocrat; because the Wars of the Roses had left the nobility powerless; and the Commons had not yet discovered their strength.

In pursuance of this policy, the four commoners were indicted in the strictest manner. In form, they had a fair trial. Grand juries were empanelled of the counties of Kent and Middlesex; and these juries found true bills against all four for treason. The treason was twofold: (1) Under the Statute of Treasons of Edward III. for misconduct with the king's wife; and (2) under an Act of Henry VIII. which made it treasonable for anybody to say anything derogatory to the legitimacy of the king's children by his marriage with Anne.

I have not the faintest doubt that every one of the luckless prisoners had been put to the torture—the only excess, or illegality that Henry allowed himself to practise.

Brereton and Weston stoutly denied all guilt. Norris, when he was first charged, was urged by Henry himself to confess; but, instead of confessing, he offered to fight to the death anybody who should accuse him of such a crime. Afterwards, it is said, he confessed to Sir William Fitzwilliam; but he withdrew his confession on his trial, and asserted that Fitzwilliam had deceived him.

With Smeton, the case was different. Whether from cowardice

under threat of torture; or because he had been bribed or cajoled; or, as there is some reason to think, in order to be revenged for some slight put upon him by the queen[1]—Smeton confessed. He had, he said been guilty on three occasions. It is possible, one may admit, that the musician confessed the bare truth; but such a confession is so cowardly, so base, that the man who makes it must not expect to be treated as anything but a wretch. There is no counsel at the bar at the present day who would not ask a jury or a judge to disbelieve such a confession; and this on the simple ground that the man who could so confess brands himself as a person unworthy of belief.

When one finds a historian, such as Mr. Froude, treating Smeton's confession as the truth, the further observation is to be made that it was never sifted by cross-examination or otherwise. The tribunal to whom it was made were satisfied when the confession was delivered. They had no inclination to test the truth of it.

Whether true or not, the confession brought Smeton to the scaffold. Petty juries also found the other three men guilty. Brereton, Norris, and Weston were decapitated. Smeton, having no gentle blood in his veins, was merely hanged.

What the grounds of the conviction were, we do not precisely know. What we do know is that the jury had read to them Smeton's confession, and Norris's alleged confession. No witnesses were produced; but a statement was read out purporting to be somebody's account of a conversation with a lady who had since died, wherein the lady had stated that Norris, Weston and Brereton had frequently, and habitually, been in the queen's bedroom. On "evidence" of this kind, backed by a severe summing up, the jury brought in the inevitable verdict of "Guilty". I say "inevitable," because up to that time there is no record of anybody accused of high treason ever being acquitted, except Lord Dacres of the North, who had been found guiltless by a sympathetic tribunal of his peers in 1535. No petty jury had yet been found, nor would be found until the reign of Mary, to acquit a prisoner whose conviction was desired by the sovereign.

I am not saying that the four courtiers were guiltless. I am merely saying that their guilt is not in the least proved by the

[1] Smeton, according to a story related by Sir William Kingston, was told by Anne that "he must not expect her to treat him as if he were a gentleman"—a tactless sort of speech calculated to awaken the worst feelings in a favoured minion of the Court.

fact of their conviction at the hands of a Middlesex jury and a sycophantic bench. To make assurance doubly sure, the sheriff who returned the jury panel had undoubtedly been "got at". We find that almost every man of the twelve was a person dependent on the Court—in other words, the jury was packed.

Packed juries have, before now, found guilty persons guilty; but one's confidence in the pronouncement of such a tribunal is not great. In the case of Norris and his companions the jury could not pretend to be "twelve indifferent men," as the law demands. It is enough to say that the twelve knights who filled the jury box included six who held office under the Crown, two who were notorious enemies of Anne, and four only of whom nothing is known. Of these four, one bore the name, long afterwards to be made illustrious in that very hall, of John Hampden.

CHAPTER II

THE TRIAL

ONLY once after her arrest did Anne lose her courage; and that was when she entered the Traitor's Gate. She was rowed from Greenwich to the Tower in the state barge, accompanied by Audley, the chancellor, Cromwell, the Duke of Norfolk, and Kingston, the governor of the Tower. "And when she came to the court gate," says Wriothesley, "entring in, she fell downe on her knees before the said lordes, beseeching God to helpe her as she was not giltie of her accusement, and also desired the said lordes to beseech the King's grace to be good unto her, and so they left her their prisoner."

Thereafter, the queen soon plucked up heart; and when we read the account of her behaviour in the Tower, at her trial, and at the scene of her execution, we are no longer in doubt from which side of the house the great Elizabeth inherited her undaunted spirit. So, after her first agonised cry, "Jesu, have mercy on me"; and the fit of hysterical laughter and weeping—"weeping a great space and in the same sorrow fell into a great laughing," is the account of the governor—the Norfolk squire's daughter comported herself as bravely as any royal princess of them all.

One characteristic incident is reported by Kingston in a letter to Cromwell. "Mr. Kingston," she said, "shall I die without justice?" The loyal governor of the Tower made answer, "The poorest subject the king hath, hath justice". "And," continues Kingston, "therewith she laughed."

I hold it a great virtue in the fallen queen that "therewith she laughed". She knew the kind of justice she was likely to meet with. She knew she was in the way. She was in the way politically; for she stood between Henry and the imperial alliance. She was, worse than all, in the way of the king's carnal desires. Well might she laugh. "The poorest subject the king hath," might have justice; but Anne had seen the kind of justice meted out to those who were not poor—the justice accorded to

Wolsey, to Katherine, to Thomas More, and to many another. She knew too well how she had been able to influence the course of justice when she was in the heyday of her power, not to be perfectly well aware how her prim, merciless rival would be able to influence it now.

Her hope was twofold—her brother, Rochford, and Cranmer. Cranmer was especially her creature. She it was who had procured him the See of Canterbury. She believed, and probably Cranmer also believed, that if she went Cranmer would go too. Everybody believed that if the imperialists ever got the upper hand it would go hard with the prelate who had defied the Pope, and had pronounced sentence of nullity against Katherine.

At first, Anne thought she was accused of misconduct with the four commoners, and nothing else. The worst charge was to follow.

Besides Anne herself, there was one person of the Boleyn family of great capacity—her brother Rochford. He was the queen's favourite amongst all her relations; and each had the greatest affection for the other. Rochford was a brilliant young man—witty, energetic, courageous. To his sister he was devoted. And the plotters dared not kill Anne and leave him alive; simply because they knew he would exact a bloody vengeance for his sister. So they must accuse him also. He must be involved in his sister's ruin. How? Some ingenious person suggested a crime easy enough to allege, difficult to prove, but even more difficult to rebut—a crime horrible in the extreme—the crime of incest.

On the 15th of May, 1536, the two trials took place. Never before had a Queen of England been tried for a crime. Now a Queen of England was to be tried for the capital offence of high treason. There seems to have been no doubt in the mind of the king's advisers as to the proper tribunal to deal with the matter; and Anne was put on her trial before the peers of the realm in the court of the Lord High Steward. The reader should know that when Parliament is not sitting, and it is desired to try a peer of the realm, a commission is issued under the Great Seal constituting a court of peers, presided over by a nobleman, appointed *ad hoc*, called the Lord High Steward. This court is, in effect, the House of Lords, though every peer is not necessarily summoned; and, unless summoned, no peer can attend.

In Anne's case, the Duke of Norfolk was appointed Lord High Steward, and twenty-five other peers constituted, with him,

the court. In those days the full strength of the peers was just over sixty.

The proper place of meeting, or, at any rate, the place set apart by immemorial custom, was Westminster Hall; but as it was not desired to carry the queen thither, in this case the court was ordered to sit at the Tower of London. This was not from any desire of secrecy; for the public were to be admitted, to see how the king's justice was administered in the case of the highest in the land, just as it would be to "the poorest subject the king hath."

The ancient banqueting hall of the Tower was cleared. A daïs, or platform at one end raised the seat of the president a little above the floor. A space was reserved for the public—fenced off from the seats of the peers. A chair was set for the queen—a chair of state—and close beside it a table for the king's counsel.

The sun shone brightly through the stained-glass windows on the Duke of Norfolk and the six-and-twenty peers in their robes of state. Yeomen of the Guard, with axes and halberds, stood on guard, lending an air of dignity and ceremonial to the scene. Gentlemen and citizens jostled each other for places behind the barrier. And the Duke of Norfolk gave the order, "Gentleman jailer of the Tower, bring in your prisoner".

The door was thrown open; and there appeared Sir William Kingston, bearing an axe with the edge turned away; and after him, stately, composed, even haughty, walked the first queen of this country who had ever been called upon to plead for her life and honour before the great ones of the realm. The court rose to receive her, and every man bared his head; for she was still a queen. Ushered in by Kingston and Sir Edward Walsingham, and attended by her aunt, Lady Boleyn, and Lady Kingston, Anne walked to the chair provided for her, inclined her head in response to the low bows of the peers, her triers, and sat down.

The indictments were after the tedious, long-winded, verbose style of all such documents, and occupied a long time in reading. The charges were by no means light; for they included more than one species of treason. In the first place she was charged under the old Statute of Treasons,[1] that being seduced and instigated by the devil, she had traitorously committed adultery several times with Mark Smeton, Norris, Weston and Brereton. Secondly,

[1] This is still the law of the land.

she was charged with compassing and imagining the king's death —also under the old Statute of Treasons. Thirdly, she was charged, under the statute of 26 Henry VIII., c. xiii. that she, along with her four associates and her brother Rochford, "maliciously wish, will and desire by words, and by craft imagine, invent and practise to deprive the king's heir apparent of her or his dignity, title or name."

This charge was a new fangled kind of treason invented by Henry himself; and, ironically enough, was invented to terrify and punish the Papists and imperialists who had been in the habit of speaking of Anne as a concubine, and her issue, or possible issue, as bastards. By a perverted ingenuity due, I should imagine, to Thomas Cromwell, Anne, for whose protection the Act was passed, was charged under it with having bastardised her own daughter. How, will appear soon.

Last of all, she was charged with the abominable crime of guilty intercourse with Rochford.

The trial began, as soon as the indictments had been read, by a speech from Sir Christopher Hales, the Attorney-General. This gentleman had the nominal conduct of the prosecution; but the real prosecuting counsel was Thomas Cromwell. Cromwell was not a member of the Bar; but he had once been a money-lending attorney. Why he was permitted to appear as an advocate before the court of the Lord High Steward I am at a loss to know. Certainly he is the only attorney who ever acted as counsel in a state trial before that august tribunal. At the same time it is easy to see how the court would find it very difficult to refuse him audience if he wished to display his forensic abilities; for the excellent reason that Mr. Secretary was the most powerful subject in the kingdom at that moment (Jane Seymour always excepted); and no one could cross him without having a "very loose feeling about the neck," as Horne Tooke once put it.

In those days there was no such thing as evidence—at any rate in state trials. Hardly once, in the sanguinary records of the time, do we meet an instance of any witness being called to bear testimony in open court. Thus there could be no cross-examination; and the accused was deprived of almost the only safeguard against vague, general accusations and false testimony. Again, enormous latitude was allowed in the matter of hearsay. Nowadays, according to the immortal dictum of Mr. Justice Stareleigh, "What the soldier said is not evidence". In the time of Henry VIII.: what the soldier said, or what the sailor said he had

been told by the tinker that the soldier said, was admitted as proof. To the modern Englishman, and especially to the modern English lawyer, this is almost unbelievable; but to the Englishman of the sixteenth century it was everyday practice.

Let me explain the method of taking evidence in great causes in that day. First, all persons who were thought able to give information were examined—summoned together or singly before the Privy Council, or the Star Chamber, and there questioned at great length by the noblemen, secretaries of state, judges and law officers. A reluctant witness was liable to have his unwillingness mitigated by an application of the thumbscrew; and the same instrument of persuasion often assisted the memory of a forgetful one. Secretaries were at hand to record the evidence as it was given.

Besides those who may be called witnesses, the accused, and all accomplices, or supposed accomplices, were interrogated in the same way; and their statements taken down in writing. It should be remembered that in these prosecutions the prime object was not to come at the truth, but to obtain evidence, or at least an excuse to warrant judgment against the accused. For nobody was ever brought to trial who had not become obnoxious to the king or his ministers. In fact, but for the look of the thing, a state prisoner might as well have been stabbed or suffocated as brought to trial for high treason.

Having reduced into writing the statements of the prisoner and all witnesses, willing or unwilling, the prosecuting counsel read out at the trial such pieces as he thought most damaging to the prisoner. The reading of this "evidence" was accompanied by a running commentary on the part of counsel, all tending to show that the prisoner was a person to the last degree infamous. The prisoner, for his part, never attempted to call evidence. No one was bold enough, in those days of absolute power, to come forward to bear testimony against "our sovereign lord the king," and in favour of the prisoner at the bar. Cross-examination was impossible. The prisoner was not allowed counsel. Thus the only chance of the accused was to intervene during the harangues of the prosecuting lawyer, with denial, with retort, with counter-attack and counter-statement. When the prisoner thus intervened, it was considered legitimate for either counsel or judge to put questions to him, to contradict him, and to try to extort a confession of some fact that made for guilt. In short, the whole proceeding was by way of altercation.

Occasionally, when the accused was not deficient in wit, courage and presence of mind, the crown lawyers by no means had the best of it. The student of history will be familiar with the case of Sir Walter Raleigh, who fairly beat the great lawyer—and infamous advocate—Coke, on such an occasion.

Now Anne Boleyn was a high-spirited woman. Her courage is beyond question. Her wit, somewhat of the biting order, was great. Nor was she deficient in presence of mind. She confronted the tribunal proudly and confidently; though well she knew her doom was sealed. On the first head, that of adultery with Smeton and the other three commoners, Hales and Cromwell read out, as proof, Smeton's confession and various statements alleged to have been made by them at different times to different people. The most damning of these was a statement made by a lady of the Court's old servant, wherein the lady was declared to have said to the servant that she had seen Norris, Weston and Brereton at different times in Anne's bedroom. The lady who was alleged to have said this had been dead some time—a sufficient commentary on the value of the evidence.

On the incest count, there were statements of serving-women to the effect that on one occasion Rochford had visited Anne in her room and had remained there for a very long time. I do not propose to insult the intelligence of anybody by arguing this point. Suffice it to say that it would take a great deal to convince any modern judge or jury that a brother who remains with his sister for a long space of time is to be suspected of a grievous crime. The inference is too monstrous.

But when we come to the third head—that of "maliciously wishing, willing and desiring by words, and by craft imagining inventing and practising (*modern English*=conspiring) to deprive the king's heir apparent of her or his dignity, title or name," we begin to see the true inwardness of the prosecution, and the means whereby Henry had been wrought to such a pitch of anger against his old love. Anne was alleged to have made, and Rochford to have repeated the scandalous statement that Henry was incapable of becoming a father! If either Anne or Rochford had ever said this, it would have been highly reprehensible, no doubt. And it it is easy to understand that Henry would be angry. But mark the ingenuity of Cromwell. Mr. Secretary argued that such words were treason under the statute because they cast doubt on the legitimacy of the Lady Elizabeth, the heir apparent; and also on any other heir the king might have in the future.

Anne's precise answer to this extraordinary charge we do not know. But we know that she point-blank denied saying what was attributed to her. Further, we know that she pointed out to her judges the folly of charging a mother with "desiring, or by craft imagining," the illegitimacy of her own living child and possible future offspring.

The fourth and final charge of compassing and imagining the king's death was supported by the flimsiest evidence and the most curious chain of reasoning that ever was heard in any court of justice. According to Kingston, Anne's keeper in the Tower, the queen had given an account of conversations between Norris, Weston and herself of this kind: Norris, who was a gentleman of the king's chamber, was engaged to be married to Madge or Margaret Shelton, a lively dame who for a short time had attracted the attentions of Henry himself. But the fair Madge had seen fit to carry on a flirtation with Weston, himself a married man; a coolness sprang up between the betrothed couple. The queen saw this, and scolded Weston, first for paying such marked attention to Mistress Shelton and neglecting his own wife; and, secondly, for causing an estrangement between the lady and her lawful lover. "Oh!" replied Weston, "there is some one in your grace's house that I love more than either my wife or Mistress Madge!" "And who is that?" asked the queen. "It is yourself," replied the young courtier, who, no doubt, thought he had paid Anne a very courtierlike compliment. Anne pretended to be angry with Weston; but the young gentleman proceeded with his dubious flattery. He told the queen that it was useless for her to be angry with Norris; because Norris came to her chamber more to see her than to see Madge. Upon this, Anne again rebuked Weston; but, one imagines, not very severely—at any rate he remained one of her intimate friends.

The next link in the chain was a conversation alleged to have taken place between the queen and Mrs. Cousins, one of her attendants at the Tower. Mrs. Cousins, it may be stated, had been selected by the king to attend Anne in her prison, and she had been told to report to Kingston anything "it was meet he should know". According to Cousins, the queen had "fallen to speaking" with her about Norris. "He has offered to swear for me," she said, "that I am a good woman." "But how," quoth Mrs. Cousins, "came any such thing to be spoken of at all?" "Marry," replied the queen, "I bade him do so; for I asked him why he went not through with his marriage; and he made answer that he

ANNE BOLEYN

FROM THE PORTRAIT (PAINTER UNKNOWN) IN THE NATIONAL PORTRAIT GALLERY

would tarry for a time. Then I said, 'You look for dead men's shoes; for if aught came to the king but good, you would look to have me'. And he said, 'If I should have any such thought, I would mine head were off'. And then I said that I could undo him, if I would. And therewith we fell out."

First of all, let us see if it is likely that Anne ever held such a conversation with Mrs. Cousins. It should be said that Mrs. Cousins did not give evidence of the conversation; but Sir William Kingston testified that the lady-in-waiting had told him she had it. This withholding of direct evidence in favour of hearsay is a strong point against the tale. But there is a stronger point. When Anne was sent to the Tower, her household was broken up and her servants dismissed. And Kingston reported to Cromwell that the queen complained bitterly that "the king has put about me those that I never loved". "I looked," she said, "to have had those of mine own privy chamber." The king's selection included Lady Boleyn, Anne's aunt and implacable enemy, Lady Kingston, and Mrs. Cousins—all of whom were Anne's enemies. Is it likely that a clever woman, as Anne undoubtedly was, would "fall to speaking" on a topic so vital with one whom she knew to be an enemy?

To the mind of a lawyer of to-day, the conversation between Anne and Norris, if it be correctly reported, which is unlikely, means nothing. But under the skilful handling of Hales and Cromwell the conversation was made to support the allegation of compassing and imagining the king's death. The reader who has not served an apprenticeship to the history of the logic of the schoolmen will think it almost impossible that upon a conversation so frivolous and foolish such a serious interpretation could be placed. *Voyez, messieurs!*

(1) Assume the truth of Mistress Cousins's relation, *viz.*, that Anne did say to Weston and Weston to Anne the words set out.

(2) Assume that Norris, as Weston related, was in love with Anne.

(3) Assume that Anne was in love with Norris.

(4) Therefore, if Norris was waiting for Henry to die, in order to marry his widow, Anne, as the other party, was also waiting for the same event.

(5) It follows that the pair of them wished Henry to die, in order that they might gratify their passion to the full.

(6) Therefore—amazing conclusion!—they were both ready

to shorten Henry's life by every means in their power; and thus were compassing and imagining the king's death.

One does not know whether to be amused or disgusted. That industrious historian, Mr. J. A. Froude, is prepared to shut his eyes and swallow the dose at a gulp. He is unable to believe that six-and-twenty Englishmen of rank and position would convict their sovereign's wife of adultery, incest and other treasons except upon clear evidence. With the State Trials before me I am unable to accept a conclusion so flattering to the judicial spirit and civic courage of the Tudor nobility.

Anne met this accusation with a firm denial. She denied the conversation with Mrs. Cousins. She denied any treasonable conversation with Norris. She denied that any word of love had ever passed between herself and either Weston or Norris. She would have known, she said haughtily, how to deal with them if they had presumed so far. She challenged the prosecution to deny that Norris had been spoken to by Henry on the 1st of May, and that he had indignantly repudiated the accusation, and had offered the combat to his accuser, whoever it might be. Cromwell and Hales tried to entangle her with crafty questions; but, as the ancient chronicler records, she made "wise and discreete aunswers to all things layd against her".

All her wisdom and discretion, however, availed her nothing. The tribunal dared do no other than convict. When Mr. Froude lays stress on the "scrupulousness without parallel" of Anne's trial by "the highest judicial tribunal in the realm," I ask, who were her judges? The Duke of Norfolk was the president, Anne's enemy, whom she had accused to Henry of being the cause of her last miscarriage. True, he was her uncle; but that goes for nothing, especially when we find her aunt, Lady Boleyn, and her other relative, Carew, actively conspiring with Jane Seymour and Chapuis, the imperial ambassador, against the queen. There was the Marquis of Exeter, now known to have been the principal coadjutor of Chapuis, the intermediary between him and Jane Seymour in the same business. There were Derby, Sandys and Montagu, staunch friends of Katherine, now known to have been deep in the plot for the queen's overthrow. There was the Percy, Earl of Northumberland, Anne's lover before her marriage, now mortally afraid that he, too, might be dragged in on that account. Of the rest, not one was known to be a friend of Anne; and several, including Rutland, Sussex, and Wentworth were known to have suffered offence at her hands when she was powerful.

Let us examine the impartiality of the court by another test. After Anne, Rochford was tried. He, too, answered "so prudentlie and wiselie to all articles layde against him, that marveil it was to heare". We have it on the authority of a letter to Cromwell that the spectators were ready to lay "greate odds that the Lord Rochford should have been quit". Chapuis, again, in a written report to his master, discovered at Vienna, reports that all the people in the court thought Rochford would escape.

Rochford knew better. In the course of the trial he was asked whether he ever said a certain thing of the king, which thing was written on a paper and handed to him by Cromwell. It was intended, of course, that the exact question should not be disclosed. But Rochford knew he was doomed; and determined on such revenge as he could take. He read the paper aloud—very much aloud. It was this: That Rochford had said to Anne, and she had agreed, that Henry was so diseased as to be incapable of begetting more children. The prisoner stoutly denied this; and pertinently asked how he or she could say such a thing when, less than six months ago Anne had been with child by Henry—or, at any rate by some one, and, if not by Henry, then she was a self-confessed adultress? It seems to me there is no answer to this. But Chapuis and Cromwell's correspondent concur in the statement that Rochford would have been acquitted if he had not read this note out aloud.

On these statements, remembering especially that Chapuis was Anne's mortal enemy—was, in fact, the person who had pursued her to the death—I have no hesitation in expressing the opinion that Rochford was convicted when he was, in fact, innocent, and when the tribunal knew him to be so.

And if Rochford, why not Anne? One would like to believe that the peers of England were just, though the heavens might fall. Unfortunately, one cannot believe it. Anne's fate was decided partly on fear of the tyrant of Windsor; but more especially on political grounds. Not a man in England, scarcely, but was suffering by the interruption of the ancient amity between England and Flanders. The only obstacle in the way of the renewal of that amity was *la concubine.* Therefore *la concubine* must go. In the opinion of these men, the end justified the means. It is as idle to condemn the men of that time for their sanguinary, tortuous methods of carrying on politics as it is to pretend that either Anne or her brother was condemned on the evidence.

Anne was condemned by a unanimous vote. Beginning with the youngest baron, and ascending to the Lord High Steward, every peer present rose, put his hand on his heart, and declared, "Guilty, on my honour". Sentence was immediately pronounced by the Duke of Norfolk. The old chronicler thus describes it: "And then the Duke of Northfolke gave this sentence on her, saying: Because thou haste offended our Sovereigne the Kinges grace, in committinge treason against his person, and here attainted of the same, the lawe of the realme is this, that thou haste deserved death, and thy judgment is this: That thou shalt be brent here within the Tower of London on the Greene, els to have thy head smitten of, as the Kinges pleasure shal be further knoune of the same".

Found guilty of adultery, incest and treason, condemned to die the death of a traitor, Anne had not touched the bottom of her misfortunes and humiliations. I know not what ingenious person—it was probably Cromwell—suggested to the royal sufferer, first, that he had been bewitched by sorcery into marrying Anne; and, secondly, that he had never been married to her at all. In other words, Nan Boleyn was to be served with the same sauce as Katherine. Henry clutched at the suggestion.

Anne was cited to appear before Cranmer, the Archbishop of Canterbury, to show cause why her marriage with the king should not be declared null and void. Cranmer had been no party to the plot against his friend and benefactress. In fact, he had been excluded from court for a while; and was in mortal fear for himself. But after the condemnation, the archbishop appears to have been told that if he came into line, and did as he was told, he would be held harmless. The chronology is instructive. Anne was condemned to death on the 15th of May. On the 16th, Cranmer visited her in the Tower. This was in the morning. In the afternoon, Anne told Lady Kingston that her life was to be spared, but she would be banished. On the 17th, at 9 A.M., the court of the archbishop was opened at Lambeth Palace. Before noon, the marriage was declared null and void.

There has been, and still is, considerable controversy with regard to the grounds of this decree. On the one hand it is asserted that the relations of Anne and the Earl of Northumberland were the cause; on the other it is stated that the relations between the king and Mary Boleyn sufficed to illegitimise the marriage. By the canon law, then in full force in England on the subject of marriage, a pre-contract of marriage was as good as a marriage for

the purpose of creating a relation between the parties that was only dissoluble by the Church, or by other solemn means. In other words, a formal pre-contract formed an absolute bar, so long as a dispensation to break it had not been obtained, against a marriage with any other person.

Another doctrine of the canon law was (and is) that non-marital relations have the same effect as marital relations in counting degrees of affinity.

To apply: if Anne had been pre-contracted to Percy (since Earl of Northumberland) before her marriage with the king; and if the pre-contract had not been legally and formally dissolved or dispensed against, then Anne was not in a position to marry Henry at all.

Again, if Henry had really used Mary Boleyn as his mistress before his marriage to Anne, then he had raised a bar against his marriage, because no man can marry sisters; and, by the canon law, he was as good as married to Mary.

In either case, the marriage was null and void, and as if it had never been.

If Anne's trial by her peers in the banqueting hall of the Tower was a foregone conclusion, at least it was a trial of sorts. Her trial before Thomas Cranmer at Lambeth was no trial at all. Two doctors of the Civil Law appeared as her advocates; but how they came there, and by whom they were instructed, I know not. The letters of Kingston to Cromwell make no mention of either of them having been to see her in the Tower. Probably they were nominated by Henry, or Cromwell, to appear in her name. There was an excellent reason why some one should appear. According to the forms used in the ecclesiastical courts, when a cause was called on and the person summoned did not appear, he had to be summoned again, and not unless he then neglected to appear could he be pronounced contumacious, and the cause proceeded with. If the person in question appeared, personally or by a legal representative, then the cause could go forward without delay. So that if Henry did, as I suppose, nominate counsel to appear for Anne, he did it not out of pure benevolence, or because he wished her to be properly defended, but simply and solely to expedite the hearing and to shorten Anne's life. For, of course, she could not be executed first and divorced afterwards.

The two learned doctors, Nicholas Wotton and John Barbone, duly appeared, then. And that is all they did for Anne. I do

not know that they actually consented to a decree; but I do know that they did nothing in the way of a defence. Such conduct is not inexplicable, because we know that for a mere lawyer to oppose the king's will was at that time a thing undreamt of. There were no Erskines or Clarkes in those days. If there had been, they would have been obliged to practise, I doubt not, as well as they could without their heads.

The decree was pronounced; and it was declared that the king never had been married to Anne Boleyn. Mr. Froude adopts the view that the archbishop's ground was the pre-contract with Northumberland. I am inclined on this point to agree with him. We know that on the 13th of May, Cromwell sent one Carnaby to the earl, to press him to admit that there was a pre-contract between Anne and himself. The earl did not make the admission. Indeed, he stoutly denied it. He could hardly do otherwise; for in the days when Henry wanted Anne for himself, and the Percy would have married her, the King had sent for the young lord, and had asked him if there was a contract between him and Mistress Boleyn. And when Percy denied any such bond, the king had advised him to take good care he left Mistress Boleyn alone, and to look elsewhere for a wife. So on the same day (May 13) the earl wrote a letter to Cromwell pledging his word that there had never been a pre-contract. But I do not wonder he was nervous on the 15th of May; and that he was so ill as to be unable to be present during Rochford's trial.

Nevertheless, I think the pre-contract formed the king's case, and not the Mary Boleyn incident. For one thing, if the king had set up the Mary Boleyn story, then he would have been to blame with regard to his marriage with Anne; and although in law that would make no difference, yet it would have made a great difference to Henry's position in the public mind; and Henry was fairly careful of his popularity. In no age has it ever been considered a decent thing for a man to have one sister for a concubine and then pretend to marry another knowing the ceremony to be invalid. And Henry was not likely to own to such a thing, however true it might be.

There is not only the negative evidence against the Mary Boleyn case. There is also positive evidence in favour of the other theory. Wriothesley, in his Chronicle, gives the pre-contract as the reason for the decree. The imperial ambassador, who was likely to be well-informed, makes the same statement. It has been supposed that at her interview with Cranmer on the 16th of May

Anne confessed the pre-contract, either because it was the truth, or because she hoped to save her life by consenting to the nullity. It has been asserted that Cranmer persuaded her to confess by promising her life. Of the truth of this assertion there is not, I believe, one tittle of evidence.

My own opinion is that the juggle was worked in this way: Anne was cited to appear. When her proctors appeared they were informed that a pre-contract with the Earl of Northumberland was alleged, and were asked if they were prepared to deny it. They were not prepared to deny it—they were not there to deny anything. On the contrary, I am inclined to think they admitted it. In either case, when a fact is asserted on the one side, and the other party will not deny it, that fact is considered proved. Such is the rule in every court, except a criminal court, and, in these days, a divorce court. Thus, we see, it was only necessary for Henry to appoint collusive proctors for Anne, and he could allege any ground of nullity he pleased, and obtain a decree without any sort of proof at all. As I read the facts, that is what was done.

It might be thought that if Anne was never Henry's wife, as Cranmer's sentence declared, the proceedings in the banqueting hall of the Tower of London were a work of supererogation. If Anne was never Henry's wife, she had never committed adultery; and she had never been guilty of compassing and imagining the king's death, because, not being his wife, she could not be his widow. The only offence she could have been guilty of was the crime with Rochford, and that was hardly a matter for so solemn a proceeding as a trial in the court of the Lord High Steward, or so severe a penalty as death. It is quite clear that if the wretched woman had done everything alleged against her, she had, if she were merely a concubine, committed no treason.

It was the case, however, that judgment had been given and sentence passed; and whether right or wrong there was no legal appeal. There was no hope save in the exercise of the royal prerogative of mercy. Here we have some test of Froude's theory that Henry VIII. was a highly-strung, Christian gentleman, who, in all his matrimonial adventures was guided wholly and solely by a very sensitive conscience and a desire to do right. Henry had at his mercy a woman condemned to death for treasons of which she could only have been found guilty on the assumption that she was the wife of the king. After her condemnation she was declared never to have been the wife of the king. Was ever

clearer case for a free pardon? We all know that a free pardon was not granted.

On the 17th the decree of nullity. On the 19th Anne was told she was to be executed that morning. The miserable woman had expected her death on the 18th and had spent the whole of that day and the greater part of the night in conversation with her ladies. Many tales are told of her during the last days of her confinement. She begged the favour of being beheaded by the sword, and not the axe; and when told that the king was graciously pleased to grant her request, she said: "The King has been very good to me. He promoted me from being a simple maid to be a marchioness. Then he raised me to be a queen. Now he will raise me to a martyr." To her jailer, who clumsily tried to console her by saying the pain would soon be over, she replied that, after all, her neck was a very slender one. Chapuis reports to Granvelle that she said to somebody: "I suppose those people who found so infamous a name for the late queen will not lack to find one for me. They might call me Queen Lack-head" (*sans teste*). This nickname of her own choosing tickled her so that she laughed immoderately.

She died with courage. She was led to the low platform in the courtyard of the Tower, where she found Cromwell, Audley, and others of the council, together with the Lord Mayor of London and some aldermen. A few other citizens had been admitted. Addressing the assembly, Anne said, "I have come not to preach, but to die. I ask you, here present, to pray for the king's grace, for he is a good prince and right gentle. Me he hath dealt with as well as possible. I accuse no one of my death, neither judges nor other men, whoever they may be, for I know it is the law of the realm that condemns me. I am ready to die, and I ask pardon of all whom I have wronged."

Then the headsman of Calais did his bloody work upon that little neck; and there was fulfilled the prediction of the wise Sir Thomas More. That shrewd man of the world had seen, before any one else, the frail nature of the tie that bound Henry to Anne. When he was in jail awaiting execution, he was told by his daughter Margaret that Anne was amusing Henry by a succession of pageants and balls. "Aye!" said the philosophical chancellor, "she will dance headless, some day, I doubt it not."[1]

That Anne Boleyn was an admirable woman, no one will

[1] There are other versions of this. But they are all to the same effect.

assert. Her early relations with Henry are enough to dispose of any such pretensions. But that she was a courageous woman, an able woman, and, above all, a woman most unjustly condemned and foully murdered, I think there can be no doubt whatever. She was the victim, in a great measure, of circumstances. Placed in a situation from which she could not escape, if she would, she was compelled to marry the king. Once married to him she became the target for a hundred arrows. Every kind of intrigue was employed to bring her into disgrace with her lord; and at last she fell to that commonest of common weapons (in those days) a false accusation. Once Henry had been persuaded of her guilt, no escape was possible. As to those people who pursued her so relentlessly, I do not suppose they were one whit ashamed of their conduct. To a politician of the sixteenth century, a false accusation, whereby an opponent was caused to be legally condemned to death, was no more a subject of shame than a lying placard is to a party manager of the twentieth century. In those days the game of politics was played with headsman's axes, assassin's daggers and poison, concocted accusations and forged documents, where now it is played with party cries, misleading statements, untruthful posters and lying leaflets. In short, the difference was between a murderer and a liar.

Anne lost; and, having lost, expected to pay the stake. That the stake was a heavy one was the fault of the time. For my part, I doubt not that she would, had it been possible, have played once more the glorious game of power, risking yet again the life she laid down so cheerfully. Her courage won the admiration even of those who hounded her to death. Chapuis reports to Granvelle—"Cromwell sui ce me louha grandement le sens expert et cueur de la dicte concubyne". Fierce, passionate, insatiably ambitious, and absolutely without scruple, yet Anne has won a place in history as being the woman for whose sake the most pious monarch in Christendom defied alike the arms of the greatest temporal power and the still more terrible dangers of a warfare with the head of the Church. She was not a good woman; but she was braver than any other woman of her day and generation.

THE TRIAL OF MARY, QUEEN OF SCOTS

"The many remarkable singularities and amazing incidents and Events in the Life of that Princess have allured the Generality of People to be desirous of knowing them, they being such as are scarce to be matched in any Piece of History, antient or modern. Nay, an eminent French Authour says[1] that her Story is among such Things as are taught to Children from the Cradle, to make them fall in love with Books and Reading."—ANDERSON

IN a grim old feudal castle, in the stone-paved great hall, there sits a man. Tall, handsome, in the prime of early manhood. Others there be in that spacious apartment; but the eye naturally fixes itself on the man in the high-backed chair. Ever and anon he tears at his breast as if he would tear out his very heart. Sometimes he half rises from his seat, he throws up his hands to heaven and lifts up his eyes with a look of utter despair. But for the most part he sits biting his nails, his eyes bent towards the ground, and his lips move as he mumbles words. Suddenly the door is thrown open, and a man, booted and spurred, enters. He looks like one who has ridden far and hard. Doffing his bonnet, he advances to the man in the chair. "Your Majesty," he says, "this morning the Queen was safely delivered of a lass bairn—a bonny bairn and a healthy." The king—for the man in the chair is a king—looks up for a moment with vacant gaze. Then his lips form themselves to speech; and wearily and sadly he speaks. "It came with a lass, it will go with a lass."

The ancient cathedral church at Rheims is crowded with an immense throng. From end to end the great building is packed with all of beauty and of chivalry, of rank and of station, that the richest and most polished nation in Christendom can show. Beautiful women flashing in jewels of price, lovely maidens daz-

[1] Pierre d'Orléans, *Histoire des Revolutions d'Angleterre.*

zling in peerless charms, princes of the blood and high nobility ruffling it in brave apparel, princes of the Church and priests in gorgeous vestment—for to-day the king and queen are to be crowned. And as the boy monarch and his consort stand before the arch priest, every eye can see that for beauty and grace the youthful queen outshines the most lovely of her subjects. Trumpets sound and a herald's voice proclaims Francis and Mary King and Queen of France, Scotland and England.

The capital of Scotland resounds with joyful cries as along its streets a great procession passes. Noblemen in full armour, gentlemen in holiday attire, with a small band of strangers of haughty bearing dressed in foreign fashion. And set in the midst rides a young and fair girl, but eighteen years old, yet of resolute bearing and bold carriage. She smiles upon the crowd of cheering subjects, who cry, "God bless your bonny face". And so to Holyrood.

A grey, forbidding castle frowns upon the waters of Loch Leven. From the island whereon the castle stands a boat creeps out. It is rowed by a lad of sixteen; and in it is seated a woman dressed in a peasant's cloak. Within the castle all is bustle and alarm; and presently a gun is fired at the little boat that scurries across the water. But the frail barque gains the opposite shore; and as its prow touches land the woman in the peasant's cloak springs ashore exclaiming, "I am free, and once more a Queen". Horses are brought; and the fugitive, surrounded by an ever increasing band, rides swiftly south.

On the bleak and barren shores of Solway stand a little band of men and women. A boat lies out a few yards from shore. The centre of the group is a woman, haggard of eye and cheerless of look, yet still haughty in bearing. "I have made up my mind, my lords and gentlemen, my faithful followers, to take refuge with my sister, the Queen of England." For a while they talk in earnest conference; but the woman has determined on her course of action. As quickly as may be, the party embark; nor do they breathe freely until the boat touches the shore of England; for the avenger is behind.

The great hall of Fotheringay Castle is hung with black. Beside a block covered with black cloth stands a woman of forty-

five. She still bears traces of great beauty and her carriage is dignified and stately. For a moment she kneels, and her lips move in audible prayer—" In te, domine, speravi ". Then, rising, she makes her last ghastly toilet. A man in a mask, and dressed from head to foot in black, binds her eyes with a kerchief, then guides her neck to the block. Three dull, hagging blows with a heavy axe. A head rolls on the ground. A great groan goes up from the assembled people; but one tall stern man cries out in a voice like a pistol-shot, " So perish all the queen's enemies ".

CHAPTER I

INTRODUCTORY

THE student of human affairs, the historian, can discover in all the realm of history, no story at once so pitiful and so romantic as the story of Mary, Queen of Scots.

From her very infancy she was the subject of intrigue and the object of ambition. All the world knows how, at the tender age of two years she, being even then a queen, was sought by Henry VIII. as the bride of his son, to the intent that Great Britain should be united in one government under the sceptre of a Tudor. Nor was the Scottish nation, as a whole, averse from the match. But when Henry prosecuted his son's suit by force and arms, they resented his conduct with all the spirit of a proud nation. They disliked not the match, they said, but they did dislike the manner of wooing.

The marriage of Mary of Scots to Edward VI. is one of the might-have-beens of history: one of the events which might have changed the course of the world's story. Had Mary been educated in England, under the eye of Henry VIII.; had she been presented to the English nation from her earliest infancy as the future bride of their future king, and joint-inheritor with him of the united crowns, who can predicate what would have been the course of English history in the latter half of the sixteenth century? There might have been no Jane Grey, no "Bloody" Mary, no good Queen Bess, no Martyr King, no Cromwell, no "great and glorious" revolution. A new dynasty would have been founded. Indeed, the possibilities of this match present to the mind a series of bewildering speculations.

I cannot help thinking that the first of Mary's misfortunes happened when her mother, dreading the heretical taint, rejected the overtures of England and declined the English alliance.

But what was Mary's misfortune was literature's gain. The world had been the poorer deprived of the story of the beautiful Queen of Scots—her imprisonments, her escapes, her loves and

lovers, her last imprisonment and direful fate. These have inspired the pens of romancers and poets, of grave historians and learned antiquaries.

Since, in her lifetime, the loyal Lesley, Bishop of Ross, wrote his *Defence of Queen Mary's Honour*, on the one side, and George Buchanan, most Protestant of scholars and most scholarly of Protestants, his *Detection of the Doings of Queen Mary* on the other, scores, nay hundreds of books have been written on or around the subject, "Was Mary guilty of the murder of Darnley?" As early as 1727, the learned Anderson counted over forty printed books on the subject, not including historians who dealt with it in general books of history. Besides these, he says, he had seen a great many treatises and dissertations in manuscript—some of them of great learning. Whence it appears that even in those days a publisher was not always to be had for the asking. To-day, in the catalogue of the British Museum, there are 273 entries under the heading, "Mary, Queen of Scots".

It is not within the scope of this book to inquire into the vexed question of Mary's guilt or innocence in the matter of the murder at Kirk o' Field. The last word has not been said on that subject; nor, probably, will be said for many a long day. Whether the Casket Letters were written by Mary, or forged by Maitland of Lethington, as has been hotly asserted and as hotly controverted is not for me to discuss in this place. I shall have two words to say on the question when the time comes.

It is a curious fact, that although nine out of ten people will readily venture an opinion on the subject of Mary's execution, and will freely assert or deny that she was an innocent creature, murdered by her cruel cousin, not one person in ten has any but the haziest idea of the crime for which the Queen of Scots was executed. The grounds of accusation, the evidence in support, the case for the prosecution, the case for the defence—these be matters of detail too uninteresting for the general reader.

Yet, I venture to say, few trials have been more interesting than that of Mary, Queen of Scots; and few stories are more enthralling than the story that culminated in that trial. Of these things I propose to write; first telling the story of Mary's life; or, rather, of such parts of it as are necessary to the understanding of those events which led to the trial.

On a cold, biting, winter's day, the 7th of December, 1542, the royal palace of Linlithgow was a-stir with joyful bustle; for

an heir to the crown had been born. While the wise women administered possets to the mother, and priests sprinkled holy water in the chamber, and gossips sang charms, and performed the old pagan rites that should keep the bairn from being changed by elves, a messenger carried the joyful news to the proud father. He found him in Falkland Castle, seated in a chair, muttering and mumbling, his eyes cast down, his hands hanging at his side. Ever and anon he would raise his hands to his breast to make as if to tear his heart out, at the same time raising his eyes to heaven, in wild despair.

Yet James V. was not an old man. He was, in fact, less than thirty-one years of age. Nor was he imbecile. Indeed, the last male heir of the House of Walter the Steward was the most vigorous personality of his line. But he was dying of grief and shame. A few days before, 10,000 Scottish men had crossed the Esk for the invasion of England; and had fled in disgrace and disorder before two English Border-lords and a troop of three hundred horse. The daring Englishmen had found the Scottish camp in disorder, with every man clamouring against his neighbour, because the King's favourite, Oliver Sinclair, had been appointed to the command. When the news of the disgraceful rout was told to the King of Scotland, it threw him into a state of terrible despondency, from which he never recovered. And when the tidings of a daughter's birth came to him, his mind wandered back to the time when the daughter of the House of Bruce brought to his ancestor the dowry of the kingdom. Far from rejoicing, he only said, "It came with a lass, and it will pass with a lass". Six days afterwards he died, unwasted by disease, of sheer melancholy.

Amid such inauspicious circumstances was born Mary, Queen of Scots; and it must be confessed that the ill luck which marked her birth dogged her throughout the whole of her life.

James was hardly cold in his coffin before Henry VIII. of England began to intrigue for the marriage of the infant queen with his son the Prince of Wales; and this object might have been attained had not Henry insisted on too stringent terms. While, however, negotiations were in progress, the Catholic party in Scotland had consolidated a strong opposition against the heretic Southron. A quarrel was not difficult to foment between the nations; and in the end war broke out.

The breaking off of the match was not displeasing to the Queen Mother of Scotland. She was of the House of Lorraine; and, as became her birth and connections, was an unbending supporter

of the Roman Church. When Henry VIII. died in 1546, and Edward VI., a Protestant, succeeded to the throne of England, she resisted to the utmost renewed proposals for the marriage. When the English invaded Scotland once more and defeated the disorganised Scottish forces at the bloody battle of Pinkie, Mary of Lorraine adopted the bold course of sending the young Queen of Scotland to the Court of France. The French king was nothing loth ; for the French policy of that day was to maintain a strict alliance with Scotland, so that whenever the English invaded France through the open gate of Calais the Scots could be stirred up to invade England from the North. The ultimate union of the Crowns of England and Scotland caused small uneasiness in France, because at that time Calais had been lost to England, and the French were in little dread of an invasion. But it was of the last importance in France in 1548 to prevent the union of the Island of Britain. Henri II. naturally embraced with fervour the opportunity of obtaining the custody and education of the Queen of Scotland ; and as some additional inducement to the Scots to entrust him with a charge so important, he proposed to betroth her to Francis the dauphin. Accordingly, in the summer of 1548, Mary embarked for France. With her sailed her natural brother James, afterwards the celebrated Earl of Moray, who was then sixteen years old.

The royal galley of France must have been like a floating nursery. For in addition to the infant Queen of Scots she bore to the sunny shores of France four other girl bairns of tender years who were to act as playmates for their queen. Mary Fleming, Mary Livingston, Mary Beaton and Mary Seaton—the four Marys —celebrated in song and story.

The precious cargo was safely landed, despite the vigilance of the English fleet, which was even then the terror of the French navy.

Followed twelve years of happiness for Mary Stewart. Even when she first appeared in France people noted her uncommon beauty ; and as she grew from infancy to girlhood it was seen that hers was not the prettiness of childhood which subsides into plainness as the years pass. She grew more and more beautiful ; so that when she reached her sixteenth birthday, and was of full age to marry, the unanimous voice of poet, painter and courtier proclaimed her the fairest woman in France.

In truth she must have been of surpassing loveliness. There have been times and courts when the standard of beauty was not

high; but the period when Catherine de Medici ruled in France was not such a time. There was Margaret of Valois, almost of the same age as the Queen of Scots, fairest and frailest of the reigning house. There was Elizabeth, Margaret's sister, then a lovely child. She was afterwards, as Isabel of the Peace, to reign in Spain; and to leave behind the memory of the most beautiful of all the queens of the House of Austria. Besides these royal beauties, there was the well-known band of demoiselles, composed of the fairest daughters of the French nobility, gathered together by the cunning hand of Catherine de Medici to be used by her as instruments of State policy and Court intrigue. It is safe to say that at no period and in no Court have so many women of extraordinary charms been seen together.

Nor were they merely beautiful in face and form. They were all bred to be witty and accomplished. Margaret of Valois could turn a French sonnet or a Latin hexameter as easily and gracefully as she could dance the stately measures of the period. The young Elizabeth was an accomplished reciter. But Mary of Scots stood first in accomplishments as in beauty. Ronsard taught her as much of the art of writing sonnets as could be taught; and when she had composed her verses she was able to recite them with a grace and spirit that charmed all beholders. She had, in addition to a face of great beauty and a form that developed early into rounded lines, great liveliness of expression, and the indefinable something that we call charm. All chroniclers are agreed that she was peerless in beauty as in wit.

When it is said that her religious education was superintended by her uncle, the Cardinal of Lorraine, it will be understood that she was brought up a convinced Roman Catholic.

For twelve delightful years the young girl passed her life amid the bustle and gaiety, the beauty and luxury of the richest, the most refined and the most dissolute Court in Europe.

Suddenly the prospect changed. To the life of careless gaiety succeeded a long and weary period of conflict, of hardship and of misery, only to be brought to an end by a prison and a headsman's axe.

It was on the 24th of April, 1558, that Mary's fortunes appeared to be raised to a pitch from which it would be impossible to abase them. On that day the Cathedral Church of Rheims was the scene of a ceremony as magnificent and as impressive as a ceremony could be made by the gorgeous display of the splendid Court of France and the stately ritual of the Church of Rome. The King

of France and his queen-consort, four cardinals, the princes of the blood royal, and all that was in France renowned for valour or distinguished by birth or beauty filled the stately edifice. The occasion was worthy of the scene; for there Francis, Dauphin of France, led to the altar the beauteous Queen of Scots.

The marriage was intended to furnish heirs for the united kingdoms; and to cement in indissoluble alliance the two "ancient enemies" of England. Some bystanders shook their heads, however; and doubted in their hearts if the scheme would bear fruit. Of the bride they had no fear; but the bridegroom was a weakly, weedy youth, little likely to become the ancestor of a line of kings. Nor were those wanting who hinted that Catherine de Medici had consented to the match only because she knew her son could not live long. But at the time there seemed not a cloud in Mary's sky.

The child-bride was persuaded into signing a paper granting the realm of Scotland to the Kings of France if she should die childless. By a second paper she put her kingdom in pawn to her father-in-law to secure the repayment of the sum total of various loans. The temper of the Scottish nobility was too well known to allow of these documents being published; and they were accordingly executed in secret.

Henri II. did not live to enter into possession of Scotland under these engagements. A year after the marriage of Mary and Francis, another wedding took place, and in the tilting that made part of the festivities the King of France was run through the eye by Montgomery, the captain of the Scottish Guard. Francis II. ascended the throne. The new king was only sixteen years old; and neither strong nor able; and his mother, the redoubtable de Medici, governed in conjunction with the Duc de Guise, Mary's uncle.

The young queen was, naturally enough, in the hands of her mother's family. Worse counsellors she could not have had. It was on their advice, and at their instigation, that Mary had made the radical mistake of her life—a mistake that procured for her the undying enmity of the one person who could most affect her future.

Edward VI. of England had long since been gathered to his fathers. Mary the Catholic had followed him; and the throne of Henry VIII. was now filled by the last and greatest of the Tudors. But Elizabeth was, in the eyes of all good Catholics, illegitimate; and if her title to the throne was barred, Mary Stewart was the undoubted heir to the English crown. The princely imagination of

Henri de Guise was fired by the ambitious project of uniting under one crown the three kingdoms of France, England and Scotland. Accordingly, he advised Francis and Mary to quarter the Arms of England, and to proclaim and call themselves King and Queen of England. The spirit of the haughty Tudor could not brook this affront. To be called "bastard" by the sovereigns of neighbouring nations was more than she could endure. There was danger, too, as well as insult. Nearly half England was Roman Catholic: Ireland was wholly devoted to the papal cause: Scotland was trembling in the balance.

The government of the northern kingdom was in the hands of the queen-dowager, and was, of course, Catholic. But many of the most powerful of the nobility, under the style of Lords of the Congregation, had gone over to the reformers. Elizabeth lost no time in fomenting an internecine feud. Backed by the able diplomacy of the finest diplomatists ever bred in England—Cecil, Knollys and Throckmorten—she contrived to bring about open warfare in Scotland. She suggested to John Knox, and other exiled reformers, to return home, where their zeal, energy and eloquence speedily turned the tide of popular opinion to the side of the lords, against the regent. So that while Francis and Mary and the Guises were asserting shadowy claims to the throne of England, they almost lost the kingdom of Scotland.

Eventually a peace was patched up, whereby the French commissioners agreed that the title "King and Queen of England" should be dropped by the French sovereigns; and well for Mary Stewart had she faithfully carried out the agreement. But she was *fey*. She refused to give up her claim. The obnoxious title continued to be used; the obnoxious arms borne on the shield. And the folly cost the petulant young beauty a crown and a life.

It may be taken as a fact—all the state-papers of the time bear it out—that from thenceforth Elizabeth of England sought how she could by every means, legitimate and illegitimate, secret and open, harass, vex, and annoy Mary, Queen of Scots.

For a time hostilities in Scotland ceased, though not before the Protestant party had obtained the preponderance in Church and State. Mary of Lorraine died. The Lord James Stewart (Moray) became the most powerful man in Scotland amongst the nobility. John Knox swayed the commonality as he would. Mary's sole hope of reducing Scotland to proper subjection to her

own rule and the Catholic faith lay in the gold and the legions of France.

Then came the catastrophe. Francis II. died.

It was freely said that he was poisoned by his mother. There is no evidence of any such diabolical crime; but the character of Catherine de Medici, the cruelty and cold-bloodedness of her other murders, render the accusation only too probable.

On the death of Francis, the troubles of Mary began. The Queen of Scots was no favourite of Catherine's; for the astute Italian saw the great ability of the younger woman, appreciated the power of her fascinations and the strength derived from her relationship to the Guises. Catherine de Medici could tolerate a rival in love; but never a rival in power. She began, therefore, to make Mary's life uncomfortable; and the youthful widow speedily saw that the Court of France was no place for her thenceforth.

Accordingly, in August, 1561, Mary returned to her native land. Brantôme tells how loth she was to leave France; how she continued to gaze at the receding coast until its outline was no longer visible; how she wept as she exclaimed, "Farewell, France! Beloved France! Never shall I see thee more." A fog in the Channel enabled the queen's galley to escape some English ships cruising to intercept her. One of the escorting ships was captured, but released when the captors discovered that the queen was not on board. Elizabeth had not forgiven nor forgotten the insolent defiance of her rival.

On her arrival at Leith (19th August) she was welcomed by the nobles and people, and escorted to Holyrood House; and for a few days all went well. Mary's tact led her to assume her most gracious manners and fascinating airs; and this demeanour, together with her youth and good looks, melted all hearts.

Not quite all. There was one man in Scotland whom no blandishments could move, no beauty blind to the greatness of his mission. John Knox had viewed the coming of the queen with suspicion. He had pulled down the old religion by this time, and set up his own stern faith in its stead. "Better," said he "ten thousand French soldiers than one Mass."

Before Mary had been in her ancestral kingdom a week she found what manner of people she had come to rule over. While Mass was being celebrated in her private chapel, the news of it came to the Master of Lindsay, a fiery zealot of the Congregation. In a few minutes the Master was thundering at the door of the

chapel, threatening death and destruction to those who had dared once more to raise "the Idol" in Scotland. Lindsay's retainers backed their master; and the fanatics would, no doubt, have slain the "idolatrous" priests at the very altar had they not been restrained by Moray.

This was the young queen's first experience of the manners of her native land. And she found, to her amazement, that not only must she allow the offender to go unpunished; but must listen to a scathing denunciation of herself as an idolatress at the mouth of John Knox. To one bred in the Court of France such a state of things was well-nigh incredible. In France, the royal power was absolute and supreme. The nobility were the creatures of the monarch. For the sovereign's favour men fought and intrigued, happy only when the king smiled, uneasy when he frowned. In Scotland, the royal authority was extinct. The nobles were the masters of the monarch; and cared as little for the sovereign's smile as for her frown.

At the Court of Versailles a rival in place or power was branded with a caustic witticism, or delicately slandered to the reigning sultana. At Holyrood, the rivals called out their clansmen, drew sword, and fought in the very precincts of the palace. In fact, as much difference as there is to-day between political strife in Servia and political strife in Germany, there was then between Scotland and France.

Nevertheless, for some time the courageous girl of eighteen kept her head and played her part with credit. The Catholics began to lift up their heads again, especially in the North; but it was not to them that Mary owed her security and a small but gradual increase in authority.

Between the two extreme parties of Catholic and Calvinist stood a third—the Politicals. They were small in number, but great in influence; for they comprised the handful of men of moderate opinion who were not inclined to give uncontrolled power either to priest or minister. Their leaders were Moray[1] and Maitland. Moray was a man of craft and subtlety. Probably, as his enemies averred, he aimed at the throne, from which he was excluded only by the bar sinister. Yet he was a statesman of the first class; and could Mary have made him her sincere friend and trusted adviser her throne had been safe.

[1] I always speak of "Moray" because that is the name whereby the Lord James Stewart is best known. In fact he was not Earl of Moray at the beginning of Mary's reign.

Even more interesting is the character of Maitland of Lethington, "the wisest head in Scotland". This remarkable man seems to have been born to be a prime minister. His knowledge both of men and affairs was profound. He was a diplomatist, cautious and skilful, a man of great charm of manner, a statesman of penetrating sagacity and broadmindedness. Had Mary trusted him as Elizabeth trusted Burleigh, she might have had a glorious reign; and might have broken the power of the turbulent noblemen whose feuds kept Scotland in one continual uproar.

It appears to me that the great blessing that the union of the crowns ultimately conferred upon Scotland was that it enabled the sovereign, backed by the might of England, to put down private warfare; and placed the person of the monarch out of the power of the Scottish nobility.

Mary ruled in Scotland for about four years without any very special incident. The charm of her manners made her many friends; and she might have reigned to the end of her days but for two things. The first was her unfortunate levity. The second was the fact that she was expected to marry.

Her beauty brought Mary any number of lovers, and though it was natural in a young woman of eighteen to coquet with them, it was distinctly unfortunate for Mary that she should be unable to be so dignified as to make any scandalous talk impossible. It was also natural for her to prefer those French courtiers who had accompanied her to Scotland with their pliant tongues and proficiency in all courtier-like arts, to the rough, uncouth nobility and still rougher and more uncouth lairds who flocked to Holyrood. One is, perhaps, not disposed to blame Mary too much for thus valuing polished manners and witty companionship above real worth and wisdom.

The result of her education at the depraved Court of Catherine de Medici was also shown in the matter of her conduct to her lovers. Whether it was true or not, the extreme party who were her mortal enemies had no difficulty in persuading a great many people that the queen was in the habit of granting extreme favours to some of her gallants. The story of Chastelard, the French poet, and of his tragic end, are too well known to need repetition.[1]

From the time of her landing in Scotland in 1561, the subject of Mary's marriage was ever present to the minds of her coun-

[1] Chastelard was discovered in Mary's bedroom. He was executed.

sellors and of her neighbour the Queen of England. Elizabeth was continually recommending some fresh candidate for the honour. Those who can may believe that the Tudor virgin was anxious for the happiness of her cousin and rival. For my part I think that Elizabeth was merely desirous of seeing first that there should be no marriage between Mary and any one who could strengthen her either against England, or against the Scottish Reform party, and second, that Mary should marry somebody devoted to the interests of England. With this view Elizabeth put forward Robert Dudley, her own favourite, for the crown matrimonial of Scotland; and one can well imagine the jests of Mary and of her French courtiers at the offer. They would not believe in Elizabeth's virtue any more than in their own or each other's, and they would laugh to think that the English queen should try to get rid of an old lover by marrying him so much above his station. I have never yet seen any explanation that would reconcile the theory that Leicester was Elizabeth's lover with the fact that she tried to marry him to the Queen of Scots. One can, of course, well understand how a woman would try to advance the fortunes of her lover; but one cannot imagine for what reason a woman so passionately in love with a man as to sacrifice her honour and her dignity to him, should desire to banish him to a spot almost inaccessible. For one must not forget that Scotland was at that time as far, comparatively, from London, as Constantinople now is. At any rate, the separation between Elizabeth and her faithful Dudley did not take place; for Mary declined the honour. The Queen of Scots also refused many another proposal put forward both by Elizabeth, by France, and by Spain. She had no particular desire to marry Elizabeth's nominee; and Elizabeth threatened unutterable things if she should wed with France, or Spain. And as the Tudor had all the most powerful of the Scottish nobility in her pay, including the Earl of Moray, Mary dared not disobey her.

At last, after a widowhood of five and a half years, she married her cousin Henry Stewart, Lord Darnley, the young heir of the house of Lennox. This event, one of the least wise steps ever taken by Mary, took place on the 29th of July, 1564. Elizabeth pretended to be angry when she heard of the match; but there can be very little doubt that she had allowed Darnley, who had been living in England, to return to Scotland on purpose that he might marry the Queen of Scots. Therefore, although she grumbled, Elizabeth took no hostile steps.

But the Earl of Moray and some of the other lords chose to be displeased; and as the manner of the Scottish nobility was in those days, they promptly raised rebellion. This time the queen was too strong for them. She chased Moray over the border and dispersed the rest.

The result of this abortive rising was to strengthen Mary and raise her to a position which she never either before or afterwards occupied. So strong did she become that she made up her mind to restore the Roman Catholic religion. She who had at her entry into Scotland been glad of mere toleration for herself and her personal attendants, now began to require all her lords to attend Mass.

In the moment of her success, however, Mary made one mistake. Her boy husband asked for the crown matrimonial. She refused it. Within a few months of the marriage, she had made up her mind that her husband was merely a handsome fool, and there is no doubt that she was right in her estimate. But she made the mistake of despising the fool.

Her enemies among the Lords of the Congregation were not slow to take advantage of the ill-feeling between the royal spouses. At that time, before the marriage had been consummated a year, the queen had promoted to the post of principal secretary one David Riccio, an Italian. Darnley, seeking a quarrel, pretented to be jealous of him. Whether he had cause or no, no one can say. At any rate Moray, Ruthven, Morton, Lindsay, and others of the Lords of the Congregation fanned at once his jealousy and his wounded pride by suggesting that the relations between Mary and the low-born Italian accounted for the queen's reluctance to bestow the crown matrimonial upon her husband.

Darnley made common cause with the lords. The whole of them signed a bond for the assassination of Riccio—a document drawn up in a style as formal and as legal as if the allies were about to enter upon a commercial partnership. On the 9th of March, 1565, Riccio was supping with his mistress in Holyrood Palace. The conspirators, except Moray, who kept out of the way, burst in upon them. They dragged Riccio into an adjoining room and stabbed him to death. Mary was expecting to become a mother in two months' time; but her condition, her prayers, and her entreaties, her commands and her threats of vengeance were alike unheeded. When the conspirators turned and told her that Riccio was no more, she ceased to weep and cried, "Farewell tears; we must now think of revenge".

The Lords of the Congregation now put her in strait ward; but she cajoled her silly husband into assisting her to escape. Once free, she soon found friends and supporters, the chief of whom were Lord Huntley, head of the clan Gordon, and the celebrated Earl of Bothwell. Bothwell especially was faithful, and chiefly by his assistance the queen re-asserted her authority, and ere long was again mistress of her kingdom. And it was noticed that Bothwell grew daily in favour, while Darnley was relegated to the background.

So Mary's life went on stormily enough, until that dreadful midnight of the 9th and 10th of February, 1566. That night Darnley was murdered. The house called Kirk o' Field, where he was lying an invalid, was blown to pieces with gunpowder. The evidence shows that Bothwell was the prime mover in the affair. There is very little doubt also that most of those who had taken part in the Riccio conspiracy were also concerned in this one. What is not clear, and probably never will be, is Mary's own part in the business. There is no undisputed evidence that she knew murder was to be committed; but her subsequent conduct goes to show that her husband's death was no unwelcome event.

Within ten weeks of the assassination, Mary was out riding with a small escort, when she was waylaid by a strong band of armed men and carried off to Bothwell Castle at Dunbar (19th April, 1566). On the 3rd of May Bothwell was divorced from Caroline Gordon, his wife, by civil process, and the decree was confirmed by an ecclesiastical court five days later. Exactly a week after, Mary married Bothwell.

Immediately the lords rose in arms. Mary and her new husband were besieged in Borthwick Castle from which Bothwell escaped alone, on 10th June. The same night, Mary donned man's clothes and escaped also. It was pretty certain that she had a passion for Bothwell; for though she had now the opportunity, if she wished, to throw herself into the arms of Moray and the others, and proclaim that she had been forced into the marriage, she did not do so, but joined Bothwell. Five days later (15th June) the forces of the queen and her husband met the army of the rebellious nobles at Carberry Hill near Dunbar. The fire-eating Lord Lindsay challenged Bothwell to single combat, accusing him of the murder of Darnley. Bothwell was willing enough; but Mary would not allow the trial by battle to take place. She announced that the quarrel was as much hers as her husband's. The royal troops began to desert. The royal chances

became hopeless; for not only was the royal army outnumbered; but Kirkcaldy of Grainge, the finest soldier in Scotland, was on the side of the rebels. Mary entreated Bothwell to fly; and when he had done so she surrendered. The subsequent history of the Queen of Scots hardly contains one bright page. It is a long story of imprisonment and ill-usage.

Mary's life in Lochleven Castle, and her romantic escape from her confinement there, have formed the central point of interest of one of Sir Walter Scott's most entrancing romances. On the whole the novelist has been faithful to historic fact, save that he has substituted his imaginary hero Roland Græme for the real Willie Douglas, as the principal instrument of the queen's escape from captivity. Summarised, the story as we now know it from the manuscript of Claude Nau, Mary's French secretary, is this: After the surrender at Carberry, Mary was taken into Edinburgh by the victorious Lords of the Congregation; and after two days, during which time she refused to eat for fear of poison, she was removed from Holyrood House, on the 16th June. Mounted upon an indifferent horse, she was compelled to ride the long and arduous journey to the village of Kinross. In the Cottonian Library a popular ballad declares that the traitors

> Did lead her thence away,
> And changed all her brave attire
> Into a frock of grey.

Sir Walter Scott simply makes Ruthven and Lindsay and the terrible Earl of Morton treat the deposed queen with brutal incivility. The manuscript of Nau, which was doubtless either dictated by Mary, or at any rate compiled by him from information supplied solely by her, accuses Ruthven of conduct much more serious. It is declared that in the Castle of Lochleven the Puritan lord went into the presence of his prisoner, who was confined to her bed at the time, and offered her her liberty in exchange for her honour.[1]

Sensuous as was her temperament, the Queen of Scots declined a proposal so unexpected and so unwelcome. It was one of Mary's peculiar misfortunes that almost all men who fell in love with her, merely loved her in the most fleshly manner. That pure affection which asks for no return, and only craves to serve the beloved

[1] "My Lord de Lindsay et Ruthven estoient les gardes de Sa Majesté dans ledit Lokleving. Et ledit Ruthven vint un matin sur les quattre heurs parler à Sa Majesté, se mectant à genoux au près de son liet luy promeist de la délivrer, si elle le vouloit aymer" (*Nau's Narrative*).

object, she only awakened in the breast of one man—the unfortunate George Douglas.

After a little while Ruthven and Lindsay were removed from Lochleven Castle and the imprisoned queen was left to the tender mercies of the Laird of Douglas and his wife. The lady of Lochleven was the same who had by her beauty and charm captivated the young affections of James V. and was the mother of the Earl of Moray. A better jailer could not be found; nor, on the other hand, is it easy to think of anything much more galling to a woman of Mary's disposition than to be placed in the power of her father's mistress and her mother's rival. I do not find, however, any serious complaint made by Mary of ill-treatment at the hands of the Douglases.

The same cannot be said of the Lords of the Congregation. When Mary had been in prison for about four weeks, she was delivered prematurely of twin children, the offspring of her union with Bothwell. They were stillborn; and the labour added to the anxiety of her position made the unfortunate mother seriously ill. While she was lying on her bed, a deputation consisting of Ruthven, Lindsay, two notaries and Robert Melvil entered her bedroom, turned out all her attendants, and after a terrible scene of brutality she was compelled to sign letters of resignation in favour of her son James. According to Mary's own account Lindsay threatened to cut her throat if she refused; and even then she would not have signed had not Melvil requested a private audience, when he produced a letter from Throgmorten, assuring her in the name of Elizabeth that no instrument she might sign during her captivity would be held to be binding on her. Readers of *The Abbot* will remember the incident of the letter carried by Roland Græme in the scabbard of his sword. This incident is historically true, except that the letter was carried by Melvil.

Not long after the resignation, Mary gained over to her side George Douglas, son of the house of Lochleven, and the natural half-brother of Moray.

This man became an ardent lover of the deposed queen; and by his aid she was able to communicate with Lord Seton, Lord Herries, and other noblemen who still remained loyal to her.

The whole story forms one of the most romantic chapters of history. How Mary, being deprived of ink and pen, manufactured the one from soot out of the chimney and the other from a piece of wood; how she on one occasion communicated with her friends by means of a pattern traced on linen which she induced Draysdel,

the steward of the castle, to match for her in Edinburgh; how George Douglas became a suspect by his mother and Moray; how little Willie Douglas, a lad of sixteen, finally carried out George Douglas's plot for the queen's escape, are chapters of romance that would be incredible if they were not known to be true.

At last on the 2nd May (1568), Willie Douglas had the daring to steal the key of the great gate from the laird. He did it while handing his master a cup of wine at supper, when the laird was sitting with the keys in front of him on the table. The conspirators acted quickly and boldly. Mary, dressed in a hood such as was worn by country women in the district, and accompanied by one of her attendants similarly attired, slipped through the courtyard and out of the gate. Willie Douglas, who was waiting to receive them, promptly locked the gate and threw the key into the mouth of a cannon that stood close by. Then the lad ferried his precious burden across the loch to the mainland, where stood George Douglas and John Beton with the pick of the laird's stable waiting to receive them. Mary was no mean horsewoman; and she and her companions rode fast until they reached the rendezvous a few miles away, where the Lord Seton and a considerable band of trusty spearmen awaited their queen.

All the world knows how Mary gathered an army, resolute and resolved to regain the kingdom she had lost. She hoped at any rate to maintain her position until such time as her relatives in France could lead to her assistance such an army as would, with her own native adherents, subdue the Lords of the Congregation. But Mary suffered again, as she had suffered all her life, from unwise counsel, nor had she sufficient force of character to compose differences between her followers or to impose her own will upon dissentients. Mary was quite safe at Hamilton, where she might have remained on the defensive until French aid could arrive; but Rothes, Argyll, and others of her faction demurred to her continued residence with the Hamilton family. They were, as was usual with the nobility of Scotland of that day, thinking a great deal more of their own aggrandisement than of the cause they were supposed to have at heart. It is difficult to find words sufficiently contemptuous to describe the conduct of the Scottish nobles of the time. There was not one of them who was not willing to sacrifice the welfare of his party or his country to secure some benefit for himself or his family. Patriotism existed amongst the commons; but it was almost unknown in the higher ranks.

After a great deal of intrigue and recrimination it was decided that Mary should leave Hamilton, and make her head-quarters in the fortress of Dunbarton; and on the 13th of May, 1668, she set out for that stronghold escorted by her whole strength. The names of her supporters indicate that many of the most powerful clans in Scotland had embraced her cause. Argyll, Cassilis, Egglington, Rothes, Hamilton, Seton, Fleming, Herries, Maxwell, were amongst the peers who surrounded her banner; and of the gentry might be noted Lochinvar, Dalhousie, Roslin. The Earl of Moray had been watching the queen's movements from Glasgow, a city wholly favourable to the reformed cause. His force was numerically inferior to Mary's, but it included Kirkcaldy of Grainge, the one man in Scotland of real military ability. When Moray's spies announced that Mary was about to set out for Dunbarton, there were many of the earl's advisers who wished to remain inactive and gather more strength before attacking her; but the Laird of Grainge decided otherwise. He knew that numbers alone were not to be feared; and persuaded the other leaders of the party to set themselves in array and wait for Mary along the road. The command of the queen's force had been given to the Earl of Argyll.

The Protestant party accordingly disposed themselves in array of battle at Langside just outside Glasgow on the south side of the Clyde. Mary's forces marched in three bodies, with 1,000 Hamiltons in front under command of Lord Claud Hamilton; the main body under Argyll in the centre; and a strong rear guard with the queen in their midst. The battle was short and decisive. The Hamiltons charged impetuously; but were outflanked by the Laird of Grainge, surrounded, and cut to pieces. Argyll either was or pretended to be ill; and rode off the field without striking a blow. Ere long the superior generalship of Grainge threw the main body of his opponents into disorder; and in the end the reformers had the victory and Mary fled south.

The pursuit was close and keen. At one time Mary went twenty-four hours without food. As a measure of disguise she caused her head to be shaved; and thenceforth wore a wig. One of her faithful nobles, Lord Herries, who assumed command of the party, concurred in her wish that she should take refuge in England, and when the fugitives reached the Solway it was decided that instead of risking the long passage across the border by way of Annan and Longtown, the queen should take boat and cross the Solway Firth.

It has been asserted that Mary was invited by her cousin of England to take refuge in the southern kingdom. Of this there is no evidence. Nau's narrative says something in a vague way about a promise of the Queen of England, but nowhere states what the promise was. It is probably an allusion to a letter sent by Elizabeth to Mary at Lochleven in which Elizabeth said that when the time came she would assist Mary against the rebel lords; but as far as the evidence goes it shows that the Queen of Scots entered England of her own motion, without invitation, and merely to escape the danger of capture at the hands of Moray.

While she was in Lochleven Castle, Mary had more than once been threatened by the fanatical Lindsay, and the stern Morton with death. She had had sufficient experience of the rugged nobility of Scotland to know that no theories on the subject of the Lord's Anointed would be likely to save her from the hands of the assassin. She was clever enough to surmise that if she fled into England and was known to be there, Elizabeth was not the kind of sovereign to deal with her upon sentimental grounds. The virgin queen had established a reputation by this time for using the opportunity vouchsafed to her for her own interest and those of her country.

My own reading of the facts is that Mary hoped to be able to escape to France without Elizabeth knowing that she was in the country. Nau's narrative expressly states that when the Queen of Scots arrived in England, Lord Herries gave out that she was a young relative of his whom he had brought with a view to her marrying with Lord Curwen's son. It happened, however, that Curwen was in London. His steward placed his master's house at the disposal of Lord Herries; but no sooner did Mary enter the place than she was recognised by a Frenchman at that time in the service of the English lord. As soon as the rumour of her presence was bruited abroad the commander of the garrison at Carlisle despatched 400 horse to surround her residence and make sure that she did not escape; and not till then did the Queen of Scots declare herself. Master Lowther, the deputy governor of Carlisle, removed Mary to that fortress, whence she sent Lord Fleming and Lord Herries to apprise Elizabeth of her arrival, and to request a free passage into France.

It was not Elizabeth's habit to give anybody a straightforward answer. Still less was it her habit to make up her mind hastily. So she put off giving a decisive reply, merely telling the two lords

MARY, QUEEN OF SCOTS

FROM THE PORTRAIT (PAINTER UNKNOWN) AT HARDWICKE HALL

that she could not at present accede to Mary's request for a passage to France, especially considering that the Queen of Scots had not yet renounced her claim to the throne of England. The evil counsel of the Lorraines thus bore more evil fruit. "I have not yet forgotten that the King of France, Queen Mary's husband, together with his council, assigning to the queen his wife the title and arms of this my kingdom, and that he did so during my life time. Were I to grant to this same queen the power of returning into a position in which she could a second time entail upon me the same danger and annoyance I might well be charged with a lack of prudence."

Had Fleming and Herries been instructed by Mary to reply to this shrewd hit by promising that their mistress would formally renounce the title and arms, Elizabeth would have been placed in a very awkward position. She would either have had to allow Mary to pass into France, or else would have been obliged to say frankly that she could not trust any promise made by the Queen of Scots; and however much Elizabeth might have believed in her heart of hearts (a belief shared by the greater number of the English people at that time) that Mary Steuart was absolutely faithless, it would not have been easy for her to say so; and the fact that the two messengers did not offer to abandon their mistress's claim must have been, to the suspicious Queen of England, proof positive that Mary did not intend to abandon it; but would prosecute it as soon as circumstances were favourable.

The presence of the Queen of Scots in England was by no means welcome to Elizabeth's advisers. If, as Mary demanded, she were allowed a free passage to France, she would cause trouble; for she would be certain to try to raise an army of French Catholics to invade Scotland. Even if France refused her aid in recovering her kingdom, she would probably obtain assistance from Spain.

That this danger was not chimerical may be known by the fact that when Mary had first returned to Scotland she had almost yielded to a proposal backed by the Guises and the Pope that she should land with a French army and exterminate the Calvinists. Only the diplomacy of Moray averted this catastrophe.

Let any one with any knowledge of the history of the time judge what would have happened in Scotland had such an invasion been made. And let who will say that Elizabeth was to blame in detaining Mary. Whether the detention was too strict; whether it was right, or generous, or fair to deprive the Scottish queen of

her whole state and the appurtenances of her rank—these are other matters.

Mary was soon removed from Carlisle to Bolton Castle, in Wensleydale, the residence of the Scropes; but not before the English queen had sent her a liberal consignment of clothes. Hopes were held out to the fugitive, first, that she would be accorded an interview with her cousin; and, second, that Elizabeth would back her against the rebel lords and restore her to the throne of Scotland. How far the Englishwoman was sincere in these half-promises no one can determine.

Meanwhile, the Scottish lords had not been idle. They had sent an embassy to Elizabeth, entreating her not to espouse the cause of their sovereign. The English queen, however, was not to be drawn into any promise. She rated the ambassadors soundly; and, as her agreeable custom was, swore more than one good mouth-filling oath. She would have them know that it was not for such as they to lift up their hand against a sovereign prince. By God's blood! they must look to it that she did not send an army to Scotland and hang every man of them from the battlement of his own castle. She would not see her cousin of Scotland wronged.

With great presence of mind the Scotsmen declared that they would rather be hanged several times apiece than incur the displeasure of a lady so beauteous, so amiable and so well fitted to be loved of all men.

These customary compliments having passed, the ambassadors declared that it was impossible for Elizabeth to countenance the Queen of Scots. How could a virgin so pure and chaste take the side of a woman who had deliberately caused her husband to be murdered in order that she might fly to the arms of a paramour, himself a married man, with whom she had long carried on illicit intercourse?

As might have been expected, Elizabeth and her advisers demanded proof of these assertions. They unanimously declared that if the charges were proved, the Scots were right in deposing Mary; and that princess was unfit to be received at the Court of England. The Scots took up the challenge. The proof, they said, was in existence; and was of such a nature that it could neither be denied or rebutted. They offered to produce it to Elizabeth herself or to some of her council whom she should name for the purpose; and they challenged Mary and her partisans to meet the proof. They went on to declare that they

had not previously produced this damning evidence of Mary's guilt, because they had been unwilling to expose her utter wickedness to the world. But rather than risk war between England and Scotland, countries now closely bound together by the ties of common faith—rather than run the risk of another civil war in their own country, they were ready to accuse Mary of the two worst crimes in law and morality.

Elizabeth has been blamed for assuming the office of judge in the cause of one who was her kinswoman, her equal as a sovereign princess, and a fugitive and a stranger within her gates, who had cast herself on her protection. I grant it was not Arab hospitality. On the other hand I am unable to perceive what claims Mary had to different treatment, or how Elizabeth could have treated her differently in this matter.

Mary was asking to be allowed to come to Elizabeth's Court as a guest and a kinswoman. She had long been suspected of Darnley's murder. Now incontrovertible evidence was offered to prove her guilt. If such evidence was forthcoming, Elizabeth could assuredly not allow the visit. Be it remembered, in passing, that Darnley was also of the blood royal. Again, Mary was at that very moment a pretender to the English throne. The title she had assumed on the death of Mary Tudor she had never repudiated. On the contrary, the Bishop of Dunblane, sent to the Holy See by Mary, had explicitly stated in his address to the Pope that England "as all the world knows, belongs by the right of inheritance to Scotland". The same Pope (Pius V.) always wrote of Elizabeth as a usurper—"The person who passes herself off as the Queen of England" "the so-styled Queen of England". Such language and such pretensions were not likely to commend the pretender to the especial favour of the person aimed at.

As to Mary's claim to be treated as a sovereign princess, and therefore immune from all jurisdiction of any other sovereign, it was quite clear that she was not such a potentate in fact. If she were, then the infant James VI. was not King of Scotland. But Elizabeth had allowed him to be king by receiving his ambassador, and by herself retaining a representative at his Court.

If any further reason needs to be urged to show that Mary had no cause of complaint in respect of Elizabeth's conduct in this business, let the reader examine Mary's own attitude. She boldly stated that she courted inquiry and was willing to accept Elizabeth's judgment between herself and her accusers. She did

not demur to the proposition that Elizabeth could not receive her as an honoured guest in face of an accusation so serious. It is true that she requested Elizabeth to decide the matter personally; and that she should be confronted by the accusers and their proofs in the Royal Presence of England. I do not propose to urge any reasons why Elizabeth could not accept a proposal so daring. For Mary to ask to be admitted to the Court of the woman whose throne she had claimed, whose birth she had scoffed at, shows that the Queen of Scots had either a very slight knowledge of human nature, or thought Elizabeth to be but very little lower than the angels.

As stated Mary was removed to Bolton Castle, in Wensleydale, the stronghold of the Scropes; and here she was visited by Scrope and Knollys. The letter, or report, sent by them to Elizabeth (29th May, 1565) is a document worth study, since it shows the opinion the two statesmen held of the character of the dethroned Queen :—

"We found her to have an eloquent tongue, and a discreete hedd; and it seemeth by her doyngs she hath stowte courage and lyberalle harte adjoyned thereunto".

Clearly a rival not to be despised.

Then the shrewd men of affairs add: "She also is of rather hot temper, and capable of flyinge into passion; but so much master of dissimulationn that no-one can ever tel when she meaneth what she saith and when not."

One would think that Elizabeth would rather admire her for this; for in those days "a prince who could not dissimulate could not govern".

Another part of the letter indicates Knollys's opinion of the course to be pursued towards the inconvenient refugee. In his opinion, Elizabeth ought to put Mary to the choice, either of returning to Scotland or "remaining at your highness's devotion within the realm here. . . . She (Mary) cannot be kept so rigorously a prisoner with your highness's honour (in myn opinion)." From this passage it will be seen that even a trusted and devoted servant of the English queen was persuaded that the course then pursued was too extreme. It had been well for Elizabeth's prestige had she taken the advice of her faithful Knollys. But as for the safety of the realm and the Protestant religion—those are quite other considerations.

In course of time the commissioners met at York. The English commissioners were the Duke of Norfolk, the Earl of Sussex and

Sir Ralph Sadler, while Maitland of Lethington and the Earl of Moray the two ablest living Scotsmen, represented the accusers. The proof proffered by the Lords was produced; and no one can have any doubt that if it was genuine, it showed beyond a shadow of doubt that Bothwell had been Mary's lover before the death of Darnley; that she had been a party to her unfortunate husband's murder; and that her abduction by Bothwell was carried out on her own suggestion.

The evidence I allude to is, of course, the Casket Letters.

I do not intend to discuss in great detail or at great length the problem presented by those letters. Mr. Andrew Lang has done this already in *The Mystery of Mary Stuart.* I am bound to say, however, that a perusal of the letters and of the facts stated by Mr. Lang, quite apart from any other evidence, are sufficient to convince me that the Casket Letters were genuine and not forged. Mr. Lang comes to the opposite conclusion.

Let me just state as clearly as may be the facts as to the letters as far as we know them. After the surrender of Mary at Carberry Hill, one Dalgleish, notorious even in those days in Scotland as a scoundrel of the worst type, delivered into the hands of the Lords of the Congregation a casket or box which he averred was discovered by him amongst Bothwell's belongings at Dunbar. On being opened, the casket was seen to contain five letters and a sonnet, all of which purported to be in Mary's handwriting and to have been addressed to Bothwell. The sonnet and all the letters except one, seemed to refer to a date anterior to Darnley's death. They were of the most passionate character; and plainly indicated that the writer was desperately in love with the person to whom the letters were written and was prepared to go to any length to gratify her passion. Frequent allusions are made to Bothwell's wife, of whom the writer expresses the deepest jealousy.

All the letters were in the French language, which is the tongue in which Mary wrote all her correspondence. The sonnet was also in French, and appears to be the work of one not unaccustomed to that mode of expression.

As to the letter written after Darnley's death, in it Mary (if it were Mary) makes a suggestion that she shall ride out practically unescorted and be pounced upon by her lover and carried away to a willing captivity.

On the question of handwriting, I am not competent to pronounce; particularly as most of the original letters have been lost

and only copies remain; but I do say that most if not all of the English commissioners were acquainted with Mary's genuine handwriting; and Elizabeth herself had long carried on a correspondence with the Scottish queen. The suggestion made by partisans of Mary is that they were forged, probably by Lethington. If that was so, the forgery was the most skilful that has ever deceived mankind; for the forger not only counterfeited Mary's handwriting, but he expressed himself precisely as Mary expressed herself on other occasions. He must have had a knowledge of French equal to Mary's own; and the skill in writing sonnets in that language such as might have been expected of a favourite pupil of Ronsard. It is not simply therefore a case of counterfeited handwriting; but it is a case of counterfeiting the thoughts and expressions of the person sought to be injured, and this with a skill quite diabolical.

It is fair to say, on the other hand, that George Dalgleish was such an accomplished villain that nothing too bad could be said against him. Thus the source from which the discovery was made was tainted.

Against this it may once more be urged that Mary's uncompromising denials would have stood a much better chance of being believed if she had not in fact been abducted by Bothwell and had not in fact married her abductor (who was the chief instigator of Darnley's murder) at an indecently short interval after the tragedy of the Kirk o' Field, and an indecently short interval after his divorce from his wife.

The English commissioners had very little doubt of the truth of the matter. On the subject of the Casket Letters they reported:—

"Afterwards they showed unto us an horrible and long letter of her own hand (as they say) containing foul matter, and abominable to be either thought of or written by a princess, with divers fond Ballads of her own hand, which Letters, Ballads and other Writings before specified were closed in a little coffer of silver and gilt, heretofore given to her by Bothwell. The said Letters and Ballads did discover such inordinate and filthy love, between her and Bothwell, her loathesomness and abhorring of her husband that was murdered, and the conspiracy of his death, in such sort as every good and godly man cannot but detest and abhor the same. And these men here do constantly affirm the said letters and other Writings which they produce of her own hand to be her own hand indeed and do offer to swear and take their oath thereupon: as

indeed the matter contained in them being such as could hardly be invented or devised by any other than by herself; for that the discourse of some things, which were unknown to any other than herself and Bothwell doth the rather persuade us to believe that they be indeed of her own handwriting. And as it is hard to counterfeit so many and so long Letters, so the matters of them and the manner how these men came by them is such, and it seemeth that God, in whose sight the murder and blood of the innocent is abominable, would not permit the same to be hid or concealed. In a paper herein enclosed, we have noted to your majesty the chief and principal points of their letters, written (as they say) with her own hand, to the intent it may please your majesty to consider of them, and so to judge whether the same be sufficient to convince her of the detestable crime of the Murder of her husband: which in our opinion and consciences if the said Letters be written with her own hand, as we believe they be, is very hard to be avoided."

The strong evidence of Mary's guilt made it impossible for Elizabeth to receive her at Court; and equally impossible for the English queen to put pressure on the Scottish nobility to return to their allegiance. In fact, Elizabeth knew not what to do. She pretended to account it a charitable act that she allowed Mary a place of refuge; but at the same time was careful to guard her, so that she could not fly to her relatives in France. From Bolton Castle the Queen of Scots was removed to Tutbury, a gloomy, damp, hardly habitable place. While she was here, the Earls of Westmoreland and Northumberland raised the standard of revolt, ostensibly in behalf of the Catholic religion and Mary, and marched in the direction of Tutbury. The Queen of Scots was promptly removed to Coventry. After the rebellion had been crushed, she was taken to Chatsworth; and thence to Sheffield, under the care of the Earl of Shrewsbury.

While she was here, Walsingham discovered the famous Ridolfi conspiracy; of which it need only be said that it was a plot fostered by Rome, and assisted by Mendoza, the Spanish ambassador. Ridolfi, the chief agent, contrived to inveigle the Duke of Norfolk, the first nobleman in England; and baited the trap for the duke by holding out the hope of that nobleman sharing Mary's throne. Now Norfolk was, or pretended to be, a Protestant; yet so foolishly ambitious was he that he plotted with the Catholics. He had been one of the York commission; and had signed the report adjudging Mary to be the writer of the

Casket Letters, thereby finding her guilty of murder and adultery. Yet he consented to marry her. I cannot account for it; save on the supposition that the duke was blind with vanity and ambition.

It has been suggested that Norfolk never plotted treason; but I cannot credit the theory.

There can be no doubt that the duke aspired to marry Mary. And there is only the shadow of a doubt that he intended to assist her to gain the crown of England. It seems to me that the unfortunate nobleman was rather a tool in this matter than one of the prime movers. He himself admitted at his trial that after he had been committed to the Tower and given his promise not to hold further communication with the captive queen, he had corresponded with her. He declared that he was drawn into it by Lesley, Bishop of Ross. The good bishop threatened to disclose to Elizabeth that which would cost Norfolk his head; and the duke, to avoid present danger, took the risk of future peril. "God knows I had the wolf by the ear. I durst neither hold fast nor let go."

Whether it was true that the idea of the match was first suggested to him by Maitland and Moray at York is very doubtful. If the dark Moray did suggest it, one may be sure that he did it in order to damage the Queen of Scots. For he was the last man to wish to see Mary married to a powerful noble who was, moreover, the first of the English nobility. At his trial and afterwards, Norfolk protested that he intended no treason to his queen. He laid the blame rather upon the Earl of Leicester. After the York commission (he said) he was approached by Nicholas Throckmorten, who was known to be adviser in chief to Elizabeth's favourite. Throckmorten pointed out to him how advantageous it would be to England and the queen if some English nobleman took Mary to wife. Why should not he (Norfolk) be the bridegroom? He was of high rank and had royal blood in his veins. "Nay," replied the duke, "the queen would never consent." "Leave that to my Lord of Leicester," the tempter answered. And he proceeded to enlarge upon the beauty and talents of Mary, and the desirability of the crown matrimonial of Scotland.

Thomas, Duke of Norfolk, seems to have been none too wise. He ought to have known the jealous nature of Elizabeth; and the danger of entering on the project opened to him. But the prospect of a crown; and, possibly, of a bride so world-renowned for beauty dazzled his understanding. He listened to Throckmorten. Afterwards Leicester himself broached the matter.

Him Norfolk asked if it would not be well to break it to the queen; but Leicester would not hear of it at the time. And before the matter could be "broken gently" to that vigilant sovereign she grew suspicious. And she startled the duke one day by the question, "Have you heard no news of marriage, my lord duke?" To which the poor fool stammered out that he had heard nothing. "If thou art asked to dance at the bridal," said Elizabeth, with stern accent and a fearful frown, "see thou go not; for mayhap thou shalt hop headless."

On this cheerful intimation, Norfolk would, doubtless, have relinquished his enterprise; but he was already in the toils. Emissaries from Spain and France and from the Catholics of Scotland assured him of support. The priests, and not the very wisest of priests, were his confidants and advisers. All urged him to go on—it was the work of God and the Church. And Mary herself wrote him love letters, suspiciously like the letters of the Casket, protesting her love in ardent language and promising him not only affection but obedience—his will should be her will—just as she had promised Bothwell (if the Casket Letters were not forged) a few years before.

It is within bounds of possibility that Norfolk's tale was true; and that he only wished to marry the Queen of Scots and help her to regain her kingdom so that his liege lady Elizabeth might have at the head of affairs in Scotland a trusty friend and assured ally. But it must be confessed that if this were so, the Duke of Norfolk could not blame any one for not believing it.

But how did the duke's plot to marry Mary become high treason? It was charged against him thus: You knew that Mary laid claim to the title of Queen of England. You intended, therefore, to marry a pretender to the throne; and thus to aid her in her pretensions. Therefore you intended to depose our lady Elizabeth.

There was some proof, though of the feeblest, that the duke had tried to raise men in Norfolk. At any rate, the first man amongst the nobility of England, had done enough, according to the royal politics of that time, to merit the death of a traitor. He had the usual unfair trial, in which he was bullied by the counsel and brow-beaten by the judges. Confessions of people not produced for cross-examination, confessions extorted by fear, or by yet less commendable means, in the deep, dark dungeons of the Tower, were read as conclusive proofs. The guilt of the accused was assumed from the beginning; and in the end Thomas Howard,

Duke of Norfolk, walked up Tower Hill one morning, and "died with great courage and magnanimity". One could sympathise more with him had he not been so incredibly foolish.

The Ridolfi conspiracy, and the rumours and information of other conspiracies alarmed Elizabeth's advisers not a little. Walsingham had no doubt that the Queen of Scots was at the bottom of it all; but to be morally convinced is one thing; to be legally certain is another. It is true that the Ridolfi plot had for its object the establishment of Mary on the throne of England; but Mary, when questioned, always took the line that she could not help what her friends did. You imprison me, she said, and so arouse the anger of my friends; while, at the same time, you put it out of my power to communicate with them. Set me free: acknowledge me as successor to the crown: and you will see an immediate abatement of all trouble. Nay, even give me leave to communicate freely with the Catholics; and I will enjoin them to quietness. God forbid that I should stir up my friends to rebel against my sister: still less to assassinate her!

I can imagine the private conversation of the crafty Cecil and the wily Walsingham, as they asked each other whether Mary believed she could stuff their ears with professions of this kind—whether she thought they were as gullible as her whilom husband, Darnley—and, finally, how much their own heads would be worth if the Franco-Scottish fury should contrive to break loose.

In fact, Walsingham, even more than Cecil, distrusted the Queen of Scots; and, finding that her professions appeared to make some impression on Elizabeth's mind, he resolved to procure evidence such as would convince his mistress that Mary was plotting against her; and, at the same time, would give into his hands the whole band of conspirators. How he did it is one of the most curious stories of intrigue ever told.

First, he procured the services of one Gifford (commonly called Dr. Gifford) as pretty a villain as ever stepped the boards. Educated at the Jesuit seminary at Rheims from the age of twelve or so, Gilbert Gifford joined the Jesuit order as a novice, and was afterwards ordained deacon; but at a very early age he went entirely to the bad. In France he made the acquaintance of Paget, and of the celebrated Father Morgan; and was soon *au fait* with the various plots and plans for the re-establishment of the Roman Catholic Church in England. The zealots made no scruple of trusting young Gifford, for his family was faithful among the faithful; and he himself, a plausible, accomplished

man, was already trusted with considerable business for the Order. This man it was who, in 1585, offered his services as informer and spy to Walsingham.

The minister soon saw his way to effect the object he had in view. Mary was at this time lodged at Tutbury, of which she complained bitterly—she would die, she said, if kept there much longer. She was also complaining that Walsingham had cut off her hitherto free communications with the French ambassador. In response to her complaints, the minister promised to change her lodging, but refused to permit any letters to be sent except through him. Chartley Manor was the house selected for the new prison; and thither the Queen of Scots removed. She was delighted with her new quarters, little suspecting that the whole business was a trap. As Walsingham calculated, she was chafing against the cutting off of her correspondence with the great world outside; and, accordingly, was eager to clutch at any suggestion to renew it. Now comes the plot.

A brewer of Burton had been engaged to supply beer every week to the Scottish household—a barrel for the lower servants, and another of finer brew for the upper members of the household. Somehow a hint was given to Nau, the secretary, to search the better barrel; and when the Frenchman searched he was amazed and delighted to find a false bottom; between the true and the false bottoms a box; and in the box a letter from Father Morgan. The letter began by introducing Gilbert Gifford as a trustworthy emissary; and went on to say that the brewer had been bribed; and would, by the same means as this letter had been conveyed, undertake the office of postman. Gilbert Gifford would forward the letters to their proper destinations.

In truth the brewer had been bribed; but it was by Walsingham; and the rascal made a great market of his rascality. For he took large sums from Mary as well. Gifford, also, at a very early date, stipulated with the Queen of Scots for a heavy pecuniary reward for his services.

Thenceforth, Mary wrote and received a whole budget of letters every week. The brewer handed them all to Walsingham, who copied them and caused them to be deciphered; and the originals were then forwarded to their rightful destinations. As a piece of detective work it was hard to beat; but one shudders at the idea of an English secretary of state using such means.

It was only at Chartley that the treachery lay. Gifford was so extraordinarily subtle that he engaged the services of a number

of Catholic gentlemen between Burton and London, who undertook the carriage of the incriminatory correspondence. The nearest one received the weekly postbag from Gifford, and carried it on to the next man. He, in turn, conveyed it a stage further, and thus the bag reached London by easy and quick stages, and in such fashion that the Jesuits never dreamt of treachery. The return post was carried in the same way. Never, I should think, has the Jesuit Order been so completely hoodwinked. Morgan, to make assurance doubly sure, drew a fresh cipher, and gave it to Gifford to carry to Mary; thus unwittingly, making the task of Walsingham's cipher secretary quite easy. In some cases, however, Gifford took the original letters to Walsingham's secretary, and himself delivered them, after deciphering and copying had been done, to the addresses.

Walsingham was completely successful; and even more than successful; for not only did he discover that Mary had been party to the Ridolfi plot; but he was finally able to lay his hands on the plot known as the Babington conspiracy.

As the correspondence unwound itself before his horrified eyes, the secretary of state saw that the new plot differed from the Ridolfi conspiracy and the hundred and one other plans of the Catholic extremists. For it started with the assassination of Elizabeth. It was, indeed, by far the most business-like of all the plots hitherto hatched. A Spanish army landed on English shores might or might not obtain much popular support against Queen Bess—probably not. But remove Elizabeth, and Mary became *de jure* the Queen of England. All the Catholics could then support her with ardour and a clear conscience; and many others would doubtless rally to her standard out of that legitimist feeling which is so strong in all countries.

The plot was originally the work of one John Ballard, a seminary priest, whom no one need doubt was a religious man—sincere, even fanatical. He enlisted the support of Mendoza, now in the Low Countries, that Spanish ambassador whom Elizabeth had expelled; and, having done this, set about procuring others, the striking arm of the plot. He first secured Anthony Babington, a young squire of Derbyshire; a man of easy fortune and enthusiastic temper. A Catholic, and an ardent one, Babington desired to see his country reunited to the dominions of the Holy Father. As a man, he was, moreover, an adorer of the Queen of Scots. He had served as a page in her household at Sheffield; and had been fascinated, as almost every man who

went near her was fascinated, by her wit and charm. Add to these considerations the lust of youth for adventure; and you have the ground in which Ballard sowed the seed.

Babington had considerable standing amongst the younger Catholic gentry; and ere long he was able to swear in of his party certain young gentlemen named Tilney, Abington, Jones, Dunn, Tichborne, Charnock, Windsor, Gerrard, Savage, and Salisbury.

The first that Walsingham heard of this new danger was from a letter sent by Father Morgan, in which Babington was introduced as a person about to perform some service. A postscript contained the further information, "There be many means in hand to remove the beast that troubleth all the world". A cipher was enclosed, of which Babington had a key. Ere long, Mary was in full correspondence with the Derbyshire squire. The communications were allowed by Walsingham and Elizabeth to reach the point which placed the guilt of the parties beyond doubt. The plot was ripe for execution.

Then Walsingham struck. At first he was in some doubt as to the identity of the sworn assassins, but was helped in this by the discovery of a picture—a portrait of the six with Babington in the middle, with the motto *Hi mihi sunt comites quos ipsa pericula ducunt!* Ballard was arrested first, on a different charge altogether; but tortures failed to make him disclose any further information. Babington and the others took alarm; and some hid in St. John's Wood; but were speedily discovered. Walsingham had made public the news of the plot. All England was aflame. In a few days every man "wanted" was under arrest; and London was clamouring for the head of Mary on a charger.

Babington, Ballard, Tichborne, Savage, and two others were tried together, and executed with every circumstance of horrid barbarity. Babington, after having hanged for a little while, was still alive, and quite conscious when the executioner proceeded to carry out the loathsome sentence of disembowelling. The people, that people whose ferocity was a by-word in Europe, applauded the bloody measures of the government; and at the same time the press was flooded with pamphlets, and the House of Commons resounded with speeches declaring the Queen of Scots to be the author of the mischief, and demanding her blood also. There would be no peace in England while she was suffered to live—that was the cry, loud and oft repeated.

Elizabeth hesitated at first, as was her wont. Whatever her

faults, no one was able to accuse her of deciding questions of importance without due deliberation. At last she left the matter in the hands of her Privy Council—a decision which implied permission to them to proceed against Mary if they thought the case strong enough.

It ought to be said that Babington and all his associates, except Ballard, had confessed their treason; and Babington had acknowledged the letters of which the reader will presently hear more. The confessions, and all the documents, were laid before the council, together with Mary's papers; and her two secretaries, Nau and Curle, had been arrested and brought to London to be examined. At first they denied everything; but in the end, being confronted with their own handwriting, they, too, confessed the plot, and confessed that the letters had been dictated by Mary herself.

Mary's papers at Chartley were seized by a *coup* of some ingenuity. When the moment to strike arrived, Walsingham was in some difficulty as to a plan whereby Mary's papers could all be seized without her having an opportunity of concealing or destroying any. Mary's jailer, Sir Amyas Paulet, suggested the plan ultimately adopted. One fine morning, the Queen of Scots received a respectful message from Sir Amyas, asking if she would care to go a-hunting in the park. The wretched woman jumped for joy. She was inordinately fond of outdoor sports, and particularly of hunting; and no doubt a great deal of her ill-health of the previous few years had been owing to lack of exercise. Suspecting no treachery in the invitation, which appeared to be but a part of the same milder policy that had changed her lodging from damp and dismal Tutbery to cheerful Chartley, Mary accepted gratefully; and in a trice she and her suite were engaged in taking out old riding-habits, polishing up the gold and silver mounts of their riding-switches, and otherwise in preparing for the chase. The invitation extended to the whole suite; and ere long Mary, with her ladies, her two secretaries (Nau and Curle), Sir Amyas Paulet and his huntsmen, were sweeping along Chartley Chase. The Scottish queen was in the wildest spirits as they cantered over the beautiful turf; and even to Amyas Paulet she softened.

Of the several jailers whom Mary had, she liked Sir Amyas Paulet the least. That worthy knight was, in truth, no friend of hers. He was a stern man of the new Puritan school; and he must have reminded the queen of John Knox—a memory by no

means pleasant. To him, she was the Midianitish woman; and he held, quite sincerely, that she were better dead than alive. The wonderful charm of his prisoner, the power, whatever it was, that sent Chastelard to his death and caused George Douglas to turn traitor to his House, had no effect on Amyas Paulet: for his fanaticism was of the quality that is proof alike against the wiles of woman, the power of gold and the seductions of pleasure. Yet was Amyas Paulet an honest man and a gentleman, and not so fanatical as to consent to use any means to accomplish his end. When, before the tragedy of Fotheringay, Elizabeth suggested to him to assassinate Mary, so as to save the scandal of a public execution, the Puritan knight replied that he was no assassin, nor would he allow anybody to do Mary any harm, save in the legal way. This was the man whom Mary hated with a most royal and most feminine hatred; for was he not a man who could look upon her face, and hear her voice, and listen to her pleadings without his pulse beating one whit the faster?

Yet even to Sir Amyas Paulet was the Queen of Scots amiable and blithesome as they rode together that morning. A day's hunting! What an event in the life of a poor captive! But who is this that rides so hard: his boots all dusty; his clothes travel-stained as of a man who has ridden all night? He rides towards the hunting party: he doffs his hat with humble reverence: he hands a paper to Paulet. The Puritan reads the paper; then, in sharp accents commands his attendants to arrest the two secretaries. Mary bursts out in anger. Without change of countenance, and paying no more heed to the reproaches, threats, taunts, and, finally tears of the royal prisoner than a stern nurse does to the squalling of an infant, Paulet announces to her that she must come with him: that she cannot be allowed to return to Chartley: that his orders are peremptory to accompany her to Fotheringay in Northampton. Nau, like a gallant Frenchman, draws his sword; but a forester disarms him with ease, and after that there is no resistance.

The Queen of Scots and her guard, and her ladies turn their faces south-east; and Mary no longer chats gaily. Her face is set stern; her glance is high; occasionally she tells Paulet, with some haughtiness, that he shall regret this day's work. But in her heart is a sinking fear; for she knows that the messenger of the Privy Council is by this time searching her rooms at Chartley—turning out her papers, laying hold of every scrap of writing. She prays that Nau and Curle have not left undestroyed any of

the notes written at her dictation. She prays, also, that the secretaries will stand firm; for she knows that they will be offered bribes to betray her; and, if these fail, may have to withstand the cogent pressure of the torture chamber. In this state of doubt Mary, Queen of Scots, enters Fotheringay Castle, her last prison.

CHAPTER II

THE TRIAL

AFTER some deliberation, the Privy Council decided that Mary should be charged with her share in the conspiracy. In truth, the situation had become intolerable. To use Norfolk's expressive phrase, they had "got the wolf by the ear, and durst neither hold fast nor let go". It seemed certain that so long as Mary was untouched there would be no lack of young men who, excited by the prospect of liberating the most beautiful of queens, and, incidentally, of helping the Catholic cause, would follow the example of Babington and Norfolk.

The Privy Council was summoned, and a strong commission appointed to deal with the matter. I doubt very much if such a body of men has ever, before or since, sat to try an accused. If the accusation and the accused were unique, so also was the tribunal.

The Archbishop of Canterbury represented the Church. The Lord Chancellor Bromley, the Chief Justice of the Common Pleas, the Chief Justice of the Queen's Bench, the Chief Baron and two puisne judges represented the law. Cecil, Lord Burghley, was there, with his cool head and statesmanlike outlook. So, too, were Sir Francis Walsingham, Sir Francis Knollys, Sir Ralph Sadler and Mr. Davison. The Earl of Leicester, the all-powerful favourite, formed one of those who should try the woman whose husband he might have been. And the rest comprised the flower of English nobility and wisdom: the Marquis of Winchester; the Earls of Oxford, Shrewsbury, Kent, Derby, Worcester, Rutland, Pembroke, Lincoln and Warwick; the Viscount Montague; the Lord High Admiral (Howard of Effingham), future conqueror of the Spanish Armada; Barons Hunsdon, Abergavenny, Zouch, Morley, Cobham, Strafford, Grey of Wilton, Lumley, Sturton, Sandes, Wentworth, Mordant, St. John of Bletsho, Buckhurst, Compton and Chesney; Sir James à Crofts, Christopher Hatton, Walter Mildmay and Amyas Paulet; together with John Woolley,

the Latin secretary, whose business it was to record the proceedings.

It will be observed that the trial was not before an ordinary court of law. I do not know how far the Court of Queen's Bench would in those days have felt itself competent to try a queen, neither was it, as has been imagined by some, a trial by the Privy Council or by the terrible Star Chamber Committee of that Council.

The tribunal was a special statutory one, constituted under an Act of Parliament that had been passed in the previous year to provide against this very case. In fact so neatly did the act provide for the case that afterwards arose, that one becomes suspicious whether the same persons did not first of all procure the act to be passed and then invent the offence under it. Certain it is that no one could read the "Act for the security of the Queen's royal person and the continuance of the realm in peace" without perceiving instantly that it aimed at the Queen of Scots.

As was the custom in those days, the statute was prefaced by a long-winded recital of mischiefs it was intended to prevent. Quaint enough they seem to us: "Forasmuch as the good felicity and comfort of the whole estate and this realm consisteth only next under God in the surety and preservation of the Queen's most excellent majesty" a sentiment which was undoubtedly shared by the stout country gentlemen, citizens and burgesses who made St. Stephen's Hall ring with their shout "God save the Queen!"

The ingenious draughtsman goes on to relate how there have been plots and "other devilish practices" tending to disturb the public felicity and comfort by attacking the surety and preservation of the mother of her people.

The active part of the statute is unprecedented in English legislation. In consequence of the plots directed against the queen and Government; still more in consequence of the imaginary dangers apprehended from the Jesuits, a voluntary association of a most curious kind had been formed. The object of the association was to protect the person of Elizabeth from traitors and plotters; or, if need be, to avenge her. The Act, for the only time in English law, made it lawful for traitors to be killed without trial; for the members of the association were declared to be justified if they "pursued to the death every such wicked person by whom, or by whose means, any such detestable fact" as the association was directed against.

The second branch of the statute was the one under which Mary was tried and it runs thus:—

"If at any time after the end of the present session of parliament any act shall be attempted tending to the hurt of her Majestys most royal person, by any person or with the privity of any person that shall or may pretend title to the crown of this realm," the queen might by the advice of her Privy Council grant a commission to a body of at least twenty-four peers, privy councillors, and judges to try and pass sentence and judgment upon the offender.

Although the Act was couched in general terms it is apparent that it was directed against Mary and was intended to supply legal authority for dealings with her if any other plots should be entered into by her partisans.

The actual charge was—That Mary being one who pretended title to the realm of England had herself, "Compassed and imagined matters tending to the hurt of our royal person"; also that acts tending to the hurt of the Queen of England had been done by other persons "*cum scientiâ*—in English, with the privity of the same Mary".

I cannot say the tribunal was an impartial one. I have no doubt many of its members had made up their minds beforehand and many others were so biassed against the Queen of Scots that little short of a miracle would have persuaded them of her innocence. Still, they were not all Protestants; nor is it to be supposed that some of them were not disposed to pity and even to assist the woman who was to bear the brunt of so heavy a charge.

On 8th October, 1586, the commission met at Westminster to decide on the manner of its procedure; and on the 11th they all arrived at Fotheringay. Mary knew of their arrival; and must have felt that something of grave importance was about to be transacted. What it was she was not long left in doubt.

On the morning of the 12th an attendant announced that Sir Walter Mildmay and Sir Amyas Paulet, accompanied by a notary public, prayed to be admitted to speak with the Queen of Scots on the part of Her Highness the Queen of England. By this time Mary had made up her mind what was on foot, and had decided on her line of action—to decline the jurisdiction of any English tribunal. Accordingly, she received the commissioners with dignity and composure.

They, on their part, were equally dignified, and not less polite. "We bring to your highness," said Mildmay, "a letter from our

most gracious sovereign." On the word, Barker, the notary, advanced and put into Queen Mary's hand a packet, sealed and tied with silk as the usage of the day was.

Mary broke the seal, the three messengers standing respectfully silent the while. Elizabeth's letter left nothing to be desired for explicitness. Nor was there any attempt at courteousness of expression. Thus it ran:—

"To The Scottish

"You have planned in divers ways and manners to take my life and to ruin my kingdom by the shedding of blood. I never proceeded so harshly against you; on the contrary, I have maintained you and preserved your life with the same care which I use for myself. Your treacheous doings will be proved to you; and made manifest in the very place where you are. And it is my pleasure that you shall reply to my Nobles and to the Peers of my kingdom as you would do to myself were I there present. I have heard of your arrogance, and therefore I demand, charge and command you to reply to them. But answer fully, and you may receive greater favour from us.

"Elizabeth"

Such a communication was calculated to strike terror into the heart of any one less courageous than Mary. But to the Queen of Scots it brought no terrors. She had faced worse dangers when she looked on the bloody daggers of Riccio's murderers, when she braved the fierce Lindsay, the grim Morton and the savage Ruthven at Lochleven, and when she escaped once and yet again from captivity. She never imagined that Elizabeth would dare to proceed to extremities; though well she knew that the Englishwoman hated and feared her.

So, despite the savage suddenness of the blow, the Queen of Scots preserved her dignity and her composure. Her colour did not change; nor did her voice tremble as she answered: "It grieveth me that the Queen, my dear sister, is misinformed of me. And that I, having been so many years straitly kept in prison, and grown lame of my limbs, have lien neglected, after I have offered so many reasonable conditions for my liberty. Though I have thoroughly forewarned her of many dangers, yet hath no credit been given to me, nearly though I am related to her in blood. When the Association was entered in, and the Act of Parliament thereupon made, I foresaw that whatsoever danger

should happen either from foreign princes abroad, or from the discontented at home, on account of religion, I, even I, must bear the whole blame. I know, Sirs, that I have mortal enemies at my sister's court. I will not urge how hard it is that a confederacy hath been made with my son, without my knowledge.

"As for this Letter"—and here the musical voice hardened into anger—"how can the queen command me as a subject to appear personally in judgment? I am an absolute queen. I will do nothing which may prejudice either mine own royal majesty, or other princes of my rank and place, or my son. Think not my mind is yet dejected, nor that I will sink under my calamity."

Brave words, my masters! But, alas! The courageous woman had to deal with men who had set out to do a thing, and meant to do it, come what might.

After a short pause, Mary continued, "I refer myself to those things which I have protested before Bromley, now chancellor, and the Lord La Ware. If I were disposed to submit to this demand, how should I do it? The laws of England are to me unknown, and I have no counsellors; for who dare step forward to be my advocate? I have heard that in England an accused is of right to be tried by his peers. Who are my peers? Moreover, ye have taken from me my papers and notes. I am clear from all crime against the queen, and have excited no man against her. Ye cannot produce against me mine own word or writing, and otherwise I am not to be charged."

Here Mary was acting on the doctrine then well understood and received in all countries except England, that an accused must either be condemned on the testimony of some one of equal rank, or by the production of his own writing, or else by admissions made verbally. Such a doctrine was no part of the law of England, where nobility of blood, as such, was unknown to the law. The only nobility was nobility of rank.

"If I submitted to this judgment," she continued, "I should be no better than a certain valet[1] who has lately died. But I am of queenly majesty and dignity; and I will not submit. Nor, in any case, will I be judged by judges of a contrary religion" (this is a curious plea).

Then, passing from dignity to pathos, the prisoner made a final appeal for fair treatment.

"Sirs," she said—and the musical voice became wonderfully

[1] She meant Moray, who had submitted to Elizabeth's judgment on the Casket Letters.

pathetic—"I am a woman stripped of all aid, left naked and defenceless to mine enemies. They have been preparing for long. Ye have deprived me of my servants who knew and managed my affairs. My notes and papers ye have taken away. I have not, what the poorest criminal hath, an advocate or some one to speak for him. And my judges are men who seek my ruin. I do not deny that I have put myself under the protection of the Catholic kings and princes, seeing myself destitute and driven into their arms. But no one has attempted anything against the queen or her estate that I have heard of. Ye do wrong, sirs, in treating me in this fashion—ye do me foul wrong."

Here the Queen of Scots stopped. The commissioners enquired if she desired to say anything further to them. "Nothing!" she answered, "save that I desire my protest to be recorded." "It shall be done, Madame," replied Paulet; and with profound reverences the two knights and their functionary withdrew.

There were grave debates that night in the Castle of Fotheringay. The judges, the nobles and the statesmen consulted long. Were they to accept Mary's protest; and return to London for further instructions? Or were they to proceed? If so, suppose Mary persisted in her refusal to acknowledge their jurisdiction, should the trial be proceeded with in her absence? And if they did so proceed, how would they stand in the eyes of Europe? A more difficult problem has rarely been set to any body of men.

At last they decided to go on. They would register Mary's protest; but they would grant no delay. Delay was in favour of the Queen of Scots; for she would have time to stir up France and Spain and Austria to take active steps in her favour. Better to proceed, pass judgment, and so make the trial a *fait accompli.* Every statesman knows the value of the *fait accompli;* and Burghley and Walsingham were thoroughly conversant with the game of diplomacy.

Accordingly, next day, Paulet and the notary once more waited upon the prisoner. The notary had prepared an elaborate written report of her protest of the previous day; and this he read over to her and asked if she objected to it. The Queen of Scots listened carefully; and assented to the correctness of the document.

"Does your highness persist in this your protest?"

"I do persist in it," Mary replied.

"Is there any matter your highness wisheth to be added thereunto?"

"Marry! there is one thing more. Add this, 'The queen hath written that I am subject to the laws of England, and to be judged by them, because I have lived under the protection of them. I answer, that I came into England to crave aid, and ever since have been detained in prison, and could not enjoy the protection or benefit of the laws of England; nay, I could never yet understand from any man what manner of laws these were.'"

Barker added to the document, in formal style, the additional protest, then read the whole out; and formally affixed his notarial seal.

When Paulet and the notary left the apartments Mary was triumphant. She thought, poor woman, that she had gained her point; and that her trial had been warded off for an indefinite period. Little did she know the men she was dealing with. These stern, unbending Englishmen would have had her head long before had not Elizabeth restrained them. And now they had overcome the queen's reluctance and misgivings they had no intention of being cheated of their prey.

At the same time, they wished to proceed decently and in order, and to give what show of legality they might to their proceedings. They well knew that, great as would be the indignation of the Catholics of Europe at Mary's condemnation, the indignation would be increased a thousandfold if the trial were conducted in the absence of the accused. It became their object, therefore, to persuade the prisoner to be present at the hearing.

With this intent, Burghley and Bromley headed a small deputation of the commissioners, who waited upon Mary during the afternoon. With them they brought the attorney-general, Popham, and other lawyers.

Mary received them graciously enough, as she did all men; but to their arguments and persuasions turned a deaf ear.

Bromley, the chancellor, first exhibited and explained to the royal prisoner the patent or commission under which they acted.

"The letters patent bind me not, my lords," Mary answered. "I am a royal queen, and no subject of any one. And I am a foreigner, living here a prisoner, against mine own will."

This plea to the jurisdiction was met by the chancellor and Burghley.[1]

"The letters patent bind us to try your highness," said

[1] Burghley had been bred to the law. He was a member of Gray's Inn, then the most highly favoured Inn of Court.

Burghley. "We are the queen's sworn servants and must obey her commands."

The chancellor added, "The Act of Parliament maketh no exception in favour of royal majesty; nor doth your highness's imprisonment avail you aught against the Act".

Mary broke out, as haughtily as Elizabeth herself—"I will rather die a thousand deaths!"

"It grieveth us sore," replied Burghley, "to displeasure you; but if you refuse to appear we both can and must proceed against you in your absence."

"We can do this both by law and statute," the chancellor added. A hard man, this Bromley. Thirty years before he had been chief justice of England, under Mary Tudor; and in that capacity had taken an active part in the trial of the rebels in Wyat's rebellion. In the case of one of them (Sir Nicholas Throckmorten,) he was rebuked by the prisoner at the bar with the observation, "Make not too much haste with me, nor long for your dinner, for my case requireth leisure."[1] Unfortunately for Mary she had no sturdy City of London jury to relish her spirited replies to her tormentors.

The threat of proceeding *in absentiâ* moved Mary not a whit. She turned on the deputation with fiery indignation. "I lack not the wit, my lords, to see whither ye would lead me. But I will die a thousand deaths rather than acknowledge myself a subject; for if I am subject to the laws of England I am subject also to its religious laws."

Burghley assured her that as nobody had ever attempted to interfere with her religion, so also the commissioners would not. "Our commission doth not point that way," he said. "We have but to inquire and to judge whether you have compassed anything against the Queen's life and estate. If you be innocent, how do you object to an inquiry wherein your innocence must appear manifest?"

"I am ready," replied Mary, "to answer all things in a free and full parliament. As to this meeting and assembly I know not whether I am not already condemned; and you seek to give some show and colour of a just and legal proceeding."

Long time Burghley, Bromley, Popham and others tried to persuade her to submit to the inquiry; but she continued obdurate. She broke in among their speeches with the dignified remonstrance,

[1] This bold rebuke had much to do with the prisoner's acquittal by a City jury. Bromley retaliated by fining the jury heavily.

"Look to your consciences, my lords; and remember that the theatre of the whole world is wider than the kingdom of England". There was a pause while some of the commissioners consulted together. The prisoner, however, by this time wrought up to a high pitch of indignation, interrupted their deliberations with a torrent of reproaches. For eighteen years she, a near relation of the Queen of England had been kept in strait prison. She had been deprived the use of her religion. She had been denied an interview at which she could have cleared herself. Though she had come into England of her own free will, relying on the Queen's friendly words, she had been used as no sovereign Princess had ever been used.

Mary had by no means exhausted her list of injuries when the lord treasurer interrupted her. She should remember, he said, his mistress's kindness to her. Queen Elizabeth had sheltered her from her rebels, had taken no action against her on account of the Duke of Norfolk's plot, and when Parliament sought to pass an Act debarring her absolutely from the succession, Elizabeth had forbidden it. A long discourse did my Lord Burghley make on the manifold kindnesses and gracious disposition of his mistress.

To the ears of the high-spirited and unfortunate woman who was obliged to listen to this preachment, it must have sounded somewhat ironical. And when Burghley had made an end she replied with the most cutting sarcasm her ready wit supplied. So the conference terminated.

A few hours afterwards, Sir Amyas Paulet and the solicitor-general besought an audience. They had come to lay before her the commission. They asked if she objected to any of the persons named to be her triers. After some consideration Mary answered that she took no exceptions against the commissioners. The solicitor-general then assured her that it was the intention of the commissioners to keep strictly within the terms of the commission; and she might see for herself what those were.

"We are to proceed," he said, "according to equity and right and not by any cunning point of law or extraordinary course." But Mr. Solicitor had to do with a woman of no common understanding. I perceive, she said, that the authority of your commission dependeth wholly upon the late law which is devised of purpose against me. It is unjust. It is without example. It is such as I will never subject myself to. And by what law will you proceed? If by the civil or the canon law, "there be no doctors of that law in England. The Holy Father is the only interpreter of the canon

law. And ye must bring interpreters from Pavia or Poictiers or some other foreign university."

The solicitor and Paulet were not prepared to answer as to the course of procedure. Mary continued :—

"I perceive that I am forejudged. The Letters of my sister, the queen, make it plain to me."

Paulet challenged Mary to produce the passages she referred to; but she refused to show the letters to them—they were not meant for subjects to read. Mr. Solicitor then mildly suggested that she should deliver for the information of the commissioners a copy of the parts she objected to.

Mary turned upon him with a flash of her haughtiest manner—"My secretaries and servants have been taken from me; and it doth not stand with my royal dignity to play the scrivener".

In some confusion, Mr. Solicitor retired; and Amyas Paulet also went back to the commissioners.

One point had been gained in the negotiations so far. The Queen of Scots had admitted that no exception could be taken to the *personnel* of the tribunal. Obviously her real fear was that her judges had come down determined to convict rather than to inquire. The managers of the commission resolved to make one more attempt to cajole her into the belief that they intended to act fairly. As I have said, it was of the last importance to be able to satisfy public opinion that she had not been condemned unheard. Burghley's judgment of men and affairs was profound; his conduct of business was wonderful; and never did he render his country or his mistress greater service than when he prevented the Earl of Kent and one or two other hot-headed fanatics from taking Mary at her first word and proceeding on the inquiry in her absence.

Patience! was the lord treasurer's counsel; and at last he gained his end. For at the next assault Mary gave way. It is impossible not to pity the miserable woman. Standing alone, without counsel or advice, she was pitted against the keenest wits in England. Badgered, cajoled, threatened, even flattered, she at last consented to her own undoing. For I am persuaded that had she obstinately adhered to her first resolution, had the trial taken place in her absence, although judgment and sentence might have been the same, Elizabeth dared not have taken the fatal step she afterwards took.

It was Sir Christopher Hatton, afterwards "the dancing

chancellor," a man of guileful tongue and insinuating address, who wrought the mischief.

The solicitor and Paulet reported to their fellow-commissioners the result of their interview with the Queen of Scots; and Burghley, Bromley, Leicester and Hatton, with Paulet, the solicitor and attorney-generals and the two chief-justices once more sought out the prisoner. At first Mary adhered to her original position of totally denying the right either of Elizabeth or the commissioners to try her, a royal queen. She could not now allege that the commissioners were her personal enemies; but she objected to the statute under which she was to be tried; and reiterated that she knew she was forejudged guilty.

Burghley tried vainly to move her; and not until Hatton had spoken did she make her irretrievable blunder. Hatton spoke thus:—

"You are accused, but not condemned, of having conspired the destruction of our lady and queen anointed. You say you are a queen. Be it so. But in such a crime the royal dignity is not exempted from answering, neither by the Civil nor Canon Law, nor by the Law of Nations, nor of nature!"

I pause here to say it would have been more to the point if Hatton had been able to point out a single case in any country, ancient or modern, where the monarch of one country had been put to trial for conspiring against the monarch of another—and that, too, before a tribunal nominated by the accuser. The speaker continued:—

"If such kind of offences might be committed without punishment, all justice would stagger, yea, fall to the ground".

All of which appears to be so much nonsense; and probably did not influence Mary one tittle. But the next part of the speech was much more clever: "If you be innocent, you wrong your reputation to avoid a trial. You protest yourself to be innocent; but Queen Elizabeth thinketh otherwise, and that neither without grief and sorrow for the same. Therefore it is, most noble Queen, that to examine your innocency she hath appointed men most noble, prudent and upright, who are ready to hear you according to Equity with favour; and will rejoice with all their hearts, if you shall clear yourself of this crime. Believe me, the Queen herself will be much affected with joy. At my coming from her, my gracious lady confirmed unto me that never anything befell her more grievous, than that you were charged with such a crime. Wherefore, lay aside the bootless privilege of royal dignity, which

now can be of no use unto you. Appear in judgment. Show your innocency: lest by avoiding trial you draw upon yourself suspicion, and lay upon your reputation an eternal blot and aspersion."

This artful and eloquent appeal was seen to have some effect on Mary. She felt the force of the argument that if she declined to answer the charge, her adversaries might attribute the worst to her. She accordingly fell back upon her previous offer to answer in a full Parliament. She added that she would even appear before the queen and council. But she still adhered to her protestation and added that she wished to be acknowledged next of kin to the queen.

"To the judgment of mine own adversaries, amongst whom I know all defence of mine own innocency will be barred, flatly, I will not submit myself."

As a basis for negotiation, the lord chancellor then asked whether she would appear before the commission if her protestation were admitted. "I will never," said she, "submit myself to the late law mentioned in the commission."

Burghley here interposed. "Your highness speaks of being barred from defence of your innocency. I assure your highness on the honour of all the commissioners that you shall be allowed a full defence and shall be heard to say all you may wish to urge, and that without let or hindrance."

"No," replied Mary, "but I cannot submit myself to that law without doing wrong to the kings my ancestors and to my son."

The commissioners took their leave; but not before the lord treasurer had announced that on the morrow they would proceed to the hearing whether Mary was present or absent.

The Queen of Scots had been seated during this conference, but as her enemies were retiring she rose from her chair, pointed a monitory finger, and exclaimed: "Search your consciences. Look to your honour. God reward you and yours for your judgment against me."

Fortunately for Lord Burghley's reputation for wisdom, it did not become necessary to proceed in Mary's absence. Early on the morrow (14th October) the Scottish queen sent for Burghley, Hatton, Bromley, and Walsingham, and asked them that her protestation might be admitted and allowed. Burghley, that sly fox, saw she was on the point of yielding. With great courtesy and civility of manner, he proposed that the protestation should be received and put into writing on the records of the commission;

but without any decision being given as to whether it should be allowed or not. If this were done, he suggested that Mary might appear before her appointed judges.

At length the Queen of Scots showed what she had in her mind. She admitted that Hatton's speech of the previous day had weighed with her; and that she was most anxious to purge herself of the crime objected against her. She had decided, therefore, that without waiving her right as a queen, and without admitting the jurisdiction of Elizabeth or the English Parliament over her, she would appear and answer the accusation.

Burghley returned to his fellows with the joyful tidings; and in a short time the commissioners were assembled in the presence-chamber of the castle.

It was a scene not unimpressive. At one end of the hall, on the daïs, was placed a chair of state, surrounded by a canopy and covered with a rich cloth. This was intended to represent Queen Elizabeth. The commissioners sat on benches in the form of a horseshoe, the lord chancellor, the lord treasurer with the earls on one side, and the barons on the other. In front of the barons, on the lower benches, sat the knights of the Privy Council, while the two chief justices and the chief baron, with the puisne judges were placed in front of the lord chancellor. To make up a full tale of legal advisers there were two doctors of civil law, Dale and Ford, who had been retained to advise the court on any matter that might arise if Mary should raise objections founded on the *Jus Civile.* Within the horseshoe was a table for counsel for the prosecution, Popham the attorney, Egerton the solicitor, and Gawdy the queen's serjeant, and along with them sat the clerk of the crown, and two persons whose duty it was to write minutes of the proceedings.

Opposite to Elizabeth's throne or chair of state was set another similar one, intended for Mary. Obviously the commissioners did not desire to pretend that she was anything but a queen; thus tacitly acknowledging that her instrument of resignation, extorted at Lochleven Castle, was not binding on her.

When the commissioners and lawyers were seated, there entered Mary, followed by six attendants, one of whom was her physician (a Frenchman) and the others her ladies of honour. The commissioners rose to receive her with respectful bows and in perfect silence. The Queen of Scots bowed in turn and took possession of the chair reserved for her. Picture the scene. Mary, still beautiful, had dressed in her most splendid array. Her face,

though it bore traces of the ravages of time, was still fair. Her form had not lost its shape. Her eyes were still brilliant. And her auburn hair, busked by the hands of a skilful tirewoman, was arranged *à la Mary Stuart.* Above all, the imprisoned lady still retained the bright manner and the alert look that had captivated so many hearts. With a dignity of her own, she sat in her chair of state and gazed upon her judges.

They, for their part, must have regarded this extraordinary woman with mixed feelings of pity and resentment. For years she had troubled the English realm. For her the proudest peer in England had laid his head on the block. In her name plot and conspiracy, rebellion and armed rising had shaken the nation to its centre. Now they had come to judge and make an end. Yet they could not but pity this unfortunate creature. She was still less than forty-five years old. She had been Queen Regnant of France and of Scotland. There was a time when ten thousand swords had leaped to do her bidding, ten thousand gallant hearts had rushed to death for her sake. She might, as many of them believed, be a very Jezebel; yet it was pitiful to see one who had been so high now sunk so low.

Mid breathless silence, Bromley, lord chancellor, rose and addressed the royal personage. It may be observed, by the way, that the proceedings followed, as near as might be, the course of a trial before the court of the lord high steward. The lord chancellor's address was brief and to the point. "The most high and mighty Queen Elizabeth, being, not without great grief of mind, advertised that you have conspired the destruction of her and of England and the subversion of our religion; and therefore, out of her office and duty, lest she might seem to have neglected God, herself and her people and out of no malice at all hath appointed these commissioners, to show matters which shall be objected unto you and how you can clear yourself of them, and make known your innocency."

Mary rose at once, and as she rose her judges also stood up; and listened in respectful silence to her address. In substance it was the same protest against the jurisdiction of the English sovereign, Parliament and courts that she had made before.

"I came into England," said she, "to crave aid, which had been promised me, and yet have I been kept in prison ever since, to my grievous wrong. I solemnly protest that I am no subject of my cousin the queen of England; nor can I be constrained to appear before your lordships, or any other judge whatsoever, for

any cause whatsoever, save before God alone, the highest judge. This I protest, lest I should prejudice mine own royal majesty, and my son and successors, as well as all other absolute princes. But now I appear personally, to the end that I may refute the crimes objected against me. And I call you" (here she turned to her own attendants) "to bear witness."

Bromley, the lord chancellor, made answer: "It is not admitted, most gracious queen, that any aid has ever been promised to you by my mistress, the Queen of this realm. Nor can we admit your protestation. My lords are satisfied that whosoever shall offend against the laws of England, in England, is subject to those laws; and this of what place and degree soever the offender may be. By the late Act such a person may be examined and tried. We hold, therefore, that the said Protestation is made in prejudice of the laws and the royal majesty of England, and is not to be admitted."

Here a member of the commission moved that the Queen of Scot's Protestation, and the lord chancellor's ruling thereon be recorded. All agreed to the motion.

The next thing to be done was the reading of the commission, a long and tedious document, which contained the provisions of the Act of Parliament, recited the names and styles of the Commissioners, and then set out the charge. This, the substance of the matter, was as follows:—

"Divers matters have been compassed and imagined, tending to the hurt of our royal person, as well by Mary, daughter and heir of James V. King of Scots, and commonly called Queen of Scots, and Dowager of France, *pretending title to the crown of England*, as by divers other persons, *cum scientiâ*—in English, with the privity of the same Mary".

I pause here to observe that the language is extremely indefinite; and would not have stood examination as an indictment in a court of law. There is no specification of any dates, nor of the persons, the "divers others" with whom Mary was accused of conspiring. Still less is there a single particular of the "divers matters" that Mary herself and her confederates were alleged to have conspired to do.

The commission went on to give power to the noblemen and gentlemen named to examine "all and singular matters compassed and imagined, tending to the hurt of our royal person, as well by the aforesaid Mary as by any other person or persons whatsoever, *cum scientiâ*—in English, with the privity of the same Mary; and

all circumstances of the same, and all other offences abovesaid in the Act aforesaid . . . and thereupon . . . to give Sentence or Judgment, as upon good proof matter shall appear unto you."

It will be seen that the commission had power to make a roving inquiry; the only limit of time being that they must not begin before the end of the session of Parliament, 1585, which was when the statute came into force. This shut out Northumberland's rising, and the Norfolk marriage; but it left open the Babington conspiracy.

As soon as the commission had been read, Mary once more rose to protest. The late Act of Parliament, she said, was directed purposely against herself. "I appeal to your consciences, my lords, whether this be so or nay."

This time Burghley answered for the commissioners. He was much too wise to say that the Act was not directed against the Queen of Scots; for Burghley never told a lie that he knew nobody would believe. He slurred over that awkward point, and gravely observed. "Every person in this kingdom is bound e en by the latest laws." He might have added, "and if there are no laws to bind them already we soon make some." "Your highness ought not to speak against the laws," he said, "but we will judge according to the law—and we can judge none otherwise—what Protestations or Appellations[1] soever you interpose."

Mary's reply was quick and haughty. "I have submitted to answer anything touching the life of my sister of England. Nothing else will I be examined on, nor answer for."

The inquiry then began; and it is to be said that it was precisely similar to every other state trial of the period in form save only that there was no jury of twelve; and differed from them in substance only in one respect—that the prisoner was not subjected all the time to unmerciful bullying from the judges and the counsel for the Crown. To us it seems strange that Mary had no advocate to maintain her cause; but to her judges there would not seem to be any unfairness. For at that time the prisoner at the bar had to defend himself. As bloody Jeffreys said, a century later, "If a man be at suit for a forty shilling trespass, he may defend himself by counsel; but if he be at suit for his life and liberty, and all that he hath, counsel is denied him".

It may be added that Mary suffered less, in this respect, than did the majority of the unfortunates who appeared in the dock.

[1] Appellations=in modern English, appeals. A Protestation was a preliminary objection to the validity of the proceedings.

Her judges had no terrors for her. She lost neither her wits nor her eloquence. Indeed, her worst enemies agreed that she defended herself with "stout courage and splendid eloquence".

The case was opened by Gawdy, the queen's serjeant, in a speech of great length. To his credit, be it said, he did not ramble into extraneous matters; but kept to the Babington conspiracy. He related how Ballard, the Jesuit priest, had come over from France as the result of an understanding with Mendoza and Charles Paget; how he had tempted Babington to adventure all for the glory of Religion and the delivery of a beauteous and rightful queen from the grip of her enemies; how Babington had been drawn, gradually, into a plot to assassinate Elizabeth; and how the whole business had finally merged into a huge conspiracy to slay the queen, liberate the Queen of Scots, and establish Mary upon the English throne, with the help of Spanish arms, if need be. "Of this conspiracy," Gawdy wound up, "I say the Queen of Scots knew of it, approved it, assented unto it, promised her assistance, and shewed the way and means."

No sooner had the serjeant made an end than Mary made answer. She took a line at once bold and skilful. As for Babington, she said, she never received any letters from him, nor wrote any to him. This, it will be seen, was a direct challenge to the prosecution. Further, she had never plotted the death of Elizabeth—she challenged them to produce any letter under her own hand to prove it[1] and what was more, she had never heard speak of a plot to kill Elizabeth. "I know not this Babington," she repeated. So far for the bold denials.

Having courageously denied everything material, Mary now began to hedge a little. She did not know how much the commissioners knew, or what evidence was in the hands of the English lawyers. Her statement was to this effect: That she knew the English Catholics were discontented, and thought themselves hardly treated. Of this fact she had herself written to Elizabeth many times, beseeching her to redress the grievances. That many had approached her, offering aid and assistance; yet she had incited no one to commit any crime. "I am shut up in prison," she said, "and I can neither know nor hinder anything they attempt."

[1] One of the rules of feudal jurisprudence, as then administered in France, was that a noble or royal person's denial must always be accepted unless he was contradicted by the word of a person of equal rank, or by a document in his own writing. Mary, apparently, did not know that this doctrine did not prevail in England.

Then ensued one of those conversations between judges, lawyers and prisoner that appear so strange to the modern Englishman. It resembled, not remotely, the course of proceedings in a French trial of to-day. There were no rules of evidence; but the prosecuting counsel or the judges read out statements, made by anybody and everybody, about the conspiracy alleged, and then asked the prisoner what she had to say about them. According to the notions of that time, there was nothing irregular or improper in this course. Nor would it appear unfair to a French lawyer of the twentieth century.

The truth is that English criminal procedure hesitated for a long time between the litigious and the inquisitorial methods. There is something to be said for each of them. In litigious procedure the rule, "He who affirms must prove," is the guiding maxim. Under it, if the Crown or anybody else accuses one of a crime, the tribunal says, "Prove it! Prove it to the last tittle! Prove it so that nobody of reasonable understanding can have a reasonable doubt! Prove, not only the crime as a whole, but prove every constituent part of it—every legal atom that goes to make the whole!"

The inquisitorial system, on the other hand, says, "Let us inquire!" Thus the tribunal is no longer the umpire to say whether or no the party who affirms has proved his affirmation. It becomes the active agent of justice. Its business is to discover the truth. To that end it interrogates everybody who may be likely to know. And as the accused is likely to know, it interrogates the accused.

Each system has its merits and its defects. Under the litigious system a guilty one is more likely to escape. Under the inquisitorial, an innocent one is more likely to suffer wrong.

It is only under the litigious system that rules of evidence become strict, or, indeed, that you have any rules of evidence. Obviously, when the rule is "Prove it!" the just question is, What is proof? And when you apply a rigorous test, you discover such rules as "Hearsay is not evidence," "The contents of a document can only be proved by producing the document itself," "Opinion is not evidence," and other rules of a similar kind. Relevancy becomes the test. And cross-examination is introduced to test the truthfulness and the accuracy of witnesses.

At the time of Mary's trial neither method had been definitely adopted; but in ordinary cases there was more of the litigious—in state trials more of the inquisitorial system.

WILLIAM CECIL, LORD BURGHLEY

FROM THE PORTRAIT BY MARK GERARD IN GRAY'S INN HALL

In the trial of the Queen of Scots, then, we must not be surprised to find many things that would excite the wrath and disgust of all Britons to-day.

The first proof offered was Babington's confession, wherein the luckless young squire confessed—probably under torture—that letters had passed between the Queen of Scots and himself. After this had been read, Popham and the lord treasurer asked Mary if she now said there had been no such correspondence.

Mary made no direct reply. There had been, she said, much correspondence by letters between herself and a great many men—so much that she could not remember it all. "But because I have correspondence with any man," she demanded, "does that make me privy to all his wicked designs?"

"Nay," replied Burghley, "but if you know of his design, and by your letters show that you know it, and do not disapprove of it. How then?"

"Shew me my subscription!" cried Mary. "Shew me any subscription by me of these letters. Produce the letters you say I wrote. It is over a year ago; and how will it hurt any one if they are produced?"

By way of answer, Gawdy read copies—or alleged copies—of two letters; one from the Queen of Scots to Babington; the other in reply.

The Queen of Scots' Letter

"My very good friend, albeit it be long since you heard from me, not more than I have done from you, it is against my will; yet would I not you should think I have in the meanwhile, nor ever will be, unmindful of the effectual affection you have shewed heretofore towards all that concerneth me. I have understood, that upon the renewing of your intelligence, there were addressed unto you, both from France and Scotland, some packets for me. I pray you, if any be come to your hands, and be yet in place, to deliver them to the bearer hereof, who will safely convey them unto me; and I will pray to God for your preservation.

"Your assured good friend,

"Mary Regina

"*June the 28th,*
"Chartley"

It should be said that the allegation was that this letter was written in cipher; and that the key to the cipher had been dis-

covered amongst Mary's papers at Chartley, the day she was so rudely arrested.

If the correspondence stopped here, there would have been very little to be said; except that it showed Mary to be in correspondence about something with people in France and Scotland. But Babington's answer—if it was his answer—was much more to the point. This is it:—

"Most mighty, most excellent, my dread sovereign lady and Queen, unto to whom I owe all fidelity and obedience. May it please your gracious Majesty to admit excuse of my long silence and discontinuance from those dutiful offices in respect of which upon the removal of your royal person from the antient place of your abode to the custody of a wicked Puritan, a meer Leicestrian, a mortal enemy both by faith and faction to your majesty, and to the Catholic estate, I held hope of our country's weal—dependant next under God upon the life of your majesty—to be desperate, and thereupon resolved to quit the realm, determining to spend the remnant of my life in such solitary sort as the miserable and wretched estate of my country doth require; only excepting according to the just judgment of God, the present confession thereof which God for his mercy's sake prevent. To which my purpose being in execution, and standing upon my departure, there was addressed unto me from the parts beyond the seas one Ballard a man of virtue and learning and of singular fidelity to the Catholic cause and your majesty's service. The man informed me of great preparation by the christian princes, your majesty's allies, for the deliverance of our country from the extreme and miserable estate, wherein for a long time it hath remained; which when I understood, my especial desire was to advise by what means I might with the hazard of my life and all my friends in general, do your sacred majesty one day's good service. Whereupon most dread sovereign according to the great care which those princes have by the preservation and safe deliverance of your majesty's sacred person, I advised a means, and considered all the circumstances accordingly, to and with so many of the wisest and most trusty as with safety I might commend the secrecy thereof unto. I do find by the assistance of the Lord Jesus, assurance of good effect, the desired fruits of our travail. These things are first to be advised in this great and honourable action, upon issue of which dependeth not only the life of your most excellent majesty which God long preserve to our inestimable comfort and to the salvation of English souls and the lives of all us actors therein, but also the honour and weal of our country, far more dear than our lives in us, and the last hope ever to recover the faith of our forefathers and to redeem ourselves from the servitude and bondage which hereby heretofore hath been most upon us by the loss of many thousand souls. First for the assuring of invasion: sufficient strength on the invader's parts to arrive is appointed, with a strong party at every place to join with them, and warrant their landing, the deliverance of your majesty, the dispatch of the usurping competitor. For the affecting of all might it please your majesty to rely upon my service. I protest before the Almighty who hath long and miraculously preserved your royal person no doubt the same for some universal good—grant that what I have said shall be performed, or all our lives happily lost in the execution thereof. Which oath all the chief actors have taken solemnly; and are upon assurance, by your majesty to me, to receive the blessed sacrament thereupon either to prevail on the Church's behalf and your majesty's, or fortunately to die for so honourable a cause. Now forasmuch as delays are extremely dangerous, it might please your most excellent Majesty by your wisdom to direct us, and by your princely authority to enable us, and such as may advance the affairs. For seeing there is not any of the nobility at liberty assured to your majesty we have engaged 'n this desperate service none except

are known unto us. And seeing that it is very necessary that some there should be to become heads to lead the multitudes who are disposed by need of this land to follow the nobility. Considering withal it doth not only make the commons and country to follow without contradiction or contention which is ever found in equality but also doth add great courage to the leaders. For which necessary regards, I recommend some to your majesty as are fittest in like knowledge to be your lieutenants, in the West parts, in the North parts, South Wales, and North Wales, the counties of Lancaster, Derby, and Stafford. In all of which Counties parties being already met, and fidelity taken in your majesty's name I hold them as most assured, and of undoubted fidelity. Myself, with ten gentlemen of quality and one hundred followers, will undertake the delivery of your person from the hands of your enemies, and for the despatch of the usurper, from obedience to whom by the excommunication of her, we are made free thereby, *six noble gentlemen, all my private friends, who, for the zeal they bear to the Catholic cause, and your majesty's service, will undertake the tragical execution.* It resteth, that according to their unfounded deserts and your majesty's bounty, their heroic attempts may be honourably rewarded if they escape with life; or in their posterity, and that so much by your majesty's authority I may be able to assure them. Now it remaineth only in your majesty's wisdom that it be reduced into method; that your happy deliverance be first, for that thereupon dependeth the only good, and that the other circumstances concur; that the untimely end of the one, do not overthrow the rest. All of which your Majesty's wonderful experience and wisdom will dispose in so good manner as I doubt not through God's good assistance shall take the deserved effect; for the obtaining of which everyone of us shall think his life most happily spent. Upon the 12th day of this month I will be at Litchfield, expecting your majesty's answers and letters, to execute what by them shall be commanded.

"Your Majestys faithful subject, and sworn Servant,

"ANTHONY BABINGTON"

The Queen of Scots listened with some patience to the reading of this document, until the passage was reached which spoke of "the tragical execution". At that point she made an expressive gesture of contemptuous dissent. When the reading was finished, she did not wait to be asked what she had to say, but broke in at once.

"Whether Babington wrote this or no, I know not. Mayhap he did. But let it be proved that I received it. If Babington, or any others affirm it, I say they lie openly. Other men's crimes are not to be cast upon me. I well remember that a packet of letters which had been kept for me almost a whole year, came into my hands about that time, but by whom it was sent I know not." It may be thought that if these were genuine letters and genuine copies, nothing would be easier than to prove where the copies came from and how the letters were traced, to the knowledge of Mary. But really it was not so easy; because the copies had been taken by Walsingham from the letters themselves while they were in transit. Sir Francis had known all about the plot from the beginning; and had allowed it to go on; merely taking care to secure copies of every letter that passed. Undoubtedly

there was a plot; but equally without doubt Sir Francis Walsingham could have stifled it at the outset. The conclusion is forced upon one that he had allowed it to continue simply in order that he might obtain evidence against the Queen of Scots such as would bring her head to the block.

Instead of showing how the copies were really made, or proving the receipt of Babington's letter by Mary, Popham and Egerton relied again upon Babington's confession, in which it is quite clear the young conspirator had admitted that the Queen of Scots had answered his letters, which, of course, she could not have done unless she had received them. In the course of the confession, Babington had made mention of the Earl of Arundel, and the Earl of Northumberland. On hearing these noble names, Mary's calmness deserted her. The tears burst forth. "Alas," she cried; "what hath that noble House of the Howards endured for my sake?"

A hush fell on the hall. Many a noble peer, connected by ties of blood and friendship with the Duke of Norfolk, the Earl of Arundel, and the Earl of Northumberland recollected how these three noble heads had been brought to the block for this woman. I doubt greatly if her outburst had any other effect than to harden the hearts of her judges, and to make them resolve firmly that no more noble English blood should be shed for her.

Presently Mary wiped away her tears, and subdued her sobs; and when she was sufficiently composed, Popham asked her if she denied the truth of Babington's confession.

Mary was not long off her guard. She answered resolutely, "Babington may confess what he listeth; but it is an open lie that I devised such means to escape. For my ciphers," she continued, "how easily may my adversaries get them and write things falsely." "Is it likely that I should use Arundel's help when I know him to be shut up in prison? Should I use Northumberland's aid, a man so young and unknown to me?"

Egerton, solicitor-general, then picked out some points of Savage's and Ballard's confessions. Each of them had admitted that Babington showed them certain letters from the Queen of Scots. Egerton pressed Mary to answer carefully, whether she had not written something to this Babington. Mary denied the slightest knowledge of it. "Babington received no letters from me." "Nay, I was angry with some which had secretly suggested counsels unto me, for the invading of England, and I had warned them to beware."

Having brought the prisoner to a total denial of all correspondence with Babington, Popham produced a letter, written in cipher, alleged to be in Mary's own hand; which, if genuine, was conclusive of the case. It was written in the flowing, formal style of the times—the grand manner. Being deciphered, it read thus:—

"TRUSTY AND WELL BELOVED,

"According to the zeal and entire affection which I have known in you towards the common cause of your religion and mine, having always made account with you as a principal and right worthy member to be employed both in the one and in the other, it had been no less consolation unto me to know your estate as I have done by your last letter, than to have further means to renew any intelligence with you. I pray you, therefore, to write unto me hereafter so often as you can, of all concurrence which you may judge in any sort important to the good of mine affairs; wherein I shall not fail to correspond with all the care and diligence that shall be within possibility.

"For divers great and importunate considerations, which were here over long to be deducted, I cannot but greatly press and commend your common desire to prevent in time the designment of our enemies for the extirpation of our religion out of this realm with the ruin of us all. I have long ago shewed to the foreign Catholic Princes what they have done against the King of Spain, and in the meantime the Catholics here remaining exposed to all persecutions and cruelty, do daily diminish in number, forces, means and power, so as if remedy be not thereunto speedily provided I fear not a little but that they shall become altogether unable for ever to rise again to receive any aid at all whensoever it is offered.

"This for my own part I pray you assure our principal friends, that albeit I had no particular interest in this case . . . in respect to the public good of the state, I shall be always ready and most willing to employ therein my life and all that I have or may look for in this world."

I pause here to observe that there is no mention made of any details of the enterprise that is to be undertaken, except it is inferred to be a rising of the Catholics. The next part of the letter is more interesting to read as it shows what an able woman Mary was. She had rid herself of the fiery passions of youth, and had became a woman of a calibre more than ever dangerous to her

enemies. "To ground substantially this enterprise and to bring it to good success, you must examine duly: 1. What forces as well on foot and on horse you may raise among you all; and what Captain you shall appoint for them in every shire, in case a general cannot be had.[1] 2. Which towns, ports, and havens you may assure yourselves, as well on the North, West, and South, to receive succours as well from the low countries of Spain and France, as from other parts. 3. Of the place you assume fittest and of most advantage to assemble the principal company of your forces at the same time which would be compassed conform to the proportion of your own. 4. For how long pay and munition, and what parties are fitted for their landing in this realm from the foresaid three countries. 5. What provision of monies and armour, in case you should want any, you would ask. 6. *By what means do the six gentlemen deliberate to proceed.* 7. The manners of my getting forth if this hold."

There follows some excellent advice about secrecy in preparation and keeping every vestige of the plot from the ears of persons who might betray them, especially from certain priests, who, Mary had heard, had been bought up by Walsingham. This latter piece of information may seem strange to those who do not know that at the very time when the Pope was declaring Elizabeth excommunicate and deposed, and was planning every kind of mischief against the determined woman who defied him, the English queen had at the Vatican itself a cardinal in her pay.

To resume the letter. After this salutary advice, Mary adumbrates a very tricky policy. Recognising that it would be difficult for the Catholics to meet together, or even to lay in a proper store of munitions of war without news of it coming to the ears of Elizabeth and her Council, Mary advises the Catholics to form associations, the ostensible object of which shall be to resist an alleged threatened attempt on the part of the Puritans to overturn Elizabeth herself and ruin the Catholics.

"These pretexts may serve to found and establish among all, associations or federations general, as done only for your preservation and defence, as well in religion as lives, lands, and goods, against the oppression and attempts of the said Puritans, without directly writing or giving out anything against the Queen, but rather shewing ourselves willing to maintain her and her law-

[1] The reader observes that this fits in with the alleged letter of Babington; in which he complains that he cannot procure any of the nobility to assume the office of General. See p. 148.

ful heirs after her, not naming me. The affairs being thus prepared and forces in readiness, both within and without the realm, *then shall it be time to set the gentlemen on the work*, taking good order, upon the accomplishment of their discharges I may be suddenly transported out of this place, and met without tarrying for the arrival of the foreign aid which then must be hastened with all diligence. Now, for that there can be no certain day for the accomplishment of the said gentlemen's designment to the end others may be in readiness to take me from hence, I would that the said gentlemen had always about them, or at least at court divers and sundry scoutmen, furnished with good and speedy horses, *as soon as the design shall be executed*, to come with all diligence to advertise me thereon, and those that shall be appointed for my transporting; to the end that immediately after they may be at the place of my abode, before my keeper can have advertisement of the execution of the said designment, or at the least before he can fortify himself within the house or carry me out of the same." Assuming this letter to be genuine, here is evidence of the clearest kind that Mary knew of Babington's plot, not only as a plot to release her from captivity; but also as a plot to kill Elizabeth by means of the six gentlemen previously mentioned by Babington. If the sentences last quoted do not mean this, what is meant by the phrases "time to set the gentlemen on work,"—"the accomplishment of their discharges,"—"As soon as the design shall be executed"?

"This is the plot that I have composed for the enterprise, and the order whereby we shall conduct the same for our common security. For stirring of this side before you be sure of sufficient foreign forces, that we fear nothing but to put ourselves in danger of following the miserable fortune of such as have heretofore travailed in the like actions. If you take me out of this place, be well assured to set me in the midst of a good army or some very good strength[1] where I may safely stay till the array of your forces and arrival of the said foreign succours. It were sufficient cause given to the Queen in catching me again to enclose me in some hold out of which I should never escape if she did use me none the worse; and to pursue with all extremity those that assisted me, which would grieve me more than all the unhappiness that might fall upon myself." The next passage of the letter simply enjoins Babington to confer with his fellows, so that they may be quite sure to act in concert. Then Mary goes on to provide for what shall be done if she herself is not set free.

[1] By "strength" Mary means stronghold, or fortified place.

"But if the mishap should fall out that you might not come by me, being set in the Tower of London or any other strength with strong guard; yet notwithstanding leave not for God's sake to proceed in the enterprise; for I shall at any time die most contentedly, understanding of your delivery out of the servitude wherein you are holden as slaves. I shall assay, that at the same time that the work shall be in hand, at that present to make the Catholics of Scotland to arise, and put my son in their hands. To the effect that our enemies here may not prevail by any succour. I would also that some stirring were in Ireland, and that it were laboured to begin sometime before anything be done here, and then that the alarm might begin thereby on the flat contrary side. That strength may come from your designs to have some general or chief head is very pertinent; and therefore were it good to send obscurely for the purpose to the Earl of Arundal or some of this brethren, and likewise to seek out the young Earl of Northumberland, if he be at liberty, from over the sea. The Earl of Westmoreland may be had, whose hand and name, you know, may do much in the north parts. Also the Lord Paget of good ability in some of the shires thereabouts. Both the one and the other may be had; as well as whom, secretly, some more principal banished may return if the enterprise be once resolute."

The letter goes on to enjoin great care in the sending of letters and the choice of messengers; and also as to leaving papers about. Then Mary suggests ways and means by which she can be rescued if she should remain at Chartley.

"The first, That at a certain day appointed for my going abroad on horseback on the moors between this and Stafford, where ordinarily you know that few people do pass, let fifty or three score mounted horsemen as well mounted and armed, come to take me away, as they may easily; my keeper having with him but eighteen or twenty horses, with only dogs." [By the way, a scheme very like the Bothwell abduction.]

"The second means, To come at midnight, or soon after, and set fire on the barns and stables which you know are near the house, and whilst my guardian's servants shall come forth to the fire, your company having duly on a mark whereby they may be known one from another, some of you may surprise the house, where I be with a few servants I have about me. I shall be able to give you correspondant aid.

"And the third, Some there be that bring carts hither early in the morning. Three carts may be so prepared that being in the

midst of the great gate, the carts might fall down or overthrow. That thereupon you might come suddenly and make youselves masters of the house, and carry me suddenly away. So you might easily do before any number of soldiers, who lay in sundry places forth of this place, some half a mile, and some a whole mile, could come to relieve.

"Whatever issue the matter taketh I do and shall think myself obliged as long as I live toward you for the offers you make to hazard yourself as you do for my deliverance, and by any means that even I may have, I shall do my endeavour to recognise by effects your deserts. Therein I have commanded a more ample alphabet to be made for you, which herewith you shall receive.

"God Almighty have you in his protection.

"Your assured friend for ever,

"MARY REGINA

"Fail not to burn this privately and quickly."

I make no apology for inserting this long letter in full, because it is the *crux* of the case—on it Mary's guilt or innocence turned.

It needed not the quick intelligence of one so wise as Mary to see that if her judges believed she had written this letter, she could not escape condemnation. Although there was nothing in it of an attempt on Elizabeth's life, there can be no doubt what the natural result of the success of the plot would have been. The plan was to overturn Elizabeth by domestic insurrection acting jointly with the Catholic powers—especially with Spain. Can any one pretend that Elizabeth's life would have been worth a week's purchase? In English law, at any rate, a plot to depose a king has always been held to be "compassing the king's death"; and this on the plain ground that experience has taught that there is only one step between a king's prison and his grave.

The Queen of Scots faced the lawyers boldly. She had never written that letter, she said. She demanded a copy. If it was written in her cipher, it had been forged with the aid of her alphabet of ciphers in France.

Popham began to cross-examine on the letter by the well-known method of putting it to Mary a piece at a time.

Was it true, he asked, that she had intelligence with foreign princes to aid her to escape?

Yes, it was true. She had done her best to recover her liberty. "The law of nature allows that to me, my lords," she added, with some pathos.

With whom had she this intelligence? Was it with Mendoza?

Mary declined giving a direct answer. She admitted soliciting her friends to deliver her; but, on the other hand (she said), to many who had offered her help she had answered not a word.

Was it not true that she desired the restoration of the Catholic religion?

No, it was not. Nevertheless, she wished to divert the storm of persecution from the Catholics; and had made earnest suit to the queen with this object.

"My lords," she burst forth, "I would not purchase the kingdom with the death of the meanest man in it, much less of the queen, my royal sister."

Popham still continued to press her to acknowledge the letter, telling her it was manifestly hers. He also put the pertinent question, "Why should Babington and his companions in treason risk their lives and fortunes unless they knew the enterprise had her sanction?"

Mary protested against being interrogated thus by a mere lawyer. She expected to be tried by noblemen and councillors, she said; and not to be handed over to persons who were merely *chiquaneurs*. But when Burghley required her to answer the question she did so.

"There have been many to attempt dangerous designs without my knowledge." Indeed, by a letter she had lately received, the writer asked her pardon if he and his friends should do something without her privity. "How easy is it," she continued, "for some one to counterfeit the cipher and handwriting of another."

Mary was cross-examined so closely upon this letter that at last she lost her temper a little and with great indignation openly charged Walsingham with having counterfeited her cipher in order to bring her to death. She had heard she said that he had practised against her life and her son's. Wound up to a high state of nervous tension she wept tears of rage and grief, and in the midst of her weeping declared solemnly that she had not even thought the destruction of the queen much less conspired it. "I had rather spend my own life, and that gladly, than for my sake the Catholics should be so inflicted in the hatred of me and drawn to cruel death." Here she was subjected to an interruption by the lord treasurer who averred that no man who had shown himself a good subject was ever put to death for religion. He admitted, however, that some who had maintained the Pope's Bull and authority against the queen had been executed.

"I have heard otherwise," replied Mary, "and have read it also in books set forth in print." Burghley replied, with great shrewdness, "The authors of such books do write also that the queen has forfeited her royal dignity". To this Mary had no reply; for it was an undisputable fact that all those who had set forth in print the manifold cruelties of Elizabeth to the Catholics had in the same books declared her a usurper. At the same time it is not necessary to believe that all the Roman Catholics who were executed in Elizabeth's time were traitors, except as far as it was treason in itself to be Roman Catholic.

But the most remarkable speech came from Walsingham. Rising in his place, that wiliest of English statesmen begged permission to speak. Then turning to the prisoner he laid his hand on his heart and protested that his mind was free from malice. "I call God to regard that as a private person I have done nothing unbeseeming as an honest man, nor as I bear the place of a public person have I done anything unworthy of my place. I confess that being very careful for the safety of the Queen, and realm, I have curiously searched out the practices against the same. I do not deny that if by bribing Ballard or any of the servants of the Scottish Queen I could the better have found out the practices against my gracious mistress I would have done it. But I protest on my honour that I have not done it. If Ballard or Nau had offered me help I should have accepted it, and should have recompensed them if they demanded recompense. But I have done none of these things. I ask, if I have practised with Ballard, why did he not declare it to save his life?"

All accounts agree that this intervention of Walsingham was made in a striking and dignified manner; and that it appeared to produce a considerable effect on the Queen of Scots. Whether she really believed Walsingham, or simply from the motive of endeavouring to repair the error she had made by accusing one of the most powerful of her judges of treacherous conduct, I do not know. At any rate, she withdrew her charge.

"I am satisfied, my Lord," she said, "and I pray you be not angry. I have but spoken freely what I have heard reported and I pray further that you give no more credit to those that slander me than I do to such who accuse you. Spies are men of doubtful credit, which dissemble one thing and speak another. Do not believe them either when they say that I consented to the Queen's destruction." Once more the high-spirited woman burst into a flood of tears; and cried, "I would never make shipwreck of my

soul, by conspiring the destruction of my dearest sister". "Nay," answered Popham, on whom the tears and protestations took little effect, "the fact can be proved by testimony".

At this point the court adjourned for dinner. On resuming the sitting in the afternoon the Crown lawyers endeavoured to prove the point that Mary had received the letters from Babington; and their first point of proof was an alleged copy of a letter from Charles Paget to Mary. This copy had been found amongst Mary's papers seized at Chartley; and Curle, the secretary, had confessed that Mary had actually seen it. The contents were not so straightforwardly incriminating as the contents of some of the other letters, as Mary was not slow to point out. For the letter merely related the details of a conference between Mendoza and Ballard about a plan for invading England and setting Mary free.

"How can this be to the purpose?" Mary inquired. "I am not to answer for any plans to set me at liberty but for plots against the life of the Queen my sister. Even if I did receive this letter and approve of it, it proveth not that I had consented to the destruction of the Queen. As for consenting to any plan to set me free from this prison, I do not deny that I have heard of many and have welcomed any attempts that may have been made. But never the destruction of the Queen my sister."

It makes one ashamed of the Elizabethan Englishmen to think that notwithstanding the able and spirited defence of this lonely lady, the three great lawyers who appeared for the Crown, not to speak of Burghley and the lord chancellor should prosecute her so vindictively. As I have before observed, the ethics of advocacy in those days, did not include fairness to the prisoner at the bar, much less chivalry.

By quoting bits of Babington's confession, and his letters, the Crown lawyers endeavoured to show that at any rate Mary had given her consent to a project for setting herself free from captivity, and at the same time for setting her upon the throne of England. They made much play with a letter found amongst her papers, from Babington, in which he addressed her as "My most dread and sovereign lady and Queen". It was, of course, not fair to the prisoner to impute to her blame for what was written by another person. The Crown lawyers felt this, and by question after question administered promiscuously by the attorney-general, solicitor-general, and queen's serjeant, they tried to catch Mary tripping or force her into an admission that she had approved of

what Babington had written, and of his conspiring on her behalf against the Crown of England.

They forced her to admit that she had never renounced her pretensions to the throne of England. Thus they made out that in was highly probable that she would accept the homage of any Englishman who proffered it to her as his sovereign. They put it to her, why should she not approve and accept such proffered allegiance if she was, as she claimed to be, the true Queen of England.

Mary saw the danger with unerring eye. She persisted that this had nothing to do with the crime of which she was accused. She was cajoled, however, into saying that she would renounce any present claim upon the throne of England if Elizabeth would cause her to be proclaimed in full Parliament as the next heir. I do not know whether my lord Burghley smiled openly at this astounding offer; but I am sure he would have difficulty in restraining his laughter. Proceeding by steps, the crown lawyers tried to drag from her the admission that the Spanish plan, Mendoza's plan, must mean as a corollary to the liberation of herself, the destruction of Elizabeth. But Mary could not be brought to admit it. Copies of other letters from Mendoza to her were also produced.

On this material, Burghley and the lord chancellor, and the others asked her if she did not know of a plot for conveying the Kingdom of England to the Spaniard. She confessed that a priest had obtained access to her and told her that unless she could enter such a plot both she and her son should be excluded from the inheritance. She added that she knew the Spaniard laid claim to the Kingdom of England, and would not give place to any but herself. When she was pressed to give the name of the priest, she refused. The next business of the prosecution was to try to get her to admit the truth of certain statements by Nau and Curle, on whose confessions alone the case rested. For the whole business turned on one question, namely, whether she had in fact received Babington's letters and had answered them favourably. The two secretaries, either from fear or for some other reason, had admitted these facts against their mistress; but it is a remarkable fact that neither of them was produced at Fotheringay to be confronted by the accused.

Mary adopted rather a curious line of defence in this matter. She asserted that Curle was not a proper witness, and could know nothing of such matters. As to Nau, she challenged his honesty.

I draw the attention of the reader to a very curious statement. Mary said that Nau and Curle might easily put into her letters something she never dictated; and it might also be that letters came into their hands intended for her which she never saw herself. This appears to me to be very weak as a defence; for I cannot imagine why these two men should go out of their way to get both themselves and their mistress into trouble. Perhaps Mary was conscious of this herself. For she "Brake forth" as one old writer puts it, into an indignant outburst.

"The majesty and safety of princes falleth to the ground if they depend upon the writings and testimony of secretaries. I delivered nothing to them but what nature delivered to me that I might at length recover my liberty. I am not to be convicted of my secretaries' words or writings if they have written nothing which may be hurtful to the Queen my sister. They have written it altogether without my knowledge and let them bear the punishment of their inconsiderate boldness. Sure I am if they were here present they would clear me of all blame in this case; and I, if my notes were at hand, could answer particularly to these things."

The rest of the afternoon was taken up in a debate between Burghley and the lawyers on the one hand, and the Queen of Scots on the other, on a great variety of matters. Burghley pressed her particularly with her correspondence with the Spaniard; and Mary made no scruple to avow not only that she had considerable intelligence with foreign princes, but also that she had done her best to induce them to enable her to recover her freedom. She declared, however, that this in no way proved her guilty of the offence with which she was charged.

So the first day ended.

The next morning Mary did not wait to be questioned; but entered on her defence. In presenting this to the reader, I have rather followed the account by Bourgoing[1] than that in the state trials. The two versions agree to a great extent; but the Frenchman's is much fuller than the other. Curiously enough, there is no absolute contradiction between the two reports.

When the royal prisoner rose to make her defence, her judges also rose and stood bareheaded. Well did Mary bear out the testimony of Knollys eighteen years before, that she had an eloquent tongue.

[1] Bourgoing was Mary's French physician who was present the whole of the trial. I am inclined to think that his narrative was dictated by Mary after the hearing was concluded. The modern spelling would be "Burgoyne".

"I have permission to speak freely and to say all that I think proper, according to the promise made to me by the chancellor in the name of all this assembly, without being interrupted or impeached by any one. The manner in which I am treated appears to me very strange. Not only am I brought to this place to be tried, contrary to the rights of persons of my quality; but the charge and handling of my case has been given to those who are not usually employed in the affairs of kingdoms and princes.

"I thought only of having to reply to gentlemen and nobles who respect the honour of princes and have nobility for their guide, who devote themselves to the sustained safeguard and defence of their princes, to the preservation of their rights, as much for the use and profit of themselves as for the honour of their country, and the augmentation and support of the public weal, of which they are the guardians and protectors.

"I find myself overwhelmed under the impertinent clamour of a crowd of advocates or lawyers who appear to employ rather the formalities of petty courts of justice in little towns, and the chicaneries that they ordinarily practice. And although I was promised that I should simply be interrogated and examined on the single point, namely, the one concerning the person of the Queen, they rather examine and accuse me; and for that purpose hinder, interrupt, and contradict each other, speaking and seeming to compete among themselves, striving who shall plead the better or exaggerate the facts; and trying to force me to reply to what I am not bound to answer, to what I do not understand, and to what is quite outside this commission.

"It is not only wearisome, but unworthy to hand over to the clutches of men of this kind, who make a living of pleading and chicanery, a prince not accustomed to such procedure and formalities. It is against all right and equity that I, who am alone, without counsel, support, or defence, having neither papers, notes or evidence to defend and support my word, or any one to write and relieve me, feeble and ill, surrounded by enemies and despairing—that I should be obliged to submit to these cares. It is very easy for several persons joined together, and in a manner, as I perceive, conspiring all to the same end, and being of the same mind, to overcome by force of circumstances one woman to whom is denied every means of self-defence. There is not one of you, however able, I believe, whom I estimate sufficiently strong to do everything necessary (*faire satisfaction*) to hold his ground or resist if he were in my place. Nor is there one of you able to

guarantee, if he were constrained, alone, and unprepared, to reply to so many persons ill-affected and prepared for so long a time, and who seem rather to proceed on animosities and choler than with a desire to arrive at the truth and accomplish their duty in the commission.

"If it falls out that I am to be forced and constrained to it, I demand permission to reply to each one of them seriatim, without confusion; and at each point of their speech; distinctly; without interruption. I am not able, owing to my feeble mind and body, to understand so great a number of matters, put all at once and unexpectedly, nor to answer each so particularly as I desired.

"As I am so impertinently hindered by the long and continual discourse of these men, I request at least that as this assembly has been convened, it seems, to accuse me, in like manner another shall be called where I can freely and unreservedly plead for my rights and honour. I have the desire to make my innocence appear.

"If there is no other way, I submit to be defended by the same sort of men and in the same fashion that you have used against me, which you cannot very well refuse. And I demand that my previous questions and answers and protests and agreements shall be faithfully reduced to writing and delivered to me. I also demand that all your proceedings and requirements shall be delivered to me, that I may answer in time and place. And, finally, without departing from my first protestation I appeal from everything that has been done and demand an act."

The lord treasurer assumed the burden of replying to this eloquent appeal. He agreed that it was quite proper for her Majesty to say all she pleased, and do all she could. The commission had no wish to hinder her or shorten her defence.

In passing it may be added that if, as seems probable, the commissioners had made up their minds to convict in any case, it certainly mattered very little whether Mary made a good defence or a bad one; and from this point of view Burghley's words were cynically accurate. He went on to say that the lawyers who had spoken the previous day, had only done according to their instructions and their duty. In order to know the truth, he declared, it was necessary to open all the facts which were to be used in the case. As to Mary's demand of another assembly to try her, it would be looked into; but as to the commissioners, they had no charge nor commission to allow anything of the kind and they could not do it.

It should be observed, however, that Burghley was most anxious for the trial to be concluded in an orderly fashion for the sake of appearances and of the good name of his mistress and his country. It would have been, from his point of view, a catastrophe for Mary to retire from the proceedings at this moment. And, therefore, as he saw that she was especially annoyed by the cross-examination, and arguments, and professional persistence of the counsel for the Crown, he moderated the zeal of these gentlemen during the rest of the trial. Thenceforth, the examination of Mary was conducted chiefly by Burghley instead of by the attorney- and solicitor-generals. All the morning was taken up in reading letters to Babington, Paget, and others from the Queen of Scots; and letters addressed to her by divers people. Most of these, if not all, related to the overthrow of England by foreigners, and the correspondence of Mary with the Catholic princes. This correspondence with the Scottish Queen, like that with Babington, mentioned her deliverance from prison. Burghley pressed her with these matters, showing that she conspired to depose Elizabeth and therefore to kill or imprison her.

Again the Queen of Scots repelled the accusation. "That I am a Catholic, I have confessed. Time was when I offered to be instructed in the Protestant religion; but that was refused; for you care as little about my soul as about my body. I have confessed that I had intelligence with Christian princes. They have offered of their own accord to receive me, though I have not asked them; and I, seeing myself cut off from all other support, could do no less than accept the benefit proffered to me. I know well that the English have made a league on their side against my reception by anybody; within which league you have included my son, and have left a place for the King of France if he wishes to enter. I do not disguise the fact that I well know that my friends the Christian princes have the mind to deliver me from prison; but my hands are tied; and I do not know the means to be employed. I can do nothing; but I hope they have found some way for my deliverance. I have always been ready to agree with my sister the Queen, and have offered and done so much that I have almost brought excommunication on myself. I call on some of you—I call on Sir Ralph Sadler and Sir Walter Mildmay to witness that I have often warned them of coming events."

At this point the attorney-general interposed the observation that it was strange she should have correspondence with foreign

princes as she confessed. She turned on him with a haughtiness that must have reminded him of his august mistress.

"It is not your *métier* to speak of the affairs of princes. You do not know that princes have with each other secret intelligence; and that it always has been so, and cannot be otherwise."

Burghley intervened to say that he did not blame her for having secret intelligence, nor did he wish to interfere with it; but it must be obvious to her that if such a number of men-at-arms as had been mentioned in the correspondence had entered the country as the King of Spain, the Pope, and Monsieur de Guise had deliberated to send, the country would be in danger of falling into the hands of foreigners.

"I do not deny their intentions nor am I bound to answer for them; but I was assured that the princes of Europe would do something for me. If my sister the Queen of England and her servants had been willing to employ me, I would rather have been a go-between to bring about a good understanding. This I have offered several times; and have told you that you ought not thus to reject me; and that if you lost me you would receive more damage than profit and put yourselves in danger. I tell you that whatever was done by foreigners, I intended nothing and desired nothing except mine own deliverance." Burghley then began to read more letters to her. She promptly interrupted him with the observation that her integrity depended not upon the credit and memory of her secretaries; though she knew them to be honest and sincere men.

The truth is, that Mary well knew the manner in which testimony and confessions were extracted from the servants of those whom persons in power had doomed to destruction. She significantly hinted at this. It was clear, she said, that if either of her secretaries had confessed anything out of fear of torture or hope of reward and impunity, such testimony ought not to be admitted. She was sure they would never have confessed such matters against her but for their own advantage and hope. Letters might easily be directed to people to whom they were not written. She added that many things had been inserted that she had never dictated. "You are asking an impossible thing of me to refute this allegation when you have taken away at once my papers and my secretary."

Burghley solemnly denied that the secretaries and Babington had been tortured. I do not know that he asserted that they had never been threatened with torture. It is true that Babington, in

his public confession, said he had not been tormented; and so did the others of the conspirators who were executed. But I take leave to doubt this. Burghley then put it to her that she was a consenting party to the proposed attempt on England which was to come from Spain. He read to her a letter from herself to Charles Paget wherein she propounded a scheme by which Paget was to enlist the support of Spain. Mary knew full well that Spain would be more likely to take up her cause in a practical manner if Philip should be persuaded that he would reap some territorial advantage by embracing it. She, therefore, in this letter instructed Paget to advance to the Spaniard the argument that there was no other way for the reducing the Netherlands into obedience but by setting up in England a prince friendly to Spain. A letter from Cardinal Allen was then produced, in which Mary was informed that the matter was commended to the Prince of Parma's care. Mary saw how very unfavourable an impression these letters were making upon those whom one may call the non-party members of the commission. She broke forth, therefore, into a long speech. This oration, though it consists in great part of a reiteration of what she had previously urged, may be usefully set out at length as continuing Mary's real defence to the charge made against her.

"As I have said before, I know nothing of any murder or attempt against the person of my good sister; nor of a conspiracy or invasion of the realm. I have already said I had warned my friends to take care not to make any enterprise. That I knew it had been done, I admit; but that I knew it was going to be done I deny. It has always been concealed from me; for they knew full well that I should never consent. I do not doubt also that they concealed it from me for fear of injuring me. My name would not help me to authorise such a deed and render it stronger in execution. In fact, no letter written by my hand, nor signed by me, nor any one who has seen or has received such a letter or had communication or speech with me is produced.

"You know well that when I was in my kingdom I never did anything nor threatened, nor disquieted anybody on account of religion.[1] I tried to gain them by clemency and gentleness, which course I carried too far; and have been blamed for it and ruined

[1] This is quite true; but it is also true that Mary and Darnley wrote a letter to the Pope asking for assistance in men and money to extirpate heresy in Scotland and in England. In the sixteenth century monarchs were only tolerant when they were powerless.

by it. My subjects became proud and haughty and abused my kindness to them. Since that time they have never been so well treated as they were under my good government. Now they are in the hands of a traitor and tyrant, the Earl of Morton, who terrorises over them completely.

"As to what foreign princes have done or attempted, I wash my hands of them; and decline to be responsible. I come to the attempt on Chartley. I have never heard speak of this enterprise of the fire; but people had promised to deliver me; and if foreign princes united it was in order to take me away out of prison from which I cannot escape. The Christian princes have put men in arms to receive, defend, and guide me. If the Catholics of England offered to lend aid and support in this affair, it was for their own interest; being so evilly treated, vexed, and afflicted in this realm that they had fallen into despair. They like better to die than to live longer in the persecution in which they are.

"But I do not know of the enterprise.

"I am a solitary woman. When I am dead neither the Catholics nor the foreign princes will cease to make enterprises, if the Catholic persecution does not stop meanwhile.

"As to taking the place of the Queen my sister, the letters you have read in this assembly justify me on that head. I desire neither honour nor kingdom, nor in anywise aspire that any one should undertake anything on my account. I care for nothing except for the Catholics and for the cause of God. I desire the deliverance of the one and the defence of the other. You do not see nor heed that the very thing with which you reproach me is my justification; and proves the exact contrary of what you intended to prove. The Lord Treasurer deceives himself; inasmuch as if I had been willing thus to part with my right to the King of Spain, it is too evident that I did not pursue the matter nor pretend to be Queen of England in order to put him in my place. You will find that I had no other intention than to prevent the overthrow of the religion and to deliver myself and the afflicted Catholics. For this I am ready to shed my blood, and should esteem myself most happy if God would allow me the favour of suffering and enduring the death for His holy name and in defence of His quarrel.

"I am reproached with letters, not that I have written but that have been written to me. I cannot hinder my friends from sending me such letters as seem good to them to send. They in their conscience know what they do. If they speak what they desire,

knowing me to be a Catholic and desiring me to be delivered, I cannot blame them; nor is it for me to rebuke them for that; especially as I wish them well. And, being of their religion, I ought not to forbid them to hope that what they think ought to be done will be done, or to take away their hope and so discourage them.

"For my part I have long since ceased to hope; but I am a good Catholic; and as such am bound to desire my deliverance and theirs; and if I ceased to desire I should be wicked."

All this was excellent advocacy; but Mary showed her chief skill by the way in which she turned time and time again to her strong point—the fact that the letters produced against her were not in her own writing.

"You cannot produce a letter or paper of mine, that I have taken this title (*i.e.*, The Queen of England) nor that I have abetted others in conferring it on me. It is not for me to correct the Pope, who knows better than I. I thank him and all Christian people, every Catholic nation and assembly for the prayers daily offered up for me; and desire and wish them to continue to offer up in all their congregations, petitions, Masses and prayers wherever they have memory of me. I am of the number of the faithful; and I hope to have part in all the mediatorial works and alms that are offered in church for all Catholics, since now I am unable to take part in them, having been deprived of them."[1]

It is worth the reader's while to observe that Mary in this part of her defence nowhere waives her title to the Crown of England. Whether it would have had any effect if she had, before the commission, made a frank declaration that she had made a mistake in her youth, when she suffered herself to be called Queen of England and quarter the arms, I do not know. It would at any rate have made Burghley's position the more difficult.

"As to the Bull[2] I had offered to prevent its execution; and to procure that nothing should come of it."

The lord treasurer interposed with the quickness of lightning. "Had you power to do this?" Mary did not answer. She had

[1] The point of this observation is, that Cardinal Allen, who had written on behalf of the Pope, had called Mary "most dread Sovereign". It was also well known to Elizabeth, who had several of the Pope's entourage in her pay, that Mary was habitually alluded to as the Queen of England, and herself as the bastard. Prayers were offered up by the Pope's command in all Catholic countries for the deliverance of Mary, and her restoration to the throne of England.

[2] Mary was alluding to the celebrated Papal Bull whereby Elizabeth was declared excommunicate and illegitimate, and her subjects were absolved from their allegiance.

gone a little too far. "In any case," continued Burghley, "we trouble not for the Bull in England. We make no account of the Pope and such like."

"Cease you to persecute the Catholics," urged Mary, "and I will make an effort to allay much of the trouble you are in danger of falling into."

"I tell your Majesty no Catholic has been punished for his religion."

"Not punished! Every day they are in all places banished, driven into exile, fugitives, wandering up and down here and there to conceal themselves. The prisons of England are full of them. In fine, you make believe they are guilty of treason, some because they will not obey or do the commands of the Queen which are contrary and repugnant to their religion, other because they will not recognise the Queen as head of the Church. I see what you are driving at in my business, laying on me things which are not my doing; to bring me to the point of confessing things that are not relevant, in order to draw an inference. You would pretend that it is necessary to make me more uneasy by reading these letters and entering upon these matters.

"I will not answer any more. You are wasting your time. I am not bound to render to you an account of my business and my intelligence with Christian princes, which I cannot gainsay, being allied to them and being received into their protection." Here she rose as if she would retire. Bromley, the chancellor, assured her that if she pleased she might retire; but the commissioners were bound to remain and proceed without her. The Queen of Scots appeared to have reconsidered her determination; for she not only remained but went into a further defence; and she favoured the commissioners with an argument on the subject of her recognition by the Catholics as Queen of England. For ingenuity the argument is difficult to beat. Here it is:—

"I am a faithful and humble servant of God, ready and willing to obey His commandments and those of a Catholic, Apostolic, and Roman Church, as to which it is meet to obey and blame nothing it does; for I know it is governed by the Holy Spirit as God promised. If the Church gives me the title of Queen, it does not follow I am to be accused of aspiring to it; because it is not I who have taken it but the whole Catholic Church and all the Christian princes who gave it to me whom they esteem legitimate. They know well it is my right."

Of course Mary omitted the essential point in the accusation

against her "Of assuming the name and arms of England," by not saying a single word about her own assumption of the title on the death of Mary Tudor. She also did not explain whether or no she had told the Holy Father that she had no intention of claiming the English throne. Her plea that she did not aspire to it, but merely suffered herself to be called the Queen of England because of her religious belief, was ingenious; but Mary hardly expected, I should think, her auditors to be deceived by it. But the next part of her speech was a shrewd home-thrust. "In a manner, you yourselves are well aware I am right, though you wish to conceal it and reject it. You have made statutes, judgments and laws especially against me, showing that you feel in your hearts and consciences what I am or could claim to be. Your intention is no other, as all your actions show, than to exclude me because I am a Catholic. But you can cease your endeavours, I have already made it plain to you that I care nothing for it myself, but I am not prepared to lose the rights of those who come after me."

. . . . . .

"As for Ireland, I know that the Queen has never had peace with them. But is it my fault? and is it my fault if they want me for their Queen? I do not know that they do. A book was sent from Ireland written by the Catholic Party by which they desired that the right of the crown should be made over to another than I,[1] especially as they had not much hope that I should ever come out of prison. And I was already old, ill and in danger of not living long." [*The next part of the speech relates to Elizabeth's dealings with James VI. of Scotland and is of no importance.*] "As to the King of Spain I love him for many things. To speak the truth, I have found no one who has shown me so much goodwill as he. He has often succoured and aided me in my needs and business and I am more beholden to him than to any other whomsoever."

It would have been strange if in a trial of any Roman Catholic for a state offence, the Protestant Bogey had been entirely kept out of sight. I mean of course the Jesuits. Burghley and the Earl of Kent interrogated the Queen of Scots with great persistency about the doings of the Jesuits on her behalf. She replied that she supposed the Jesuits were doing their proper business when they went about the country preaching and trying to win back the people to the Catholic faith. The Earl of Kent suggested that the Jesuits were a mere political band who did nothing but

[1] The other was the King of Spain.

stir up conspiracies and rebellion. Mary replied that she had never said she approved of everything the Jesuits did. In point of fact, she had quarrelled with one of them on account of mixing too particularly with politics.

On the same head of dealing with the Catholics and endeavouring to stir them up, the Queen of Scots was subject to a very rigorous examination as to Cardinal Allen and other notorious persons, who were undoubtedly emissaries of the Jesuit order and prime movers in all attempts on behalf of the Catholic religion in England. It was put to Mary that Allen and those other persons were even at that time at Rome on her behalf, trying to negotiate a transfer of the Kingdom of England to the King of Spain. Mary stoutly denied this.

When pressed, however, she admitted that Allen and the other persons were at Rome on her behalf, and that she employed them to procure intelligence for her. And she asked, "What objection was there to that?" The Queen of England had at Rome two Cardinals in her pay, though she was of a different religion. Why should not she (Mary) have in her pay two ecclesiastics when she was of the same religion?

Thus the morning of the second day of the trial was spent in speech, question and answer. At last Mary rose and returned to the subject of the charge, requested the commissioners to convey to the Queen her good sister her protestation that she was ready and willing to do her pleasure and service; and to employ herself for her and the realm.

She wound up with a declaration worthy of her magnanimous character.

"So far as all hath been done, I bear no malice to any one of this assembly. I pardon you for what you have done and said against me, and I say that there is not one in all the Company whom I do not wish well."

"Finally, my Lords, I require that I may be heard in a full Parliament or in person speak with the Queen my sister and with the Council."

These were the last words spoken by the Queen of Scots at her trial; except that as she walked in stately fashion from the room, she turned to the lawyers, smiled her most gracious smile, and said, "Messieurs, you have behaved rudely enough in your duty and have treated me too roughly for a person who is not accustomed to it, or learned in the laws of chicanery. But God pardon you—and keep me from having any more to do with you."

Everybody solemnly bowed to everybody else, the peers and lords of the Council uncovered respectfully, and the Queen of Scots passed for a time out of the picture.

Scarcely had she gone when the lord chancellor announced that the assembly was prorogued to the Star Chamber for the 25th of October. The commissioners had evidently expected some such prorogation, because they had come to the second day's hearing booted and spurred; and they immediately set off from Fotheringay.

Although the trial was concluded as far as Mary's part in it was concerned, it was not yet over; for the commissioners, when they met at Westminster in the Star Chamber on the 25th of October, took further evidence. It is to be observed that two of the noble lords had convenient attacks of sickness, the Earls of Warrick and Shrewsbury.

The taking of evidence by the tribunal in Mary's absence, without giving her the opportunity to cross-examine the witnesses, strikes one immediately as being unfair and unjust. So no doubt it was. But it must be said on careful consideration that as far as form was concerned, the commissioners were within their powers. They were not, in form, trying Mary for an offence. They were merely making an inquiry into the truth of certain facts as required by the Act of Parliament. In point of form, then, the proceedings were no more a trial than the proceedings of (say) the Royal Commission on Vivisection is a trial. So that in form, at any rate, there was no fault to be found with the commissioners for taking evidence in the absence of the person most affected.

It will be remembered that the question at issue had been narrowed down to a very small one, namely "Aye or No," were the copies of the letters to and from Babington, Paget, Mendoza, and Allen, genuine letters or were they forgeries? As to those purporting to have been sent by Mary, were they really sent by her, or were they either complete forgeries, or the private indiscretion of her secretaries? As to the letters addressed to her, had she received them or had she not?

Obviously, the persons best able to give evidence on this subject were Nau and Curle, Mary's secretaries. And Nau and Curle, each of whom had previously made a statement, were brought before the commission and closely questioned. First of all they were asked if any one had promised them any reward. They were next asked if they had been put in fear of torment on

account of giving or withholding any testimony. They replied that they had not.

The secretaries then made a clean breast of it. They affirmed that the copies of letters found amongst Mary's papers at Chartley, in the hand-writing of themselves, were genuine copies. They also stated quite positively that all the letters written by them, copies of which were so found, had been written at Mary's dictation, and corrected by her before being sent out.

This was the whole of the evidence given at the adjourned hearing; and without waiting to consider their judgment further, they proceeded to pronounce judgment and sentence. Judgment was almost unanimous; for only the Lord Zouch dissented.

The sentence was formally recorded in the usual stilted language of legal documents with which I will not trouble the reader. In substance it was this: That Mary had been privy to Babington's plot; and also that she "pretended title to the crown of this realm of England," and had compassed and imagined the hurt, death, and destruction of Elizabeth.

Everybody knows what the end of it was. How Elizabeth was unanimously besought by Parliament to put Mary to death. How Elizabeth "with great majesty of countenance and voice," declared her unwillingness to proceed to extremities. The Tudor queen was no mean orator of the emotional kind. To the assembled Lords and Commons she declared: "If my life alone depended hereupon, and not the safety and the welfare of my people, I would most willingly pardon her. No, if England might, by my death, attain a more flourishing estate, and a better prince, I would most gladly lay down my life. For your sakes it is, and for my people's that I desire to live. As for me, I see no great cause why I should either be fond to live or fear to die. Good neighbours I have had and I have met with, and in trust I have found treason, I have bestowed benefits upon ill deservers and where I have done well have been ill requited. While I call to mind these things past, behold things present, and expect things to come, I hold them happy that go hence soonest. Nevertheless against such mischiefs as this I put on a better courage than is common to my sex, so that whatsoever befal me death shall not take me unprepared." Elizabeth went on to scold the lawyers who had advised her that it was necessary to proceed against Mary under the special Act. For her part, she thought that the ancient law would have been enough to meet the case; and that Mary should have been tried for treason and con-

victed upon the evidence. With true feminine scorn for law and lawyers, she exclaimed, "But you lawyers are so curious in scanning the nice points of the law, and following of precedents and form, rather than expounding the laws themselves, that by exactly observing your form, she must have been indicted in Staffordshire, and have holden up her hand at the Bar, and have been tried by a jury of twelve men. A proper course, forsooth, of trial against a princess! To escape, therefore, such absurdities, I thought it better to refer the examinations of so weighty a cause to a good number of the noblest personages of the land, and the judges of the realm."

The queen proceeded in her best manner, to say that she would, and then that she would not. "You have by your recent statute, brought me to a pretty pass, that I must declare sentence of death on a princess most nearly allied unto me in blood"—from which it seemed that sentence would be passed. But next she came down a little. It was her habit, she said, to reflect and deliberate a long time before taking any step even less important than this, and she wound up with a not very definite promise:—"Whatever the best subjects may expect at the hands of the best princes, that expect from me to be performed to the full".

Twelve days after, Elizabeth sent another message to the Houses, asking them to take the matter into consideration again. My reading of this is that Elizabeth had made up her mind already; but she wanted to be able to tell the princes of Europe that she had been compelled to execute Mary. As everybody expected, Parliament offered the same advice as before, giving as their reasons, that unless the sentence was executed the queen could not be safe; the Religion could not long continue; the most flourishing state of this realm must shortly receive a woeful fall; and, consequently, in sparing the Queen of Scots, Elizabeth would "give courage and hardiness to the enemies of God, of your Majesty's self, and your kingdom".

Pickering, the Speaker of the Commons, made a speech well worth the study of those who interest themselves in the manner of a bygone age. It abounded in quotations from the Scriptures and classical authors. It contained gems of rhetoric such as these: "Since she sayeth that she is Queen here, and we neither can nor will acknowledge any other but you to be our Queen, it will follow if she prevail, she will rather make us slaves than take us for her children, and therefore the realm sigheth and groaneth under fear of such a stepmother".

"Whilst she shall live the enemies of the state will hope and gape after your death."

"She hath already, by her poisoned baits, brought to destruction more noblemen and their houses and a great multitude of subjects during her being here, than she would have done if she had been in possession of her own country and armed in the field against us; she will so be a continual cause of the like spoil, to the greater loss and peril of this estate."

"How much those magistrates were commended that put to death those mischievous and wicked Queens Jezebel and Athaliah! How wisely proceeded Solomon to punishment in putting to death his own natural and elder brother Ananias for the only intention of a marriage which gave suspicion of treason."

"The mother of her people and spouse of this realm," as Elizabeth loved to call herself and to be called, answered once more in her best undetermined manner; and sent away the spokesmen of the Houses in a state of utter ignorance as to her intentions.

Meanwhile the country was in a state of tremendous excitement. The Catholics hid their diminished heads. The ultra Protestant pamphleteers shrieked for the blood of the Queen of Scots. At any other time the wretched fellows would have been set in the stocks and probably lamented the loss of an ear or two for their presumption in meddling with affairs of state; but at this juncture it suited Elizabeth and her advisers to allow the agitation to become clamorous.

One of these pamphlets, which may be taken as a sample of the rest, treated Mary, as the Puritans would say, faithfully.

"In religion she is either a Papist, whilke is evill, or els an Atheist, whilke is worse. Of nation she is a Scott, of whilke nation I forbeare to say what may be sayd, in a reverend respect of a few godly of that nation."

"Of inclination, how she is given, let her own horrible actes publickly knowen to the whole worlde witnesse, though now certain seducers by practice seek to cloke and hide the same."

"Of alliances of the mother-side, how she has descended of a race that is both enemie to God and the common quiet to Europe, every man knoweth, but alas, too many have felt." The judicious and judicial writer proceeds to ask what is to be done with the "Scottish Idolatress". Dealing with a suggestion that Elizabeth should let her go free if she would take an oath to keep the peace, he asks: "How do you expect a branch of the house of Guise

whose proffession is to keep none edict be it never so solemnly promised will keep faith?"

It may be easily imagined from the style of the specimens given, what was the course of dealing with Mary advocated by the writer of this pamphlet. I pause to say that I have selected this particular document for quotation rather than another by no means because it was the most bloodthirsty or the most violent. Hundreds of such pamphlets poured forth from the press. At last, on the 1st of February, Elizabeth signed the fatal warrant for the execution of her cousin.

It has been said by many writers that the English Queen's hesitation in signing the death warrant was feigned. In so far as her expressions of grief at being obliged to take steps against Mary are concerned, there is no doubt this is so. But it was for another reason that she delayed so long in putting a sentence into execution. The French ambassador flattered himself that it was his eloquence which had caused the delay; and this has been adopted by many. I am inclined to think that the real reason is to be found in the letter addressed by Elizabeth to Sir Amyas Paulet, Mary's jailer.

Elizabeth undoubtedly knew that if she allowed Mary to be executed by process of law, she would be likely to bring upon herself the whole of the Catholic Powers of Europe, and, possibly, the Scots also. As her habit was, she wished to shift the responsibility at all costs. I am far from saying that this was a selfish view. As a patriot, quite apart from other considerations, the Queen of England might well view with alarm the prospect of a strong coalition against her country.

The letter addressed to Sir Amyas Paulet, by his "loving sovereign," was a clear incitement to the worthy knight to assassinate Mary. But Paulet, stern Puritan though he was, cruel jailer though he was, and much as he hated the "Scottish Idolatress," refused point-blank to lend himself to any such scheme. Not only did he decline to undertake or permit the assassination of Mary himself; but expressed his intention of guarding his prisoner against any such attempt by any one else. At the same time he urged Elizabeth to let the law take its course without delay.

Having failed to procure the removal of the danger by the dagger of the assassin, Elizabeth still endeavoured to shift the responsibility from her own shoulders. She signed the warrant; and Davison, the Secretary of State, forwarded it at once to the

Earl of Kent to be carried out. After the grim tragedy had been enacted, came the screaming farce of Davison's trial. He was accused and convicted of having sent off the signed warrant contrary to orders. Elizabeth's tale was that she had signed the document; but had not made up her mind to have it carried out; and had told Davison to put it on one side for a time, until her mind should be made up. If any one is credulous enough to believe a story like this, I can only say that I envy him. But the excuse, such as it was, the unprepared state of the powers of Europe, the natural disinclination to take action after the *fait accompli*—always a feature of international relations—together with the insular position of England and the growing strength of its navy, did save England from invasion for a while.

It is not my intention to dwell long upon the final scene in Fotheringay Castle. That has been described over and over again by eloquent writers. It was on a cold February morning that the great hall of the castle was filled with a motley crowd. Common people of the countryside; the Earl of Kent, sternest and stoutest of the Puritan nobility, and other delegates of the council; Fletcher, Dean of Peterborough; all these stood in the hall where a masked man, leaning on a heavy axe, stood beside a block. The Queen enters, clad all in black; and surrounded by her weeping women. All that night those faithful souls have wept, while the royal woman who is to die has shed never a tear; but has spent her last hours in disposing of her worldly goods and in bequeathing other, political, legacies of love and hatred.

With the indifferent air of superb courage, the Queen of Scots advances to the scaffold. She rejects the ministrations of the Dean of Peterborough with emphatic scorn. In response to the demand to unrobe, she removes her black dress; and suddenly flashes upon the audience a figure blood-red—a strange and bizarre effect [1].

[1] The curious in such matters will like to learn how Mary arrayed herself for this the last tragedy of her tragic life. In those days, when a high-born lady was to die on the scaffold, she invariably made an effort to appear as little concerned as if she were about to take part in a pageant of pleasure; so that her enemies should not imagine they had broken her spirit. Mary Stewart had always been conspicuous for her excellent taste in dress; and on the last morning of her life she bestowed the greatest care on her toilet.

I have been fortunate enough to unearth the record of a contemporary chronicler who describes the royal apparel with great minuteness and quaint particularity. "On her head a dress of Laun, edged with bone-lace, a chain of Pomander, and an *Agnus Dei* about her neck, a pair of beads at her girdle, with a golden cross at the end of them. A veil of laun fastened to her caul, bowed out with wyer (*i.e.*, *wire*),

The axe falls; and the executioner goes to pick up the head. But as he seizes the bright red hair a strange thing happens. The hair comes away in his hands; and there lies on the scaffold a wizened skull, covered with short, grey stubble. He lifts up the grizzly thing; and the spectators see that the beautiful creature who had laid down her head on the block was, in truth, an old, bald woman. The Earl of Kent cries "So perish all the Queen's enemies"; and the tragedy of Mary, Queen of Scots, is consummated.

and edged with bone-lace. Her gown of black sattin, primed with a train and long sleeves to the ground, set with acorn buttons of gett (*ie.*, *jet*) trimmed with pearl; her short sleeves of black sattin, which opened upon purple velvet sleeves under them.

"Her Kirtle whole, of figured black sattin, her petticote and upper bodies of crimson sattin unlaced in the back; and the skirts of crimson velvet; her shoos of Spanish leather, the inside outward [this probably means that the right and left shoes were worn on the left and right feet—a thing sometimes done by the condemned on the scaffold]; a pair of green silk garters; watchet silk stockings dock't and edged on the top with silver; and under them a pair of Jersey hose."

CHAPTER III

HOW SAY YOU?

WHEN the jury have considered the evidence, and the summing up, and are ready to return their verdict, the clerk of the court rises in his place and addresses the foreman: "How say you, gentlemen, do you find the prisoner guilty or not guilty?"

This is the question I propose to ask the reader. But first I propose to assume that the trial is the trial of an ordinary person—thus eliminating from Mary's case the fact that she was a sovereign prince. In the second place, I propose to assume that the trial takes place under modern conditions, with the rules of evidence strictly and impartially administered as they would be to-day by the Lord Chief Justice of England. Thirdly, I will assume that there has been no special Act of Parliament; but that Mary is charged under the ordinary law of treason with compassing and imagining the death of our Sovereign Lady, Queen Elizabeth.

On this charge it is sufficient for the prosecution to prove that Mary, commonly called Queen of Scots, has compassed the deposition of the Queen; for it has always been undoubted law, based on the facts of history, that as a sovereign deposed must expect death, those who compass to depose compass also to slay. If the prosecution can establish an actual intention to kill the sovereign, that is a still stronger case; provided they can show that the prisoner was a party to the intention, and actually did something (called, in law, an "overt act") towards carrying out the intention.

In this particular case the indictment charges the prisoner with conspiring with one Anthony Babington, one John Ballard, one Chidiock Tichborne and others, (1) to murder Elizabeth; (2) to depose her by means of an armed insurrection, aided by foreign arms.

The overt acts charged are, (1) writing certain letters to Babington, approving of a plot formed by him to murder the Queen; (2) by the same letters giving counsel and advice to

Babington as to overturning the Government of the Queen, and setting her (Mary) on the throne; (3) by the same letters promising aid from a faction in Scotland; (4) writing letters to one Charles Paget, urging him to procure help from the King of Spain and therewith to invade the realm with the object of deposing the queen.

The first witness called is an officer of the Privy Council, who gives evidence to this effect: On a certain day I went to Chartley, with a warrant for the arrest of the prisoner. I met her out hunting, with a party which included Messieurs Nau and Curle, and I arrested her and caused her to be sent to Fotheringay Castle. I then proceeded to Chartley House where I searched certain rooms which were pointed out to me as the prisoner's; and there I found the bundle of papers which I now produce.

[Prosecuting counsel is about to read one of the documents when he is reminded by the judge that at present there is no proof that these documents are in the handwriting of the prisoner.]

As this witness is purely a formal one, there is no cross-examination; except, perhaps, a question which elicits the answer that Chartley House was at the time of the arrest in the occupation of Sir Amyas Paulet, in whose care the prisoner was. The attorney-general calls Claude Nau, who deposes, That he is, and has been for several years past the prisoner's French secretary; That his duty was to write upon the instructions or at the dictation of the prisoner any letters or other papers which she wished him to write; and to copy letters which she requested him to copy. The attorney-general hands the witness several of the documents produced by the previous witness. "In whose handwriting is that?" he asked. The witness answers, "In my handwriting". "Did you write them of your own accord or upon instructions?" "Upon instructions." "Upon whose instructions?" "Upon prisoner's instructions." "Did the prisoner see any of these documents after you had written them?" "I am not sure. She may have done in some cases."

The attorney-general now submits that he is in a position to read the documents spoken to by this witness. For the defence it is argued that as all the documents purport to be copies, they cannot be used unless it is proved that the originals have been destroyed or lost. The attorney-general, in reply, contends that as these copies were made by a servant of the prisoner, at the prisoner's request, they are admissible as if they were original

documents in the prisoner's own handwriting. Qui facit per alium facit per se.

The judge rules that although it would be sufficient in a civil cause, yet in a case touching life and liberty the evidence ought not to be admitted until the originals have been accounted for. The witness's attention is called to certain of the documents which purport to be copies of letters addressed to the prisoner; and is asked what became of the documents from which he made the copies. He replies that he handed them back to the prisoner; but what she did with them he does not know. Counsel for the defence, being a cunning man, asked no questions of this witness; for the very good reason, that the witness has, at present, given absolutely no evidence at all. The next to be called is Curle, who also says that he was a secretary in the employment of the prisoner's, by whose direction he wrote the other documents produced by the first witness. These purport to be copies also; and the court once more rules that they cannot be read until the originals have been accounted for. In cross-examination this witness is asked if he is prepared to swear that he never made a mistake in copying. Of course he is not prepared to swear anything of the kind. Hitherto the defence has had it; but there is a stir in court when the attorney-general exclaims: "Call Anthony Babington!" And a pale, handsome young man, escorted by two warders from the Tower, steps into the witness-box. Being duly sworn he thus deposes: My name is Anthony Babington. I am at present in custody in the Tower of London on a charge of high treason. I am by religion a Catholic. In about the year 1585 one John Ballard, a Jesuit priest, came to my house in Derbyshire and made a communication to me. In consequence of that communication, I wrote a letter addressed to the prisoner and sent it to her at Chartley. I received an answer which I afterwards destroyed. [Witness is here shown one of the documents in the handwriting of Curle; and is asked whether he can say if it is a copy of the answer he received. He answers that as near as he can recollect it is a true copy.]

The attorney-general submits that he is now in a position to read the copy; and his contention is upheld by the court. The learned gentleman then proceeds to read the letter set out on page 147.

Continuing the examination of the witness, the attorney asks him if he ever had any other letters from the prisoner—or purporting to be from the prisoner, to which Mr. Babington replies that

he had several. He destroyed them all. Another of the Curle copies is then put to him, and he says that, as nearly as he can remember, this is a copy of one of the letters he received. This letter (see p. 151) is also read to the jury.

Witness is now asked if he did anything in consequence of the letters. He answers that he did. What? He collected arms; he entered into arrangements with other gentlemen to levy forces. What for? To seize the person of the Queen and to rescue the prisoner from her place of confinement. The names of some of the other gentlemen are Chidiock Tichborne, Tilney, Jones, Dunn, Charnock, Gerrard, Savage, Salisbury and Abington. There were others also, whose names I forget. "Was any correspondence entered into with any foreigner or any person abroad?" "Yes—with Mendoza on behalf of the King of Spain, and with Paget." "Who is Paget?" "Paget is a Catholic nobleman who is in exile." The witness is severely cross-examined. He is asked if he ever saw the prisoner before seeing her in the dock. He answers "Yes, in my boyhood". Will he swear that any of the letters received by him were in the prisoner's handwriting? Witness will not swear it, though he believes it to be the fact. He is asked if he will swear that any letter of his ever came into the prisoner's hands. He replies that except for the fact that he received what purported to be answers to his letters he is unable to swear that his own communications were received by the prisoner. He is then cross-examined as to whether he is not a turbulent fellow who wished to rise in the world and make himself of importance by assuming the office of leader of the English Catholics. He replies that everything he did was done at the instigation of Ballard. Further questions elicit the information that the men whom he has named as partakers in his enterprise are all under thirty years of age. It is insinuated that they have done all this on their own account without encouragement from the prisoner. The witness is asked if he has turned informer from any hope of pardon or fear of punishment; and on this he replies that he has confessed because he now sees that he was wrong in conspiring against his own lawful Queen. When Babington leaves the box his place is taken successively by Tichborne, Savage, Tilney, Charnock and Gerrard, who all declare that they conspired against the Queen in the manner described by Babington. They are, however, unable to say positively that the letters shown to them by Babington, purporting to be from the prisoner, were in the prisoner's handwriting. At the same time they swear that they agreed to take or kill the

Queen; and to place the prisoner on the throne. They admit that they never saw the prisoner.

Curle is now recalled; and is asked from what document, in whose handwriting, he made the copies which have been read to the jury. He states that he wrote the originals from the prisoner's dictation; that she signed them; and that he then copied them. Cross-examination fails to shake this story.

This is the case for the Crown.

Counsel for the defence rises at once; and submits there is no case to go to the jury. But his contention is over-ruled. The judge holds that if the jury believe that the letters spoken to by Babington were written by Curle at the prisoner's dictation (which at this point must be assumed to be true) there is a case to be answered.

The defence is now in an anxious position. Counsel have to consider the question whether the prisoner shall be called to give evidence, or whether it will be better to rely on the weakness of the case for the prosecution. The decision is by no means easy. As the case now stands, the case for the Crown is not very strong, simply because all the material witnesses have been people who are virtually informers. If the prisoner is guilty, Curle is guilty also; and the others—Babington and his friends—have admitted themselves to be traitors.

On the other hand, the two letters proved by Babington are of a highly incriminating nature. One alludes to "the tragical execution," and the other to the invasion of the realm by a foreign force and the stirring up of armed rebellion. If the jury should believe Babington and Curle, will they not almost certainly find a verdict of guilty? There are advantages and disadvantages in each course. If a prisoner shirks the witness-box, juries are apt to draw certain conclusions. On the other hand, it is often safer to preserve a prisoner from cross-examination; and rely on the weakness of the prosecution. I am glad, for my part, that the decision in the case of Regina *v.* Mary Stewart does not rest with me.

Having taken the oath, the prisoner testified to the following effect: "I am a widow, and have been for the last eighteen years resident in England, a prisoner. I do not know for what offence I have been imprisoned. I have never been tried though I have often demanded trial. I have heard the evidence by the witnesses for the Crown. I swear that I was never a party to any such conspiracy as has been sworn to by Babington. The Queen

of England is my cousin; and I should never think of injuring her person nor of deposing her. I do not deny that I have had correspondence with various people in England and abroad on the subject of my unjustifiable imprisonment; and I have done what I could to induce those whom I thought able, to liberate me. But I have not been engaged in any plot to seize the English Crown or to injure my cousin, the Queen of England. I have not seen Babington for ten years, nor had any letter from him. If any letter came to Chartley from him addressed to me it must have been intercepted; for I never received it. If any letter purporting to come from me ever reached Babington it was a forgery. To the best of my knowledge and recollection I never wrote to Babington nor instructed my secretaries to write. If they wrote it was without my knowledge."

[This is the sum and substance of the statement made by Mary in her own defence at Fotheringay. I have taken it, not from any English account, but from the account of Bourgoing, Mary's French physician, to whom I should say it was dictated by Mary herself between the time of the trial and the execution. I follow the same account in reconstructing the cross-examination. It should be said, however, that there is no substantial difference between Bourgoing's account and the story as told by Camden and other English writers.]

Cross-examined by the attorney-general witness admits that she assumed the title "Queen of England" about twenty-five years previously; but she was only sixteen years old at the time. She has never disclaimed the title since. She knows that the Pope has long been in the habit of alluding to her as the Queen of England and to Queen Elizabeth as the Usurper. She has never protested against that course. Asked, "Why not?" witness replies that she is a devout Catholic, and it is not for her to correct the "Holy Father". She is willing to assume such responsibilities as there may be for any attempts authorised by her to deliver her from captivity; and adds that she had never made any secret of the fact that she would use such means as came in her way to regain her freedom. She is asked if she now pretends that she is rightfully the Queen of England. She answers that at any rate whatever she may think of her own claim she is and has been for some time willing to give it up on a promise being made to her that she shall inherit the crown on the demise of her present Majesty. As to the copies of letters that have been put in, the witness is unable to deny that these copies were found amongst the papers

in her rooms at Chartley. On the other hand she will not admit that they were so found. She persists in her affirmation that in no letter ever written by her did she mention anything about the murder of the Queen. She admits that she has been in correspondence with foreign princes but she had a perfect right to that. Asked if she ever counselled any invasion of the realm by the Spaniards, she denies any such project so far as it relates to an invasion for the purpose of subjugating the realm. She is not prepared to deny, however, that she has treated with Mendoza for a landing of a party of men to affect her deliverance.

Being asked if she can suggest any reason why her secretary should swear to a copy which was no copy; and further, that he had written a letter at her dictation when he had interpolated passages of his own of such an important character, she answers that she is not responsible for that; and challenges the prosecution to produce a single line in her hand-writing consenting to personal harm being done to the Queen. Being pressed whether Nau and Curle her secretaries had not been long in her employment, she answers that they have. She admits that they have both been good and faithful servants so far as she knew, except that Nau had occasionally written something she never told him to write. She further admits that these two men would in the ordinary course of their duties make copies of her letters. The attorney-general further demands to know whether her secretaries would not have fallen under her severe displeasure if she had found out that they had kept back from her important letters. She admits that she would not have been pleased. The attorney-general then goes back on his cross-examination as to motive. The witness cheerfully admits that she is a devout Catholic. She is asked whether in her opinion the Government of the Queen has oppressed the Catholics. She answers that she has heard so. Pressed a little she admits that she believes it. Asked if she considered it her duty at all hazards to bring about a change in the treatment of her co-religionists, she answers that she would use all lawful means as she has been in the habit of doing for many years, but that she would draw the line at murdering her cousin. She would rather play the part of Esther than Judith.[1]

In re-examination the witness is asked questions as to her secretaries' evidence; and says that as she has been asked to suggest a theory by which to account for it she suggests that they had been either bribed or frightened into witnessing against her.

[1] This was the phrase actually used by Mary.

This closes the evidence for the defence, and Mary's counsel at once addresses the jury for his client. He points out to them the flimsy nature of the case made against her, resting as it does on copies of letters made not by herself but by a secretary. And these copies he says are only supported by the testimony of men who are, if they are to be believed, equally guilty with the prisoner herself. If there has been treason, or conspiracy to murder the Queen, then Curle and Nau ought to have been indicted as well. Babington and his fellows are admittedly traitors. And it is a salutary rule of the English courts that the evidence of an accomplice who has turned informer should always be received with the greatest possible suspicion, and should never be believed unless it is corroborated. What sort of corroboration is there here? Nothing but the corroboration of one informer by another informer! As to the evidence of motive, even if it is assumed that a motive of the very strongest kind has been proved against the prisoner, they (the jury) must not forget that motive alone goes for nothing. Assuming that the death of the Queen would leave the throne open for the prisoner at the bar what proof is that of a conspiracy by the prisoner to murder the Queen? The son and heir of every proprietor has an equal motive to wish for the death of his father: but are you going to charge the heir even with wishing for his father's death because that death would bring him a pecuniary advantage? The learned counsel submits that the prisoner's evidence in the box was unshaken by cross-examination; that it absolutely contradicts the modicum of relevant evidence given for the prosecution; and that as the evidence for the prosecution was tainted from the outset by reason of the source from which it sprung, the jury ought to believe the prisoner. The learned advocate proceeds to set out in sombre colours the life led by his client since she arrived in England. She came relying on the friendship of a near relation at a time when she was in dire misfortune. Instead of help and sympathy she received nothing but coldness and imprisonment. Year in, year out, she has protested her innocence of everything that could justify the keeping her in durance; and has demanded a hearing in her own defence. That hearing has been denied her, not directly but by evasion and subterfuge. She had been put off from day to day until the young woman renowned throughout Europe for her beauty has been changed into a broken middle-aged woman of forty-two. The best years of her life have been spent in rigorous confinement upon mere suspicion. That his client wished to be free

from this irksome confinement, the learned counsel freely admits, and he boldly challenges the prosecution to say that her desire was anything but laudable. But is it to be said that every person unjustly imprisoned is ready to murder his jailer in order to obtain liberty; in conclusion he submits that the case for the prosecution is so flimsy that it almost breaks down of its own weakness, and that when you add to this the fact that the prisoner has been cross-examined without shaking her testimony and the further fact that she bore herself like an honest and truthful woman in the box, it is impossible in this case for any jury to return any other verdict than an acquittal.

The attorney-general replies on the whole case. He admits that the evidence of an informer who is an accomplice must always be received with suspicion and ought to be corroborated before any verdict of guilty can be given. Had this case simply depended upon the evidence of Babington he (the attorney-general) would never have had the hardihood to ask the jury to convict the prisoner. But the case does not rest upon Babington's evidence alone. You have the evidence of Curle the secretary, who was a mere amanuensis, which proves that the incriminating letter upon which the prosecution relies was written by him at the prisoner's dictation, a copy was made by him on the prisoner's direction. What earthly interest could Curle have to tell a lie in this matter against the interest of an old and indulgent mistress? But the case did not even stop there. The most conclusive evidence that such a letter was written and that this was a copy, was in the fact that the document produced to the court was found amongst the prisoner's papers when they were seized by the messenger of the Privy Council. Again, what interest had Babington in lying on this subject? It was suggested that he might be inventing this story because he hoped for a pardon. But no offer of pardon had ever been made to him. Again it was clear that Babington had been convicted of the treason to which it was alleged the prisoner was privy. For whose benefit was that treason undertaken? Was it not entirely for the benefit of the prisoner at the bar? She had confessed in fact that she was a pretender to the throne. Obviously she could not attain that to which she thought she had a right so long as her gracious Majesty Queen Elizabeth lived and reigned. He agreed with his learned friend on the other side that motive alone without act would not be sufficient to convict the prisoner; but when they had such evidence as the letter and Babington's confession, then the evidence that the prisoner had a

strong motive to commit the crime with which she was charged was highly relevant and most important for their consideration. As to the allegation that the prisoner came into England expecting succour, he would like to know upon what ground she expected it. For his part he would say that she must be a particularly foolish woman to expect aid from the very person whose title she had impugned and whose legitimacy she had doubted.

The summing up of the judge may be readily imagined. He asks the jury to put out of their heads all questions of sympathy on the one side or resentment on the other. He tells them that the only point they have to consider is whether the prisoner at the bar entered into the conspiracy spoken to by the witness Anthony Babington. If so there ought to be a verdict of guilty. If not the verdict must be not guilty. In the end, the question turned on a very short point—Whether they believed or disbelieved Curle the secretary when he said that he had written at the prisoner's dictation the letter of the 12th July, 1586, addressed to Babington; of which the copy produced was a true copy.

That was the first and principal point for the jury to decide. When they had decided it, it would be a matter of law for him to consider whether the conspiracy pointed to by the letters was a conspiracy to depose the Queen or in some other way to bring about her Majesty's death.

The evidence for the prosecution amounted to this: (1) The copies found amongst prisoner's papers; (2) the fact that the copies were in the handwriting of the Queen's secretary whose duty it was to make copies, and (3) the positive testimony of Curle that he had seen the original from which the copy was made, and of Anthony Babington that he had received those originals and destroyed them.

To deal with the last point first, it was quite true that by the practice of English courts rather than by any positive rule of law, juries were always told to be suspicious of an accomplice. In this case, for instance, Babington was himself, of his own showing, the leader of the treasonable plot. And if Curle, even as his secretary, wrote the letters which he said he wrote for his mistress, he was undoubtedly an accessory; or as there are no accessories in treason, he was undoubtedly guilty of treason. Therefore his lordship deemed it his duty to say that although the credibility of Babington and Curle was entirely a matter for the jury, yet the jury ought to view their testimony with suspicion.

On the other hand they must remember this was not a case where the evidence of an informer rested entirely upon its own testimony. The jury would remember that the copies now in dispute were not produced by the informer; but were discovered by the messenger of the Privy Council after the prisoner and the witnesses against her had been arrested. Was it likely that Curle would make two copies of two forged letters and put them into a drawer for the purpose of incriminating the prisoner, when at the time he did it he had no idea that the prisoner was likely to be accused? Again, Why should he have invented copies of this dangerous description, and left them lying there in his own handwriting without any orders from anybody? What possible advantage could it have been to him at the time he did it? True, after the copy had been found it was to his interest to say that he made it upon instructions. But why should he have taken the trouble to forge beforehand the documents upon which the trouble arose?

This was a consideration entirely for the jury to weigh in their minds when they came to decide this question of credibility. As to the testimony of Anthony Babington his lordship advised the jury to receive it with the utmost caution. It was plain that Babington had, upon his own showing, thrust himself forward as the leader of the discontented section of the people. Whether the discontent was well founded or ill founded had nothing to do with the merits of this case. It was clear also that Babington had tried to draw the prisoner into the plot with him; and he seemed to believe that he had done so. But he admitted that he had never seen the prisoner on the subject of the conspiracy, and that the only knowledge he had of her intentions was contained in letters which she now said he had destroyed. Taken at its face value, all Anthony Babington's evidence amounted to was that he had received from somebody letters signed "Mary Regina," which letters were in the terms of the copies produced by the prosecution. Babington had every inducement to turn informer; for his neck was in imminent danger, and therefore it behoved the jury to exercise the greatest care in weighing his evidence.

As to the other two points the fact that the copy had been found amongst the prisoner's papers was a circumstance for consideration; but was by no mean conclusive. It appeared that other persons, including the prisoner's two secretaries, had access to this place; and it might well be that some other hand had put the copies where they were found. His Lordship pointed out that if

you found a paper in a cupboard of which there was only one key; and you could prove that the key was always in the custody of A B and that he never parted with it, then it was a fair inference that any papers found in that cupboard were put there by A B. But on the other hand, if C D and X Y were also in the habit of having access to the cupboard, either by means of keys of their own or by borrowing A B's key, then it would not be fair to make A B responsible for everything contained in the cupboard, any more than to make C D or X Y responsible. Therefore the fact that the paper in controversy was found in a receptacle to which the prisoner and her secretaries all had access from time to time merely proved that one of these three must have put the paper there. If one of the secretaries put it there, without the knowledge of the prisoner, it might well be that she would never know of its presence. The prisoner was a lady of exalted rank, surrounded, even during her confinement at Chartley, by a number of persons who acted as her servants. It was more than probable that if at any time such a lady required a paper to be brought from a drawer or cupboard, she would not fetch it herself; but would request one of her suite to perform that service for her. So that if an ordinary private individual could not be presumed responsible for the contents of a cupboard or a drawer who had the sole access, was it not more unfair to hold responsible a lady who would probably hardly ever go near the drawer or cupboard at all?

In effect, this threw the jury back upon the old question of whether the making of these documents, this alleged copy of an authentic original, was something done by Curle on his own account or was something done by him for and at the direction of his mistress. If the witness had concocted the document, it was extremely likely that he would place it amongst the prisoner's papers in the hope that it might do her some damage some day. If, on the other hand, he made it at her request, then it mattered nothing who placed the document in the cupboard or drawer in which it was found, for the jury might be sure that if the prisoner caused the copy to be made, she also caused it to be placed in the position where the Privy Councillor's officer had discovered it.

It was also pressed upon the court by the prosecution that the documents in question were admittedly in the handwriting of the prisoner's secretary and therefore that they must be taken as evidence against the prisoner; because in the ordinary course of business it would be the secretary's duty to write such documents. That was a very dangerous doctrine, and one to which he (the

learned judge) could not assent. In an ordinary civil case, in the case of some contract between merchants, it might well be that if you found a document in the handwriting of a merchant's confidential clerk bearing upon the transaction, that might be evidence against the employer. But that was founded on the rule that he who employs another to act for him in doing a class of acts will be presumed to have authorised all acts of that class which are in fact done by the agent. But in the case of a criminal prosecution the doctrine does not hold. There is no presumption against anybody that he has employed or authorised an agent to do an act, which, when done, is a crime. In fact, the presumption is the other way. It rests, therefore, with the prosecution to shew in fact and not by way of presumption based on the nature of his employment, that Curle was in very deed authorised to make the copy.

This therefore brought the matter round once more to the point whether Curle was to be believed or not; on the one hand was the prisoner's own admission that he had been a faithful servant for some years; there was an apparent absence of any motive that could actuate him in concocting a letter of this sort. On the other hand there was just the possibility that Curle and perhaps some others of the prisoner's suite had taken part in this plot; had forged letters in her name to Babington, thinking to do their mistress a service, but not informing her of what they were doing, and that on the treason being discovered Curle had endeavoured to save his own head by casting the blame on his innocent mistress. It was for the jury alone to judge between the two probabilities.

There remained other questions. First of them was whether the letters (supposing them to have been written by the prisoner or at her order) bore the meaning suggested by the counsel for the Crown. He (the learned judge) should direct them that the first letter was colourless; and the prosecution must rely upon the letter of the 12th July, 1586. He should feel himself obliged to rule that that letter was an overt act of high treason. In it were found (1) A plot to invade the realm by foreign forces—in itself a matter of treason,—and it appeared plain from the other particulars that the object of this invasion which was to be supported by an insurrection was to overturn the government of the country and to depose the queen. He should also be obliged to rule that she was privy to that part of Babington's plot which dealt with the proposed slaughter of the queen by people who had been called the, six executioners. He found in the letter of the 12th July, 1586, the passage running thus; "by what means do the six gentlemen

deliberate to proceed," and later "the affairs being thus prepared and the forces in readiness both without and within the realm then shall it be time to set the gentlemen on work; taking good order upon the accomplishment of their discharges I may be suddenly transported out of this place; and meet without tarrying for the arrival of the foreign aid which then must be hastened with all diligence." It was pretended by the defence that this referred entirely to some scheme for the prisoner's liberation from captivity. Clearly that could not be so; because the very next sentence showed that the gentlemen who were to be "set on work," were not to be those who should rescue the prisoner from her prison. This was plain from the language used: "Now for that there can be no certain aid appointed for the accomplishment of the said gentlemen's designment to the end *others may be in readiness to take me from hence*, I would that the said gentlemen had always about them or at least at court, divers and sundry scout men, furnished with good and speedy horses, as soon as the design shall be executed, to come, with all diligence to advertise me thereof, and those that shall be appointed for my transporting to the end that immediately after they may be at the place of mine abode before my keeper can have advertisement of the execution of the said designment, or at the least before he can fortify himself within the house or carry me out of the same".

The learned judge directed the jury that if they found that the designment there spoken of to be executed by the six gentlemen was a design either to seize the person of the queen and to slay her, they must find the prisoner guilty of high treason. Babington had sworn that such a plot existed, whether the prisoner was party to it or not.

He now came to the difficult and delicate question of motive. It was quite true on the one hand to say that mere proof of a motive was not sufficient in itself to prove anything against the accused person. On the other hand actions were always done from some motive or other; and therefore the quality of an act was coloured to a considerable extent by the motive with which it was done. It was a common argument to be used on behalf of prisoners that it was impossible to imagine any motive for the crime. Thus if a wealthy person was found stealing some goods of trifling value from a shop, the absence of motive was frequently alleged as evidence to show that the theft was committed during a period of mental irresponsibility. Again if John Stiles were accused of murder and it was proved the murdered man and

John Stiles were perfect strangers to each other, and had never quarrelled, and that there had been no attempted robbery of the corpse, the absence of motive would certainly be urged to show either that John Stiles did not slay the man at all, or if it were proved that he did slay him, the absence of motive might well induce a jury to believe that the killing was accidental.

It was very difficult to apply the doctrine in this case. It seemed clear that the prisoner had at one time positively laid claim to the throne of England, and had refused to renounce her pretensions. This was admitted. It was also admitted that those pretensions had never been renounced by the prisoner up to this very day. It was therefore pretty clear that the prisoner at the bar must be considered in the light of a pretender to the throne. And it was idle to shut their eyes to the fact that pretenders more often than not conspired against the *de facto* sovereign. Indeed, there was no way for a pretender to gain what he considered his rights, except by deposing the *de facto* sovereign. In the case under consideration it was clear also that the prisoner at the bar had suffered herself to be addressed as queen; or at any rate had been so addressed without making any protest.

So far, the facts of this branch of the case were against the prisoner. The teaching of history made it appear only too probable that she would conspire against the person who wrongfully, she alleged, occupied her inheritance.

But not all the probabilities were against the accused. She had been for about eighteen years kept a close prisoner and strictly watched. She admitted having corresponded during that time with various people, especially with people abroad; but was it probable that knowing how liable her letters were to be intercepted, she would write the letters of which the prosecution had produced what were alleged to be copies? The danger to herself if any of these letters came into the hands of the Government was mortal, as the prisoner must have known. She was well aware that she was surrounded by Government agents, by people whose business it was to watch with suspicion her goings out and her comings in. If she did write such letters as she was accused of writing she had acted with a rashness almost incredible. Obviously the prisoner was a lady of great intelligence and mental capacity. She was highly educated; and had been trained in affairs all her life. It would be for the jury to say whether they thought she was likely to have entered into so dangerous an undertaking under all the circumstances.

Somewhat after this fashion, I imagine, a modern judge would sum up in such a trial.

And what would the verdict be?

I should say that a Scottish jury would find a verdict of "Not proven"; and if that is so, an English jury must find "Not guilty". The reason I give for this is that the only real evidence being the evidence of informers, a jury would hardly feel justified in convicting, especially on a capital charge. Every man of the twelve might feel morally certain of Mary's guilt; but moral certainty is not legal certainty; and unless you have legal certainty—that certainty of proof which removes every reasonable doubt, a prisoner is entitled to an acquittal.

In the light of historical research, nobody now has any doubt that Mary was privy to the Babington conspiracy. This does not make her conviction any the less unjust; for the injustice consisted in convicting her on the evidence of witnesses who were examined in her absence, and whom she was not allowed any opportunity to cross-examine. True, her own admissions were damaging; but they were not, in my opinion, sufficient to convict her.

At the same time, one must not forget that to Burghley and Walsingham, the two chief men in the commission, Mary's denials of the authorship of the letters were known to be entirely false. For these two had actually seen the documents. And I have not the least doubt that, when the Commissioners were deliberating in private, the two secretaries told their colleagues what they had seen.

It is more than suspected that Walsingham had acted as *agent provocateur;* that he had caused Mary to be removed to Chartley in order that she might be able to communicate with Babington; and that Sir Francis had merely allowed the communications to reach the point when Mary committed herself, before he struck.

So that we are driven to the conclusions: (1) That Mary was guilty. (2) That she ought never to have been convicted. (3) That the conspiracy was encouraged by Walsingham in order to destroy the Queen of Scots.

As to the morality of it all—is a master who suspects his servant's honesty justified in leaving marked coins lying about?

How say you?

What were the charms of the young Queen of Scots that drew

the gaze of all men to her? What was the secret of the fascination that ensnared the hearts of mankind?

In none of the contemporary portraits do we find a satisfactory answer. Not in one of them do we find anything that would give Mary a title to a place in the Book of Beauty, or would procure her a place in the front row of a Gaiety chorus. It is obvious, therefore, either that the paintings are not truthful, or else that the standard of beauty was less high in the sixteenth than in the nineteenth and twentieth centuries. I am inclined to blame the portrait painters. At the time of her marriage to the Dauphin Mary was of middle height, rather less than more. Her face was oval, of that shape which makes any face beautiful, even if the features be not good. Her eyes were brown; her lips full and red; her forehead ample. In figure she was plump and well-developed, if anything, too well-developed for so young a girl. Her feet were small, her ankles trim and elegant; and her hands were exquisitely shaped and lily white. But her chief beauty was held to lie in her hair and complexion. The Queen of Scots had red hair, a trait found in many of the great queens of history. Isabel the Catholic of Spain had red hair; so also had the mighty Elizabeth of England; and that brutal termagant, Catherine of Russia, was proud of her ruddy locks. Mary's hair was not of the same fiery hue as that of Elizabeth and the Russian Empress. It was, rather, auburn, of the richest shade and of great length and thickness.

Generally red hair is accompanied by a fair, clear skin; and Mary Stewart was no exception to the rule. If we are to believe the testimony of the times, her skin was dazzlingly white; and as she was blessed with a vigorous constitution and rude health she had a sufficient tinge of colour to prevent her face from looking cold.

Such, as far as I can gather the facts, is a true, though rather bald description of the personal appearance of the woman whose beauty was rather a curse to her than a blessing.

But the half has not yet been told. Others there were in that gay, licentious Court with faces as fair and forms even more perfect. What raised Mary of Scots above the mere beauties was her animation. When she spoke, her eyes sparkled, her whole being seemed to become inspired. A ready wit called to its aid the resources of a well-stored mind. In fact, Mary was witty enough to afford to be plain; and beautiful enough to afford to be dull. When beauty is allied to wit, charm to fascination,

dignity to tact, the combination is almost irresistible. If the lucky possessor of all these attributes be a queen, who can resist her?

Yet, says the reader, her life was a failure.

True! The reason is not far to seek. All these things she had; yet one she lacked. She was utterly deficient in principle. How could it be otherwise? Catherine de Medici, who superintended her upbringing, was the woman who deliberately suffered the minds and bodies of her own sons to be debauched that she might govern them and France. Henri II. lived in open adultery with Diane de Poictiers; and the proudest blood in France, not even excepting the blood royal, paid court openly to the concubine. It is doubtful if anybody in the Court, man or woman, Catholic or Protestant, paid any respect to the marriage tie. Even great dignitaries of the Church had amours with half-a-dozen women. Few fathers or brothers thought enough of their own honour to begrudge to the king the honour of a daughter or a sister; and men saw, almost daily, honours and rewards heaped upon the men of a family as the price of the embraces of that family's fairest daughter. This kind of proceeding was quite open; and was accounted a legitimate mode of rising at Court.

If debauchery was openly practised at the Court of Catherine de Medici, with circumstances so gross as to be incredible to the modern mind, murder was no less openly committed. Every man knew that he was liable at any time to be "removed" by an enemy or a rival. There was the bravo who could be hired for a piece of gold to stab the obnoxious one as he returned from an illicit interview with the wife of a friend. There was the poisoner to be procured who would, for a heavier fee, implant death in a pair of gloves, a handkerchief, a flower. Many an impecunious son of a noble house eked out a precarious living by challenging the foes of his patron.

In such an atmosphere, how could any young girl, especially one of lively temperament and great social gifts, one who mixed freely with society—how could she, I ask, grow to be a woman of pure mind, of high principle, and of steadfast purpose?

If there had been any chance of such a consummation, it was destroyed by the fact that Catherine de Medici and the family of Lorraine had charge of the political education of the Queen of Scots. Their principles of political conduct are well known. Truthfulness had no place in their school. The most solemn assurance had no more value than the lightest word spoken in jest. Faith was never to be observed, where to keep it would be

inconvenient. The monarch was absolute master, his will was law. The ruler did not exist for his people; but the people for the ruler. To preserve or augment the royal power it was lawful to employ fraud, deceit, and assassination. The realm was made primarily for the king's pleasure; and after that for the pleasure of his relations, friends and favourites.

Furthermore—and I am not sure it was not upon this rock that Mary's ship was wrecked—it was assumed as an indisputable axiom that every other interest must give way before the interests of the King of France. To that everything was subservient. And I think a fair case could be made out in proof of the assertion that Mary was so indoctrinated with this idea as to become absolutely French in heart.

Elizabeth of England may have been little, if any, superior to Mary of Scotland in morals and in intellect. But at any rate she was English, heart and soul; without a thought but for the greatness of herself and her country. Mary, on the other hand, was never a Scotswoman at heart; nor was her whole soul bent on the glory and security of Scotland. To the last she looked to France.

Of Mary's religion, she was a Catholic. Writers of that faith have endeavoured to show that she died for the faith. I doubt it. The Queen of Scots was too apt a pupil of the De Medici to die for any faith whatsoever. Had she been, as has been alleged, an uncompromising and sincere daughter of Rome, she would never have done what she did when she returned to Scotland—that is, tolerate the Calvinists and endow them out of confiscated Church estates.

It is true that Mary refused to become a Calvinist herself. This would have meant a complete break with France and with the Lorraines. It was only as a Catholic that she could hope to raise a faction for herself in England against her cousin and rival. It was only as a Catholic that she could expect money and aid from France. It was only as a Catholic that she could extract money from the Pope under the pretext of needing it to make headway against the heretics.

To say that Mary was a devout Roman Catholic, a sincere daughter of the Church—in the same sense as Mary Tudor was, for instance—is, to my mind, to misunderstand her character and her actions.

But of one thing there can be no doubt, that the Queen of Scots was a brave, beautiful woman, who was sacrificed to the Moloch of State necessity.

MARIE ANTOINETTE

CHAPTER I

INTRODUCTORY

THE career of Marie Antoinette is one of the most tragical to be encountered in the history of royalty. Born of a great house; married into a great house; beautiful, charming, amiable; she ended her life on the scaffold amid a storm of obloquy, after enduring every species of injury and insult possible to be offered to a high-spirited queen.

It is of her trial that I wish to write; but as that would be practically unintelligible without some understanding of her earlier life, I propose to set down, shortly, the history of the lady who was the theme at once of the vituperation of Marat and the eloquent periods of Burke.

Marie Antoinette Josèphe Jeanne de Lorraine was born on the 2nd of November, 1755, at Vienna. Her father was Francis I., of whom it may be said that he was a king. Her mother was Maria Theresa, who was not only a queen but a great queen, one of the great monarchs of history, worthy to rank as a ruler with Catherine of Russia, Elizabeth of England, Isabella of Castile and Victoria of Great Britain—in short, a great woman, wise in council, decisive in action, great in war as in peace. Of the numerous family of Francis and Maria Theresa, Marie Antoinette was the youngest daughter, and when she was growing into girlhood it began to be perceived that she gave promise of considerable beauty, as well as of activity of mind. For centuries Austria and France had been enemies; but some turn of international politics brought them into friendly relations; and in 1769 an embassy from Louis XV. visited Vienna to solicit the hand of the young princess on behalf of the dauphin. The queen-empress yielded a ready assent; and it was arranged that in the following year Marie Antoinette should be sent to France to wed the heir-

apparent to the French crown. Meanwhile, Maria Theresa began to fit her child for her future position by causing her to receive a French education. The Abbé de Vermond was despatched from France to be the tutor of his future queen; and for a year he instructed the princess in the French language; and, to some extent, in French manners and customs and the etiquette of the French Court.

In the year 1770 the bride-elect set out for her new home. She crossed the frontier at Strassburg and proceeded by slow stages to Versailles. All the countryside flocked to greet her by the way; and she captivated all hearts by the cordiality of her manner and the grace of her bearing. All peoples are keenly appreciative of royal charm of manner; and are apt to fall into raptures over royal beauty. The French are, or at any rate were, more than usually susceptible. Marie Antoinette's progress was one continual *fête*. Every town, and not less every village and hamlet turned out to do her honour; and she might well have imagined France to be a land of flowers and poesy, and of a loyal, happy and contented people.

By contrast with the popular greeting, the princess's reception at Court was hardly so cordial. The king received her cordially. Her bridegroom was enraptured. But the king's three daughters greeted her with marked coldness; and many ladies of the Court took objection to the freedom of her manners. The same ladies, be it said, paid court to the unspeakable Du Barri.

All chroniclers concur in describing Marie Antoinette, at the time of her arrival in France, as graceful, intelligent-looking, lively and amiable.

As I have stated, France and Austria had for years been constant enemies; and thus the name of Austrian did not bear, in the ears of a Frenchman, any very welcome sound. It seemed, however, as if the charm of the young dauphiness might dissipate ancient dislikes when an untoward incident set back the tide of her popularity. Louis XV. had ordered magnificent popular *fêtes*—they cost no less than twenty million livres—to celebrate the marriage. Some of these took place at Versailles and some at Paris; and amongst the spectacle to be offered to the populace was a grand display of fireworks. During the progress of the display, a firework set on fire a platform on which other fireworks were stored. There was a loud explosion. Some horses were scared, and bolted, charging into the thick of the enormous crowd. Naturally enough, there was a panic; and many people lost

their lives; and people began to mutter that a death-roll of thirty-two Parisians was no very good augury for the reign of the future queen. Absurd as it may seem, a great number of Parisians charged the blame of the mishap to Marie Antoinette; and from that time forth were willing to believe that any trouble or misfortune that befel France was attributable to *l'Autrichienne.*

The feeling against her was actively fostered by a faction at the Court. Marie Antoinette had been brought up in a court where family life was preserved, and where the etiquette of the palace was extremely simple. She found herself in a country where Court-etiquette was a perfect nightmare. For nearly two hundred years a sort of code, inflexible as the laws of the Medes and Persians, had been in process of being compiled; and under Louis XV. this code had reached its highest pitch of rigour. As much time was spent on the daily ceremony of taking off the king's boots as would have sufficed for the government of a province. When his majesty put on his coat of a morning the garment had to pass through at least four pairs of noble hands before it reached the royal back; and the function was obliged to be performed in public. These are only examples of the absurd minutiæ of royal etiquette.

L'Autrichienne laughed, not too softly, at the whole business. In the society of her intimates—and it should be said that to have friends was in itself quite contrary to etiquette—the lively princess scoffed at the absurdities perpetrated every day in the palace. She dared to go out driving in company with only one or two friends. She even went so far as to take walks abroad without troubling to take with her a score of tedious people. She conversed, quite rationally, and even in a lively style, with persons of her own selection.

What could she expect? She incurred, forthwith, the hatred of all the crowd of sycophants and hangers-on. They were quite right; for if courtiers were to be selected for their merits, their virtues or their wit where would *they* be? Every gold and silver stick in waiting, every *maréchal* of this, that and the other, every lady who drew a pension for handing the queen her nightcap or for pulling off the royal stockings at night—in short, every person about the palace who had a vested interest in some idiotic, useless, ceremonial observance hated the dauphiness. When she conversed familiarly with any man, when she drove off incognito for a shopping tour of Paris, the vested interests pointed their fingers, and said nasty things, and hinted more unutterable things still,

after the manner of their kind. Then they went and cringed before the Du Barri.

When, in May, 1774, Louis XV. died, and Marie Antoinette found herself, at the age of eighteen and a half, queen consort of France, she did not alter her views of etiquette. She laughed at the ridiculous stately funeral of Louis XV.; and thereby earned the increased hatred of the old-fashioned hangers-on of the palace. One of them, no doubt, wrote, or hired some cleverer person to write, a set of libellous verses, beginning

> Petite reine de vingt ans
> Qui traitez mal les gens
> Vous repasserez la barrière. . . .

An anti-Austrian party was formed at Court, whose sole object was to ruin the queen if possible, and at any rate to destroy her influence over her husband. For, strange as it was in that day, Louis XVI. and his wife lived fairly happily together, and she was entirely in his confidence.

One act of the young queen ought to have shown the French the generosity of her heart and the nobility of her intentions towards her subjects. It was an act worthy of the daughter of Maria Theresa. On the accession of a queen, she became entitled to the proceeds of a tax, levied every three years, on the commodities of bread and wine. This tax was called officially *la taille du pain et du vin;* but was popularly termed *la ceinture de la reine* (the queen's girdle). It was an imposition that pressed very hardly on the poor; and Marie Antoinette at once resolved that it should never be exacted on her account. She accordingly ordered it not to be collected. For a short time the popular gratitude rose in clamorous shouts; but it soon spent itself. In this connection, mention may be made of a pretty compliment paid to the young queen by the Count de Couturelle. He wrote,

> Vous renoncez, charmante souveraine,
> Au plus beau de vos revenus.
> A quoi vous servirait la ceinture de reine ?
> Vous avez celle de Vénus.

The popularity ensuing from this munificent act soon evaporated, thanks to the rumours and hints sown broadcast by the anti-Austrian party, whose enmity was increased by an unheard-of act on the part of the youthful queen. There was a certain Princesse de Monaco, a great lady, who had transferred to the Prince de Condé those affections which belonged of right to the Prince de Monaco. The Prince de Monaco had no course open

to him but to refuse to live with her. The princess presented herself one day at the Court of Marie Antoinette; but what was her indignation and amazement when *l'Autrichienne* refused to see her, and sent out the stinging message: "The queen does not wish to receive wives separated from their husbands". Here was a pretty thing! The great dames who had been accustomed to regard their marriage vows as the lightest of ties were indignant; and demanded to know who this woman was that she dared to set all precedent at defiance. And when the queen proved to be as good as her word, when she excluded from the Court a few other ladies who were living in open violation of a certain commandment, indignation became vocal.

Meanwhile, Marie Antoinette proceeded on her own light-hearted way. She held parties of quite a friendly character in her apartments. She organised theatricals, wherein she herself took part on the stage. She planned innocent excursions—as, for instance, to a hill-top to view the rising of the sun. Busy pens in pay of the anti-Austrians poured forth a steady stream of libels. The innocent parties became "monstrous orgies"; the harmless plays were merely opportunities created by the queen for familiarity with favoured lovers. In fact, Marie Antoinette's every act was distorted into a manifestation of profligacy.

It was not long ere the queen's enemies were presented with a glorious opportunity to exercise their wit and their malice—I refer to the affair of the diamond necklace. A female swindler named the Countess de la Motte de Valois made a dupe of a purblind libertine, Cardinal Rohan, and persuaded him that the queen was in love with him; further, that her majesty desired a certain diamond necklace, but that she dared not purchase it because she had been unduly extravagant, and the king had exacted from her a promise not to order anything expensive without consulting him. The countess persuaded the cardinal that if he would purchase for the queen the necklace in question, which was of surpassing beauty and enormously valuable, the queen would receive him as her lover. Rohan jumped at the chance. He entered into treaty for the purchase of the bauble, and pledged his credit to pay for it by instalments. But he required some sort of authorisation direct from the queen; and La Motte at first satisfied him by obtaining from him the bill or invoice, and returning it to him with the word *approuvé* written on it, together with the signature *Marie-Antoinette de France.* Both the jewellers and the cardinal seem to have had no doubt of the genuine-

ness of this signature; but in fact the writing was that of a man named Reteaux de Villette. At another stage of the mysterious negotiations, Cardinal Rohan declined to proceed unless he had an interview with the queen herself. Again La Motte complied with his wishes. There was a young woman in the habit of walking about daily in the garden of the Tuileries who bore a striking resemblance to the queen. This young woman, who was called D'Oliva, was persuaded to impersonate Marie Antoinette; and to make assurance doubly sure La Motte appointed the assignation at night in a shrubbery in the grounds of the Trianon, the queen's residence. The impersonator, heavily veiled, appeared for a moment in the shrubbery, allowed the cardinal to kiss her hand and then hastily retreated. The cardinal took delivery of the necklace and handed it over to La Motte. Afterwards, he received one or two notes purporting to be signed by the queen. After a while, the purchase money not being paid, the jewellers put themselves in communication with the Baron de Breteuil, who happened to be a mortal enemy of the cardinal. In the end there was a terrible scandal, which was investigated by the *parlement*, which declared La Motte guilty and condemned her to imprisonment for life and to be branded. Villette was also found guilty, and sentenced to perpetual banishment. The girl D'Oliva was acquitted, as having been an innocent party to the fraud. The notorious Cagliostro, who had also been mixed up in the affair in some way, was acquitted likewise. Cardinal Rohan was found not guilty by the tribunal—a decision to be explained, perhaps, by the fact that the House of Rohan was amongst the most powerful in France.

But although the amorous cardinal was acquitted he did not go unpunished. The king signed an order banishing him to the monastery of La Chaise-Dieu in the Auvergne Mountains, there to remain till further orders. He was also deprived of his office and emoluments as Grand Almoner of France.

The public clamour was indescribable. We, in our day, have seen nothing like it except the *Affaire Dreyfus*. The public voice was almost entirely against the queen; and it was freely written and more freely said that it was she who had swindled the jewellers and who had conspired with the cardinal to defraud. The French monarchy received a shock from which it never recovered. It depended upon a mysterious sense of aloofness—a feeling that kings and queens were not made of common flesh and blood as others were. When a whole nation became thoroughly

convinced that one of these superior mortals was a common swindler, the whole edifice of sacrosanct royalty tumbled to pieces. To criticise the action of a heaven-born queen was almost blasphemy. To comment upon the action and character of a thief was open to any man.

I have read that early Christian missionaries, when they sought to convert a heathen tribe from its idolatry, frequently attacked the tutelary idol of the tribe, axe in hand; and when they had hewn the image to pieces, and the crowd saw that the god took no vengeance, the argument ofttimes proved irresistible to the heathen mind.

Such was the Affair of the Diamond Necklace. It was the first act of the Revolution.

Biographers tell us that Marie Antoinette was never afterwards the same woman. She hardly ever went amongst the people. She wept by the hour together in her chamber. For she realised that her honour had been dealt a blow from which it could scarcely recover. Still she kept up the appearance of gaiety. Still she gave magnificent entertainments at her palace, the *Petit Trianon*, to her friends. Still she appeared on the boards of her private theatre. Her love of the play, too, found vent in visits paid in disguise to the opera.

Meanwhile, France was drifting into insolvency. The taxes did not yield to the public exchequer one-half the amount paid by the people, a phenomenon due to the system of farming. Enormous sums were swallowed up in Court festivities, and sums still more enormous in pay and pensions to people who performed no public uses whatever. To crown all Marie Antoinette persuaded the king to appoint as his minister Lomênie de Brienne, an amiable incompetent. Confusion grew worse confounded. And the anti-Austrian party at Court, assisted by a whole host of young journalists who had begun to advocate republican principles and constitutional ideas, soon roused the public to fury against the queen by representing that she had caused enormous sums of French money to be sent to her brother, the Emperor Joseph. There was not a word of truth in the story; but the people eagerly swallowed any story to the discredit of the Austrienne.

Finally, the financial condition of the realm brought about, in 1789, the summoning of the Convocation of Notables, and in 1790 the *Etats généraux*. Marie Antoinette foresaw, in some measure, the conflict that was bound to ensue between the throne and such an assembly; and she opposed the step with all her might. This

opposition made her still more unpopular. Everybody knows the course of events. How a turbulent National Assembly, backed by the mob of Paris, wrung from a feeble monarch concession after concession. How the queen vainly tried to inspire her husband with some portion of the courage she had inherited from her intrepid mother. How she became the rallying point of the monarchist faction; and, by the same process, the target of every popular arrow. How from time to time Louis was encouraged to the pitch of vetoing measures of the assembly; and how the Parisians, alive to the fact that the queen had so encouraged him, nicknamed her "Madame Veto". As from the earliest date to the present, Paris did not lack a popular poet to express its sentiments; and the most important and famous of all topical street-songs was soon in everybody's mouth. I refer, as the reader will imagine, to *La Carmagnole*, which began with the lines,

Madame Veto avait promis
De faire égorger tout Paris.

Finally, there was the celebrated banquet of the royalists (1st October, 1789) when the toast *A la nation* was refused by the guests —Marie Antoinette standing by; and where the white cockade was flaunted in defiance of the popular tricolour. From that moment, the queen was not merely hated; she was execrated. The exasperated populace marched on Versailles, no doubt with intent to murder Madame Veto, who was obliged to leap hastily out of bed and escape to the king's apartments very lightly clad. The dramatic appearance of Lafayette and his guards alone saved her from the assassins.

When the king was "persuaded" by his "loving subjects" to remove from Versailles to Paris, taking with him his wife and children, Marie Antoinette made a last effort to recover her lost popularity. She redeemed from pawn the effects of poor people; went into the homes of the sick and suffering and ministered to their needs; showed herself on every possible occasion in public; visited factories and workshops. All in vain. The populace received her gifts; but never ceased to revile her. She, curiously enough, was wont to attribute the ill-feeling to the machinations of secret agents sent to stir up the lower classes by—Pitt! If the reader asks, Why? the answer is that she imagined it was all done out of revenge for the countenance afforded by the Cabinet of Versailles to the revolted American colonists. If Marie Antoinette had been able to convince France of the truth of her suspi-

cions, she would have been saved; but the French people knew better.

While Louis went on believing almost against credulity that his people really loved him, and would soon settle down to the old state of things, the queen had no such illusions. She pressed her husband to seek refuge abroad while there was yet time. Louis replied that James II. of England lost his crown by flying from his people. "Then, sire," replied the intrepid daughter of Maria Theresa, "place yourself at the head of your army, and establish your prerogative." Again Louis was ready with a precedent from English history: "Charles I.," said he, "lost his head because he made war on his parliament and his people". In short, he would neither fight nor fly; and neither he nor his supporters were a match for the orators of the National Assembly in a war of the tongue and the pen. One wonders what would have happened if the last of the real Kings of France had been served by a Napoleon, with his "whiff of grape-shot".

In Paris, the king and queen became virtually prisoners, and, like all prisoners, in course of time they began to meditate upon the possibility of escape. In the end, Maria Antoinette persuaded Louis to make the attempt, after his carriage had been stopped when he was on the way to Saint-Cloud to spend a few days. Under the management of the Swedish Count Fersen (popularly supposed to be the queen's lover) the flight began; and, like everything undertaken by that doomed family and their friends it was managed with surpassing imbecility. Instead of dividing—it would have been easy to re-unite after passing the frontier—the king, the queen, Madame Elisabeth, and the dauphin travelled together in a huge berline drawn by four horses. And instead of hurrying to the nearest frontier—that of the low countries—they struck west for Germany. They were bound to be recognised, and they were recognised. When they reached Varennes, they were stopped. Even then, a detachment of loyal cavalry, commanded by De Choiseul and De Goguelat, would have forced a passage for them, but Louis XVI. would not suffer the blood of Frenchmen to be shed, and so the chance passed. Conducted back to Paris amidst the insolent rejoicings of the republicans, exposed to every conceivable insult, the royal family of France was doomed from that moment. Louis bore the taunts, the jeers the insults and the indignities with inconceivable placidity; but Marie Antoinette suffered to the inmost of her soul. Her blonde, German tresses bleached white in the single night of anguish at

Varennes. But she bore herself on the return journey to Paris with such calm dignity as to arouse the warm admiration of Barnave, one of the commissioners sent by the National Assembly to ensure the return of the royal family to Paris. "I accused myself," said the warm-hearted, sentimental Frenchman, "of having too long misunderstood her."

From the moment of the return of the royal family to Paris, they were confined to the Tuileries, without any attempt at disguising the fact that they were prisoners. The king and queen were separated until such time as they should give satisfactory explanations of their flight to the assembly. The next assault of the enemy was in May, 1792, when the capital was flooded with libels, both in pamphlets and the daily journals, to the effect that an Austrian committee had been formed; that it met in the queen's apartments; and that its object was to betray France to an Austrian army. The mob was in the state of mind when anything, provided it was sufficiently incredible, was readily accepted. The foundation of truth upon which the lie rested was the fact that the Austrian ambassador called daily upon the queen, who also received a few of her friends who were courageous enough to visit her.

Many an ordeal awaited the wretched woman in those summer months of 1792. The hideous day of the 20th of June, when a vile mob of furious insurrectionaries filed through her room, and she was compelled to stand and receive their salutes, their insults and their indecencies, holding the while her son and daughter by the hand. The daily suspense; the hopeless hope of rescue; the growing sense of insecurity—all these must have made her almost welcome the end. Nevertheless, on the 10th of August, she heartened the royal guard and the Swiss guard to defend the Tuileries against the mob. For the last time they cried "Vive la reine!" as they prepared to meet the onslaught of the enraged Parisians. Had Louis left the defence of the palace to his wife, there had been no useless massacre of the defenders, as in the end there was. She would have defended seriously, even if not successfully. Louis, after many orders and counter-orders, sought safety in the bosom of the assembly.

The Republic, one and indivisible, was an accomplished fact. On the 13th of August (1792) Marie Antoinette was incarcerated in the prison of the Temple, along with her family; and for a long time the royal prisoners were not badly treated. The French people, politest of nations, had not yet adopted the pose of ferocity

and rudeness that afterwards distinguished them—though not for long. The royal personages were given the use of a large allowance, whereby they were enabled to furnish their table and otherwise to live more than comfortably. At a later date, however, the assembly became brutal; and the daughter of the Cæsars was obliged to sleep with Madame Elisabeth, because the bedclothes supplied were not enough to keep them warm singly. Worse remained.

Of all the friends of Marie Antoinette, perhaps the dearest and the truest was the Princesse de Lamballe. This lady had never faltered in friendship, service and allegiance; and the relations between the two were notorious. One day (3rd September) a huge crowd assembled outside the Temple, under the window of the queen; and loud cries ascended to the prisoners—cries of joy, mixed with shouts of "Madame Veto! Marie Antoinette!" and other expressions indicating that the people outside wished the queen to show herself at the window. Marie Antoinette was about to do so, when one of her guard jumped in front of her, and shut the shutters hastily, and pushed the queen back. The queen asked the reason of this apparent rudeness; but the chivalrous soldier did not answer. One of the jailers, however, was less sensitive. "Oh," said he, "they wish to show you the head of La Lamballe." The prisoner uttered no cry: she simply turned pale and stood for a time as if turned to stone; and for the rest of the day she sat in dazed silence, speaking no word, and apparently oblivious of everything.

The next blow struck by the revolutionists was to separate the queen from the king. What the object of this could be, other than wanton cruelty, it is not easy to see. The ill-fated pair met no more until the eve of the execution of the king (January, 1793).

At first it was proposed by Bourbotte in the convention (6th December, 1792) to try Louis and Marie Antoinette together; but this proposition was not carried—I do not quite know why, unless it was because such of the Terrorists as retained a vestige of sanity recognised that to try, much more to execute, a princess of the Imperial house would compel Austria to undertake vengeance. The apparent slackness of the convention in bringing the *femme Capet* to justice—for so they euphemistically termed the tender mercies of the Revolutionary Tribunal—excited the surprise, and even the anger of the patriots of the town of Mâçon. As early as the 4th of January (1793) these noble patriots addressed the convention, requesting that the female Capet should be brought to judgment. In the same week the patriots of Laval presented an address of the

same tenor. Still the convention did nothing, except to continue the insults and imprisonment in the Temple. On the 27th of March, and again on the 10th of April Patriot Robespierre was moved to propose in the convention that she be sent to take her trial before the revolutionary tribunal, but the convention still declined to act. The proposition of such a citizen as the sea-green patriot could not be rejected; but it could be, and was, adjourned.

On the 3rd of July, 1793, the revolutionists had still not brought their courage to the sticking point. They feared to kill the Widow Capet, as she was now called. But they stabbed her to the heart. For the Committee of Public Safety issued a decree "that the son of Capet shall be separated from his mother". When the shamefaced soldiers of the municipal guard went to execute this new barbarity, the queen ran to her son's bedside, seized him in her arms, and for a whole hour defied the municipals to carry out their decree. "Kill me, first! Kill me, and have done!" she cried, until the municipals wept, patriots though they were. At last, threatening to kill not her, but the boy, they obtained possession of their prey; and handed the poor little fellow over to the care of Citizen and Shoemaker Simon, who was such a patriotic patriot that he made the life of the son of Capet a hell upon earth; and finally killed him altogether by cruelty of the most patriotic refinement.

It must not be supposed that there were not in France some men so unpatriotic as to wish to rescue from her miserable prison this daughter and wife of kings. There was Michonis, a municipal guard, and De Jarjayes, with one Toulan, a bookseller, who essayed a plan; but before it could be carried out they were spied upon and betrayed by a woman named Tison; and Toulan fell to the guillotine. Toulan had access to the prison in a public capacity; and his plan was to bring the queen and Madame Elisabeth out in the disguise of municipal officers. A second liberator offered himself in the person of the Baron de Batz, who introduced into the Temple a handful of determined men, well armed. But Patriot Simon was suspicious; and this plot also failed.

On the 1st of August, apparently, the Committee of Public Safety made up its mind to act. Barrère had been asked to draw up a report on "the conspiracy of Europe against French liberty". He reported; and at the end of his report made certain recommendations, of which one was that Marie Antoinette should be brought to trial forthwith. On the night of the 2nd-3rd of August, about midnight, the queen was removed from the Temple to the Conciergerie under a police order.

The celebrated—or infamous—Fouquier-Tinville, the public prosecutor, was ordered to proceed in the matter of her trial; and, apparently, he did not move fast enough to suit his masters, the convention, or the public; for on the 25th of August (1793) we find a letter addressed by him to the President of the Convention, in which he mentions that the journals are complaining of the delay, and excusing himself by pointing out that matters are being proceeded with as quickly as possible, considering the difficulty of collecting evidence.

Meanwhile, several police visits were paid to Marie Antoinette's room in the Conciergerie. On one occasion the commissioners of police visited her and took away all her jewels, chains, rings and watches. Their report, dated the 9th of September, shows that they repaired to the room occupied by the Widow Capet, and summoned her to give up her chains and jewellery, "which she did on the instant". They consisted of a gold-ring—probably her wedding-ring—a gold chain, another chain with a stone and a charm, another in form of a little necklace, a repeater watch, several gold trinkets, one of which bore the legend "*Love and faith*," a gold medal on a chain of gold. "All these objects bore certain marks in hieroglyphic letters." The writers go on to say that they interviewed the concierge and his wife, and the commandant of the guard; that they ordered sentries to be posted immediately within and without the doors of the Widow Capet's room; that they further ordered that no one should be allowed nearer to the door than ten paces, except the concierge and his wife.

That the prisoner was well guarded appears from a letter addressed by one Gilbert, one of the sentries, to his colonel. The soldier points out that there is grave danger in allowing anybody to interview the Widow Capet. The last time but one, he writes, that the citizen Michonis came, he brought with him a person at whose appearance the Widow Capet trembled. The Widow Capet afterwards told Gilbert—so he writes—that this person was a *ci-devant* Knight of Saint-Louis, but she trembled lest he should be discovered, and she was much surprised that he should be able to approach her. She declared that this person had passed to her a note, concealed in a carnation, and that he would return the following week. Further, the *femme de chambre* being at that time engaged in a game of cards with Gilbert, the woman Capet profited by the occasion to write with a pin a paper which she gave to Gilbert, to be sent to a "certain somebody". But

the incorruptible Gilbert took the note to the wife of the jailer, and reported these strange events.

On Gilbert's report, the Committee of Public Safety sent a deputation to interview the Widow Capet; and to subject her to "*un intérrogatoire particulier*"—in English, a heckling, on the subject. These good men lived in daily dread of the escape of their destined victim; and here, behold! was a full-fledged conspiracy. So, on the same day, in "the second year of the French Republic, one and indivisible," four members of the dread committee made their appearance in the room of the dethroned queen, and asked her questions on the lines of Gilbert's letter. She denied that she had seen anybody whose name she could remember. Asked if she had received a note, she replied evasively, "How could I receive one without being seen by the people in my room?" But she absolutely denied writing anything herself. A long and tedious series of questions, jumping about from one thing to another, failed to shake her. She was asked why she ran away to Varennes; and replied that she did as she was told by her husband. She was taunted with wishing success to the arms of the enemies of France; and answered, calmly, that as a mother she wished success to those of the nation of her son—"when one is a mother, that is the first". She was asked how she liked the abolition of the monarchy. Again she could not be caught tripping. "So long as France is great and happy, that is all I care," she said. Only once did she show her ancient spirit. The patriots badgered her to say whether she regarded as her own enemies all those who made war in France. This, of course, included her own brother. "I regard as my enemies," she said, "all those who do wrong to my children."

Eventually, by an exhaustive interrogatory of Gilbert, Michonis, the concierge's wife and others, the fact of the letter having been written by Marie Antoinette was proved. Precautions against escape were redoubled. The queen's life was made a burden to her by the number of persons who watched her, never leaving her room day or night. And in the meantime Fouquier-Tinville was preparing his case, ready for the last act of the tragedy.

As soon as the news of the Michonis plot got abroad, Paris resounded with cries for the judgment of the queen. The Jacobin clubs, those real centres of the Terror, passed resolution after resolution of the most bloodthirsty kind. The convention once more complained of the slowness of the proceedings. The

reason advanced by the patriots why the trial should be hastened was, that if it were delayed too long some successful conspiracy (of escape) might baulk the rigorous justice of the Republic. The formidable mob which called itself the people of Paris began to demonstrate. From almost every department of France petitions and resolutions to the like effect rolled in. On the 1st of October the public prosecutor applied to the Committee of Public Safety for the documents relating to the "prosecution of Capet"; and received in reply a letter not only authorising him to take possession of whatever papers he desired to use, but also informing him that if any new obstacle had arisen with regard to the prosecution of Capet's widow, he (the prosecutor) was to tell the committee, who would speedily take steps "to second your zeal". This letter was signed Billaud de Varrennes, Collot d'Herbois, Hérault, and Robespierre; and might be taken to be in the nature of a powerful hint to Fouquier-Tinville to make haste or he would have cause to regret it. Fouquier-Tinville was not slow to grasp the situation. The letter of the *Comité de salut public* is dated the 20th vendémiaire (12th October) year II. (1793). On the 13th of October the great tragedy began.

Marie Antoinette had been expecting to be summoned to answer before the Revolutionary Tribunal any day after her removal to the Conciergerie. When the summons came, at about six o'clock in the evening of that October day, she felt relieved rather than afflicted. The bitterness of death was past. Her husband, her friend had been butchered. Her children had been taken from her. For a long time she had been leading a life of intolerable humiliation. Let the end come when it would, so it was sharp and sudden she would welcome it.

Two officers of gendarmerie, accompanied by the head jailer of the prison, appeared in her chamber. "Widow Capet! stand up!" Meekly enough the once all-powerful queen rose from her chair. "Listen! You are required to attend before the Revolutionary Tribunal! In the name of the Republic, one and indivisible, follow us!" And the woman before whom all France had knelt less than twenty years before, silently followed the men who had come to lead her to her doom and her release.

Since the physical as well as the mental traits of the great and famous are always interesting—for one likes to form in the mind's eye a picture of the person, let me try to give the reader some idea of the personality of Marie Antoinette, as I can gather it from various sources, friendly and unfriendly. She was tall,

and admirably well made. Her bust and her hips were full, but not gross. Her hands and her feet were very small, and beautifully shaped, while her arms, which she was fond of displaying were perfect in shape and whiteness. She had a way of walking that was peculiarly graceful; and this, added to her well-proportioned figure, gave her an air of stateliness that was exceedingly impressive—an air that was again added to by the proud way she carried her head. Her features were regular, her face of the rather elongated oval type common in her family. Her eyes were of a grey-blue, and rather small, which somewhat detracted from her beauty; while her lips were somewhat full—another family trait. On the other hand she had not the enormous mouth that disfigured her mother. Her complexion was fair, her hair light. Such was Marie Antoinette in the days when she queened it at the *petit Trianon*.

As for her manner, I have said that it was lively and animated. In an age of brilliant women she had few superiors. She hated bores and dullards; and delighted in the society of witty, well-informed people. That is why she was at once so hated and so beloved. For—and this was the great defect of her character—she took little or no pains to disguise her likes and dislikes; and was mercilessly insolent to those whom she despised for their want of intellect. And as the vast majority of mankind are rather dull than brilliant, the haughty young queen in the end offended more than she pleased. She herself once said, "If I were not queen, people would say I was insolent—is not that so?"

But when she was summoned by the gendarmes on the evening of the 13th of October, 1793, she was a changed woman. Her hair was snow-white. Her face was marred by deep lines of sorrow. And though she retained the grace and even the dignity of her bearing, she had lost the haughty carriage, the air of insolent contempt for mankind that once distinguished her.

The moral character of the queen is matter of controversy. More than once it was said she had a lover. *Le beau Dillon*, a young soldier, was said to be the first; the Count de Polignac was pointed out as another; and the Duc de Coigni a third. The last favourite, so Court scandal ran, was that Count Fersen, the Swede, who drove the famous berline to Varennes. On the other hand we know that Marie Antoinette lived with her husband on terms of affection not often to be found in royal households. We know her devotion as a mother. We know her line of conduct towards

MARIE ANTOINETTE IN THE PRISON OF THE TEMPLE (1793)

FROM THE PORTRAIT BY KOCHARSKI

certain great and powerful ladies who openly disregarded their marriage vows; and I am inclined to think that the tales of her infidelity are only a part of the calumnious legends by which the anti-Austrian party assailed her reputation with a view to destroying her influence over the king.

CHAPTER II

L'INTÉRROGATOIRE SECRET

THE first part of the trial of Marie Antoinette was not public. In fact, I do not know that I ought to call it part of the trial at all. It was, in fact, the secret examination of the prisoner, "*L'intérrogatoire secret*," which formed an indispensable preliminary to the public trial. For the French method was then, and still is, not litigious but inquisitorial. It did not consist of the formulating of a charge by the prosecution, who were then required to prove it to the reasonable satisfaction of a judge or judges; but rather an inquiry or inquisition into the prisoner's guilt. The method is well known. It was used, to a very great extent, in England in state trials before the Commonwealth. It flourished under the Star Chamber and the High Commission Court; and was finally rejected in England as being unsuited to the genius of a free people.

There cannot be selected a better example of the working of the system than the *intérrogatoire secret* of Marie Antoinette, of which a full record is to be found in the French archives.

The autumn light had faded from the dimly lit Hall of Audience of the Palais de Justice, when Marie Antoinette, once Queen of France, was brought in. She was dressed in black, the weeds of her widowhood. There were in the room, Hermann, the dread president of the dread "Tribunal criminel revolutionnaire," the tribunal from whose judgment was no right of appeal. Hermann sat on a chair on a daïs. Opposite to him was a stool, without a back, and to this stool the prisoner was led, and told to be seated. In front of her, underneath the president, sat Fabricius, the *greffier*, or registrar of the court, at a table whereon were two candles. Several other people were in the room; but the queen could only faintly distinguish their forms; for in that great hall the light of two candles was only just sufficient to enable her to see Fabricius. Even Hermann was but half revealed. The effect was weird in the extreme; and designedly so. It was cruel, no doubt; but one

cannot refuse to admire the skill with which Fouquier-Tinville had arranged his death-trap. Imagine a woman brought out of prison after long confinement; her nerves strung up to the highest pitch; a woman who had expected death, or any other horror for six months; imagine her brought into a room almost dark, tenanted by people who looked like ghosts. Couple with all this the dread of one of the most sanguinary tribunals ever heard of in history; and you may form some faint idea of the effect likely to be produced on the prisoner to be interrogated. Fouquier-Tinville, with diabolical cunning, had arranged the hall so as to terrify his victim, and shake her nerves.

Hermann promptly opened fire:—

Q. "Citoyenne—I ask your names, your age, your profession, your country, and your residence."

A. "My name is Marie-Antoinette-Lorraine of Austria. I am thirty-eight years of age; and widow of the King of France."

Q. "Where were you residing at the time of your arrest?"

A. "I was never arrested. I was conducted from the National Assembly to the Temple."

Q. "Before the Revolution you had correspondence (*rapports*) with the King of Bohemia and Hungary (*i.e.* the Emperor Joseph) and this correspondence was contrary to the interests of France, which overwhelmed you with benefits?"

A. "The King of Bohemia and Hungary is my brother. I only had with him friendly, not political correspondence. If at any time I mentioned politics it was for some advantage to France, to which I was bound by the family into which I married."

Q. "Not content with wasting in a dreadful manner the finances of France, the fruit of the people's toil, for your own pleasures and intrigues, in collusion with infamous ministers, you caused to be handed over to the emperor some millions to be employed against the people who fed you?"

A. "Never! I know that this has been said against me; but I loved my husband too well to waste the resources of his country. As for my brother—he never had any need of French money; and, for the same reason that I am attached to France, I should never have given him any."

Q. "Since the Revolution, you have not ceased to manœuvre, abroad and at home, against liberty—even when we still had only the pretence of that liberty which the French people wishes to enjoy in full?"

A. "Since the Revolution I have cut myself off from all cor-

respondence abroad; and I never intermeddled with affairs at home."

Q. "But have you not employed secret agents to correspond on your behalf with foreign powers—particularly with your brother—and was not Delessart the principal agent?"

A. "Never in my life."

Q. "Your answer does not appear to be the truth; because is it not the fact that at the palace of the Tuileries there used to sit secret nocturnal committees (*conciliabules*), at which you yourself presided, and where the answers to be sent to foreign Powers, and also to the Constituent and Legislative Assemblies respectively were deliberated upon and settled?"

A. "My former answer was perfectly true. The committees are a myth; the rumour of them was set about by those who wished to amuse and deceive the people. I never knew of any committee; and, in fact, none ever existed."

Now ensued a crafty set of questions, calculated to entangle the unwary; and intended to make the accused commit herself to a definite statement accusing somebody else. The reader will see how the lone woman's wit was more than a match for the guile of her enemies.

Q. "I observe, however, that when the question arose whether Louis Capet would sanction or veto the decrees submitted during November, 1791, relating to his brothers, to the emigrants, and to refractory and fanatical priests, it was you, was it not, who, despite the ardent pleading of Duranton, then Minister of Justice, persuaded Louis Capet to veto those decrees, the sanctioning of which would have averted the evils that France has since experienced —thus proving that you did assist at these councils and committees?"

A. "In the month of November, Duranton was not Minister. As to the rest of the question, my husband had no need to be persuaded to do what he believed to be his duty. I was not of the Council; and it was only there that all these matters were discussed and determined."

Q. "It was you who taught Louis Capet the art of profound dissimulation [poor Louis! who could not have deceived a village idiot] by which he too long deceived the good French people, who were unable to comprehend that any one could carry to such an extent scoundrelism and perfidy."

A. "Yes! The people were deceived—they were cruelly deceived. But it was neither by my husband nor by me." The

daughter of the Cæsars was plucking up courage to attack in her turn.

Q. "By whom, then, were the people deceived?"

A. "By those whose interest it was to deceive them. It was not our interest to deceive them."

Q. "Who are those persons who, in your opinion, had an interest in deceiving the people?"

A. "I only know our interests: which were to enlighten, not to deceive."

Q. "I remind you that you have not really answered the question?"

A. "I would answer it if I knew the names of the persons."

Q. "Have you not been the principal instigator of the treason of Louis Capet? Is it not by your counsels, and even by your insistence (persecutions) that he wished to fly from France, to put himself at the head of the madmen who wished to destroy their fatherland?"

A. "My husband never wished to fly from France. I followed him wherever he went. But if he had wished to leave his country I would have used every means in my power to dissuade him—but it was not his intention."

Q. "What, then, was the object of the flight to Varennes?"

A. "To give himself the freedom of action that he could not enjoy here in the eyes of any one, and to conciliate thus all parties, for the welfare and tranquillity of France."

One must say, without condoning the untruthfulness of it, that the last answer was decidedly clever. If it was an impromptu it was almost a work of genius. Hermann, who had expected an admission of guilt, followed by an excuse, was somewhat taken aback, but he returned to the attack.

Q. "Why, then, did you travel under the assumed name of a Russian Baroness?"

A. "Because we should not have been able to leave Paris without changing our name."

Q. "Amongst other persons who connived at the escape, were not Lafayette, Bailly and Renard the architect of the number?"

A. "The two gentlemen first-named were the last we should have employed. Renard was at one time in our service; but we never employed him in this business."

Q. "I point out to you that your answer diametrically contradicts declarations made by persons who fled with you, from which it appears that at the moment when all the fugitives came down

through the apartment of one of your servants, Lafayette's carriage was in one of the courtyards, and that Lafayette and Bailly saw you. It also appears that Renard directed the setting-out."

A. "What arrangements were made by the people with me I know not. What I do know is that on the Place du Carrousel I met Lafayette's carriage, but it passed by, and I was far from wishing to stop it. As to Renard, I can assure you he did not direct the setting-out—I alone opened the door and let everybody out."

Q. "Then, if you opened the door and let everybody out, can there be any doubt that it was you who directed the actions of Louis Capet, and you who decided him to fly?"

A. "I do not believe, monsieur, that opening a door is directing one's actions. My husband desired and believed that he ought to leave the place, along with his children. It was my duty to follow him. It was not only my duty, but my heart's desire. It was my duty to do everything in my power to render our departure safe."

Q. "You have never ceased for a moment to wish to destroy liberty. You wished to reign at any price; and to reascend the throne over the bodies of the patriots!"

A. "We had no need to reascend the throne. We were already there. We never desired anything but the happiness of France. If that befel, we should always be content."

Q. "If these were your sentiments, you would have used the influence which we know you to possess with your brother, to make him break the treaty of Pilnitz[1]; made between him and William—a treaty whose sole object was and is to form an alliance with foreign Powers in order to destroy French liberty, which the people desire, and which they will have, notwithstanding the coalition and in spite of traitors."

A. "I knew nothing of the treaty until after it was made and had been a long time in force. I beg you to observe that it is not the foreign Powers who have attacked France."

Q. "True! Foreign Powers have not declared war. But you cannot be ignorant of the fact that the declaration of war has been withheld owing to the intrigues of a liberticide faction, whose leaders will soon receive the punishment they so richly deserve."

A. "I am not sure that I know what you wish me to say. I

[1] By the Treaty of Pilnitz (1791) the Emperor and the King of Prussia entered into an alliance against France.

know, however, that the Legislative Assembly reiterated the demand for a declaration of war; and that my husband only acceded to it upon the unanimous recommendation and advice of his council."

Q. "You have had with the *ci-devant* French princes, since they left France, and with the *emigrés*, certain secret correspondence. You conspire with them against the safety of the State?"

A. "I have never had secret correspondence with any Frenchman abroad. As to my brothers, possibly I have written one or two unimportant letters, but I believe not. At any rate I remember that I often refused to write."

Q. "You said, did you not, on the 4th of October, 1789, that you were delighted with the day of the 1st of October, the day remarkable for the orgie of the Bodyguard and the Regiment of Flanders, both of which, in the expansiveness of drunkenness, had expressed their devotion for the throne and their aversion for the people, and had stamped under foot the national cockade, and sported the white cockade?"

A. "I do not remember saying any such thing; but possibly I may have felt gratified at the first sentiment that animated that gathering: As to the rest of the question—it was not drunkenness which caused the guards to declare their attachment to the persons whom they served. For the cockade, if it ever happened, some one was to blame. We knew nothing of it. If we had, we should have expressed our disapproval then and there. But it was incredible that men so devoted and so loyal should trample under foot the very emblem that their king himself was wearing at the time."

This was another clever answer—its only demerit was that it was not true; that Marie Antoinette knew it was not true; and that she knew that every person who heard her knew it was not true. Hermann smiled in the gloom; and flew off at a tangent.

Q. "What interest do you take in the arms of the Republic?" But the *Veuve* Capet was too clever to walk into so obvious a trap.

A. "The welfare of France is what I desire above everything." I call attention to this as the acme of the perfect answer to an inconvenient question. It wishes the Republic neither good nor evil. But it is an answer that cannot be gainsaid, either as evasive, objectionable or unpatriotic.

Q. "Do you think that kings are necessary for the welfare of the people?"

A. "Monsieur! An individual cannot decide a thing like that!"

Q. "No doubt, *citoyenne*, you regret that your son has lost the chance of ascending a throne which he would have occupied had not the people disposed of his claim by breaking the throne to pieces?"

A. "I shall regret nothing on my son's account, if his country is happy."

Q. "What is your opinion of the 10th of August, when the Swiss Guards, by order of the master of the palace, fired upon the people?"

A. "I was out of the palace before the firing began. I do not know if it happened. I only know that the order to fire was never given by me."

Q. "During your residence at the Temple, were you not kept informed exactly of political affairs, and have you not continued to hold your correspondence with the enemies of the Republic thanks to the slackness and easiness of certain municipal officers who were on duty round you, or at least by certain persons whom they introduced into your residence?"

A. "For the fourteen months I have been imprisoned, I have had no news or knowledge of political affairs; I have had no correspondence, nor have I been able to have any; and, since the beginning of October, I have been forbidden the use of pens, ink, paper and pencils. I have never approached any municipal officer,[1] believing that it would have been useless. I have seen nobody at all, except those in authority about me."

Q. "I point out that your answer conflicts with the statements made by people who used to live and who still live in that place."

A. "A great many people used to live in the Temple. Let those who make those statements prove them. They are untrue."

Q. "Since you have been in the Conciergerie, were not different persons introduced into the room occupied by you; did not one of them bring there a carnation in which was a paper writing; and did not you take possession of the carnation, after reiterated signs made by the said person?"

A. "It is true that different people came into the room occupied by me, but always with the administrators of the police. Who they were, I did not know. To the best of my belief I did not

[1] *I.e.*, officer of the Municipal Guard.

recognise any one of them. It is true that this man let fall a carnation, as I have already declared once, but I paid so little attention that, without signs being made, I should not have picked it up. I did pick it up, and immediately handed it back to him, fearing he would be compromised if any one found it."

Q. "Did you not recognise this man as having been at the Tuileries on the 2nd of June, and as being one of the persons who remained with you on the said 20th of June?"

A. "Yes."

Q. "Did you not recognise him as the same person who was present at the Tuileries on the 10th of August?"

A. "No."

Q. "Do you know his name?"[1]

A. "No. I cannot recollect if I ever did know it."

Q. "It is difficult to believe you did not know his name; for this person flattered himself that you had rendered him great services; and one does not usually render such great services as those without knowing the person who is the object of them, in a way more or less intimate."[2]

A. "It is possible for one who has rendered a service to forget it. It is also possible for those who have received it to remember it. But I never rendered that person any service, for I did not know him well enough."

Q. "Did you reply to the note found in the carnation?"

Here, for the first time, the queen tripped. The question was asked in so natural a manner, that she forgot she had denied finding any note. She began, "I tried to, with a pin". Then she remembered, pulled herself together, and tried to escape from the admission thus: "That is, I did not try to reply; but to warn him not to come again, in case he might present himself once more."

Q. "Should you recognise your reply if you saw it again?"

A. "Yes."

Hermann then produced and showed to her the note sent by her in reply, pricked with a pin, and she said she recognised it. It may here be said that although many attempts have been made nobody has yet been able to decipher the pinpricks.[3]

[1] The man in question was the chivalrous Marquis de Rougeville; Marie Antoinette knew him perfectly well.

[2] The reader gathers that there was an offensive suggestion in this observation.

[3] Lafont d'Aussonne pretends to make it out as follow:—"Je vous engage, monsieur, à ne plus paraître ici; rien n' échappe à mes surveillance. Vous hâteriez ma perte. Travaillez plutôt à ce que je suis réclamée du dehors." This, however, seems to be a pure invention.

Q. "Did you not give a start when this person came to see you?"

A. "Not having seen a face for thirteen months, it is very likely I did—only because I saw the danger he incurred in coming to that place. Afterwards, I believed he had some employment there, and I was reassured."

Q. "What do you mean by the expression, 'I believed he had some employment there, and I was reassured'?"

A. "Several people whom I did not know had come to my room with the officials. I thought this man might be employed somewhere, in the sections or elsewhere, and thus he would incur no danger."

Q. "Did the administrators of police often bring with them other persons?"

A. "They were almost always accompanied by one, two or three people to me unknown."

Q. "Name the administrators who most frequently came to see you."

A. "They were Michonis, Michel, Jobert, and Marino. These came the most frequently."

Q. "Have all these four administrators always brought people to you unknown?"

A. "So I believe; but I do not recollect."

Q. "Have you anything to add; and have you any counsel?"

A. "No. I know nobody."

Q. "Are you willing for the tribunal to nominate for you one or two counsel?"

A. "I am quite willing."

Thus ended the private examination. I am sure the reader will feel convinced that the woman who could in so eminent a degree retain her self-possession under such an ordeal, who could answer awkward questions with such address, and could, after a long and distressing imprisonment keep her head clear and her expressions exact (notwithstanding the one slip about the pin-prick note) was a woman of no common order of mind. Whatever else Marie Antoinette may or may not have been—a Messalina, as the Republican journals proclaimed her, or hardly lower than the angels, as she was avouched by the Royalists—it is clear she was not a fool.

With one other thing I am struck, in reading this record. It is the comparative fairness of the prosecutors. Certain questions must inevitably appear to the English lawyer as atrociously im-

proper—mere attempts to entrap the prisoner into saying something that could furnish matter of prejudice against her. I allude to those parts of the examination where she was asked what her sentiments were with regard to the arms of the Republic; and whether she thought kings were necessary to the welfare of the people; and whether she regretted her son's loss of a throne. The examiner knew perfectly well, at any rate as to the two last, what her thoughts must be. But what had her thoughts to do with it? People, whether dethroned queens or others, are not tried for their thoughts; though Henry VIII. and James I. of England thought they ought to be. To try people for their thoughts is the height of tyranny; because, in sober fact, to use the language of a great English judge, "the thought of man is not triable". What people are amenable to the law for is their deeds. You may infer thoughts, or at any rate intentions, from deeds and from words; but not otherwise. And a thought, unacted, is not punishable except before the tribunal of the All-knowing; and even that I doubt.

It ought, however, to be pointed out, in fairness to the Tribunal Revolutionnaire, that one of the last ideas to be grasped by governments is the idea that thought is free; and that no government either can or ought to attempt to punish or even reward it. The notion is almost universally accepted now; but it was not always so. The English people, and the English government grasped it at a comparatively early stage in the national life; and it became part of the English law that no treason was punishable unless it had been manifested by overt acts.

But it would not be fair to blame Hermann for the questions he put as to opinions; because in France the mere holding of opinions might be treason. It had been so under the kings, it remained so under the Republic. The only difference was in the kind of opinions struck at by the law. To hold that kings ought to be abolished in France would, under Louis XV., have brought the thinker to the Bastille or the scaffold, if in any way, voluntary or involuntary, his thought had become known to the authorities. So under the Republic, it was treason to think that kings ought to be retained. Hence, as thoughts might be treason, as the government desired to govern not only the acts of their subjects but their opinions also, it became relevant, in an inquiry into the guilt of a suspected traitor, to inquire what the opinions of the suspect were. One great practical difference there was between the traitor under the Louis and the traitor during the reign of

Terror—the one was tortured to make him confess his thoughts: the other was merely interrogated—mercilessly may be, cruelly may be, but still without the physical agony of the boot, the rack and the thumbscrew.

It is open to doubt whether it is really lawful, from the moral point of view, to interrogate an accused with a view of securing evidence against him. It seems to me—though I do not deny that I approach the subject with the prejudices of an English lawyer—that it is not in the interests of truth and justice. You may secure convictions by it in cases where otherwise the guilty would escape; but you also run the risk of convicting the innocent. If it were possible for such interrogatories to be conducted not on the lines of cross-examination—not on the supposition of the prisoner's guilt—but with absolute and perfect fairness, there might be something to be said for such a procedure. I mean that if the interrogator simply assumed the attitude of an affectionate, though stern father, demanding from his son an explanation of some suspicious conduct, you would have an ideal *intérrogatoire secret*. But when the interrogator's object is not to elicit explanation, but to prove guilt; when he regards himself as the agent of the prosecution, and not as the impartial friend of justice and truth, then the *intérrogatoire secret* is unmitigatedly bad. You invite a guilty prisoner to lie; and then seek to entrap him into the truth. Many a person, too, in this position, having some suspicious circumstance to explain away, will tell, not the truth, but a tale which appears to him to be plausible, and so entangle himself hopelessly in the net of the examiner. We, in England, know how a truthful but stupid witness will often, apparently, contradict himself, through sheer want of intelligence to understand the question. But here he has counsel on his own side to protect him, to clear up misunderstandings, and to put him on his feet again.

It must be said, however, that so far as the *intérrogatoire secret* is justifiable at all, Marie Antoinette had little to complain of. Ultra-royalist writers have charged her judges with brutality in the questions they put to her. For my part, I am unable to agree with them. It is true that Hermann said, "It is you who taught Capet to dissemble," and the like. But consider the manners of the times. Why, in England, free England, it would not be difficult to find, in the trials of State offenders at that very time, countless expressions applied by the law officers of the Crown to the prisoners on trial compared to which Hermann's invective is

as a boarding-school miss to a Billingsgate porter. The prosecuting lawyer of that day openly and without disguise denounced the prisoner for a villain, a rascal, a traitor, or as the case might be.

Again, however little one may sympathise with the *Tribunal Revolutionnaire* and the Committee of Public Safety, let it be said that they did not invent the procedure under which Marie Antoinette was tried. The *intérrogatoire secret* was as old as French jurisprudence itself; and Hermann and his colleagues had inherited it from their predecessors. In short, Marie Antoinette was treated in exactly the same way, in all essential particulars, as would have obtained in the case of a State prisoner under the monarchy.

CHAPTER III

THE TRIAL

TWO days after the Interrogatory, the great event took place. For the first time in history a Queen of France was placed on her trial.

This time, the great hall of audience of the Palais de Justice was crowded to suffocation. There might be seen the great, fierce men of that bloody time. Robespierre was there, and Danton. Hébert (le père Duchène) was in the forefront. Hermann again presided, with Foucault, Douzé-Verteuil, and Lane as assistant judges. Fouquier-Tinville, that bloody-minded man, appeared, as usual, as public prosecutor. Fabricius the *greffier* sat at a table under the judges, the recorder of the proceedings. In the jury-box were twelve citizens, selected for their well-known devotion to the principles of the Revolution. Their names do not matter—the only one of any note was Chatelet, the artist, who himself suffered when the reaction came. These were the men who had met, I will not say to try, but to condemn the daughter of a line of kings and emperors. They had the more pleasure in their task that such she was.

The most extraordinary sight in the great hall, was, however, the band of bareheaded women, who sat and knitted. Coarse in feature, dress and mien, but bearing themselves with an air of sovereignty, as if they had come there not to look on but to see their will carried out—such were the *Furies of the guillotine*, the women who attended the executions and counted the heads of the aristocrats as they fell into the basket; who tried to shake the courage of the victims by coarse taunts and vile innuendo; to whom a trial before the Tribunal or an execution on the Place de la Révolution was as a savoury offering. These formidable viragoes, before whom even Danton trembled, had assembled in the Hall of Audience to gloat over the misery of Madame Veto, *l'Autrichienne*, the thief of the Diamond Necklace, the faithless wife, the traitor to France, the cause of all the blood and misery;

for such in all good faith, the commons of France believed Marie Antoinette to be.

As soon as the judges and the jury had taken their seats, the prisoner was brought in and placed at the bar. She was still dressed in black ; and the Furies noted with glee that her beauty and liveliness had left her. So much revenge they had had already. She bowed, somewhat frigidly, to the Court; and immediately took her seat.

The reader will remember that at the end of the *intérrogatoire secret* Hermann had offered to assign counsel to the queen, who had accepted the offer. This was a right, now, in France, wherein the Republic was in advance of all other countries. But on this occasion the advantage was more nominal than real. To begin with, such was the terror inspired by the *Comité du Salut Public* that for some time no advocate could be found to undertake the unpopular task. In the state of Paris at that time, it was felt that the mob might not discriminate between the utterances of the advocate and the sentiments of the man ; and it was quite on the cards that any counsel who said a word in favour of such an accused as this would incur the wrath of the multitude. And what the wrath of the multitude meant during the Reign of Terror can be imagined by any one who has read history. At last, however, two men were found to undertake the defence—Tronçon-Ducourday and Chauveau-Lagarde.

So that Marie Antoinette had counsel—a privilege denied to Anne Boleyn, and to Mary of Scots when they stood their trials. What rendered the services of those courageous men almost useless was the fact that they had rather less than twenty-four hours wherein to prepare their case; the further fact that they were denied access to their client; and the still further fact that until they heard the indictment (Fr. *acte d'accusation*) read out in court on the morning of the trial they had no precise knowledge of the charges they had to meet. Never, I should think, did advocates in such a tremendous cause have so little opportunity for preparation.

The proceedings opened in the traditional French manner, by the presiding judge asking the prisoner her name, surname, age, quality, place of birth and residence, to which she replied that her name was Marie Antoinette Lorraine d'Autriche, she was aged about thirty-eight years, widow of the King of France, born at Vienna, and that at the time of her arrest she was in the meeting-place of the National Assembly. The *greffier* made a formal

note of the answers, then rose, and read the formal document called the *acte d'accusation*, which is equivalent to the indictment of English law (and the Scots libel). The great distinction is that in France the accusation is submitted in the name of the public prosecutor (or public *accuser*, as he is properly called); and it not only sets out the charges on which the prisoner is to be tried, but also all the circumstances of the case. It is, in fact, a narrative almost like the opening speech of prosecuting counsel in a criminal trial at the Old Bailey.

I refrain from troubling the reader with a translation of the whole of this document. I will give a *précis*, as full as is necessary or interesting.

Antoine-Quentin Fouquier, public accuser before the Revolutionary Tribunal, showeth that according to a decree of the Convention of the 1st of August last, Marie Antoinette, widow of Louis Capet, has been cited before the Tribunal, accused of having conspired against France.[1]

So far the *acte d'accusation* is quite formal in tone. A curious paragraph follows: "One of the judges had examined the Widow Capet, . . . and from her interrogatory, and an examination of the documents submitted by the public prosecutor, it appears that, like those Messalinas, Brunchild, Fredegond and Medicis, formerly called Queens of France, whose names, for ever hateful, will never be effaced from the annals of history, Marie Antoinette, widow of Louis Capet, has been, ever since she resided in France, the scourge and the bloodsucker of France."

Here's a nice "derangement of epitaphs" for you, in a judicial document. But Fouquier-Tinville knew his audience. The jury murmured approval, and the Furies dropped their knitting and clapped vigorously.

The *acte* proceeded: *That* even before the happy Revolution she had political relations with "the man called the King of Bohemia and Hungary," which relations were contrary to the interests of France. In concert with Capet's brothers, and the infamous, execrable Calonne, the finance minister, she had dissipated the finances of France to satisfy her irregular pleasures and pay for criminal intrigues; and "it was notorious" that she handed over several millions to the emperor, to sustain the war against the Republic. In this way she had wasted the national funds.

[1] The curious reader will observe that the term used is not "the Republic," but "France".

That, since the Revolution she had carried on with foreign Powers and elsewhere a correspondence harmful to the Republic.

That at different times she had tried to engineer a counter-Revolution. Especially, she had tried, at the celebrated banquet of the Royal Bodyguard and the Regiment of Flanders to inflame them into a counter-Revolution; first making them drunk and then procuring them to sing Royalist songs, and to trample underfoot the national cockade. She had been present at the orgie. In the second place, jointly with Louis Capet she had caused to be circulated counter-revolutionary works, *e.g.*, *Petition to the Emigrés; Short Follies are the Best*, and other works. Again, "she had carried perfidy and dissimulation so far" as to concur in the wide distribution of works wherein she herself was painted in glowing colours!

I call the reader's attention to this as the very height of the ludicrous.

That she had caused the dearth which occasioned the march of the citizens to Versailles (5th October, 1789) as proved by the fact that when she and her family arrived in Paris the next day there was great plenty!

That she had held counter-revolutionary committee meetings at the Tuileries.

That at these meetings were discussed the measures to be taken to revise decrees favourable to the people.

That the widow Capet had confessed in her interrogatory[1] that she had arranged and prepared the flight of Louis Capet, herself and her family in June, 1791; and that she opened and shut the door out of which the fugitives passed. Independently of her own confession, it is proved by statements of Louis Charles Capet (the dauphin), and the girl Capet that Lafayette, the widow Capet's favourite, and Bailly were present on the occasion of the flight, and had assisted it.

That after the return from Varennes the committees were resumed, with Lafayette abetting; and that the Tuileries was closed, thus depriving the citizens of free access to the Court and palace! That Lafayette's order to admit no one except with a written order, though ostensibly directed against the Capets, was really meant to exclude patriotic citizens.

I raise my hat, in humble inferiority, to the shade of M. or Citoyen Fouquier. No more ingenious accusation was ever devised than this.

[1] This is untrue, as the reader remembers.

That in these committees were planned the massacres of Nancy and of the 17th of July, 1791.[1]

That the Widow Capet never ceased trying to destroy the constitution of 1791. [How is not stated.]

That all her efforts have been directed against liberty, and to cause France to pass again under the tyrant's yoke, under which for centuries it languished. The Widow Capet also discussed at the *Austrian Cabinet* all the measures of the Legislative Assembly.

That she, by the advice and countenance of these midnight committees, "decided Louis Capet to oppose his veto to the famous and salutary decree directed against the *ci-devant* princes, the *emigrés*, and that horde of refractory and fanatical priests spread all over France, a veto which was one of the principal causes of the ills since suffered by France".

On this article of the accusation being read out, the Furies again applauded, with growls. It was evidently this veto of the decrees that rankled almost more than any other thing. The *acte d'accusation* continued :—

That the Widow Capet caused to be nominated unsatisfactory ministers, and officials "known by the entire nation for conspirators against liberty". [There is a fine breadth about this.] That by her manœuvres and those of her agents "as adroit as perfidious," she formed the new guard of Louis Capet, composed of old officers who had left their corps, of refractory priests, and of foreigners, and, in fact, of every kind of man condemned by the majority of the nation, and worthy to serve in the army of Coblentz, whither, in fact, many of them were allowed to go and serve.

That the Widow Capet, in collusion with the liberticide majority of the Assembly, caused war to be declared against her brother, the King of Bohemia and Hungary; and by her connivance the French army first retreated from Belgian territory.

That she betrayed the French plan of campaign to the enemy, and thus was the author of all the reverses experienced by the French arms!

I find this thoroughly French. The brave nation are so conscious of their own military virtue—and justly so—that they have never been beaten in the field without there arising the cry, *Nous sommes trahis*.

That the Widow Capet was the author of the hideous events

[1] Meaning thereby the tumults occasioned by the onslaught made by the Parisians on the Tuileries.

of the 10th of August, whose evil consequences were only averted by the incredible efforts of the patriots; that on this occasion she gathered together in the Tuileries the Swiss Guard, contrary to a decree by which that guard had been abolished; that she made them drunk, and adjoined to them, for the purposes of her conspiracy, a crowd of "knights of the poniard".

That, in preparation for the intended massacre of patriots, she had gone amongst the Swiss when they were making cartridges, and had herself put bullets into some cartridges (expressions fail us, says the *acte*, to characterise so abominable an act). That she incited Louis Capet to review the Swiss, and "the other scoundrels," and on his return presented him with a pistol, and said, "Now is the time for you to show yourself," and on his refusal she treated him with contempt. That, although she denied it, there could be no doubt that she had given orders to fire on the people; Louis Capet was also guilty in this, but Marie Antoinette was the "great directress".

That the civil war (La Vendée and elsewhere) was due to her intrigues.

That in every case it was the Widow Capet who inspired Louis Capet to dissimulate and to act in the dangerous way he acted, and to promise publicly the contrary of what he really intended, and he worked jointly with her in the dark to destroy that liberty so dear to Frenchmen, and to recover what they called "the plenitude of the royal prerogative".

After this, which was true enough, came a characteristic Fouquierism.

That, in fine, the Widow Capet, immoral in every respect, a new Agrippina, is so perverse and so familiar with every enemy of the country, that, forgetting her character as a mother, and the line drawn by the laws of Nature, has not hesitated "de se livrer avec Louis Charles Capet, son fils, et de l'aveu de ce dernier, à des indécences dont l'idée et le nom seul font frémir d'horreur".

"According to the facts aforesaid," the document continued, "the public prosecutor presents this accusation against Marie Antoinette, who calls herself *de Lorraine d'Autriche*, widow of Louis Capet, for having wickedly and designedly,

First, in concert with the brothers of Louis Capet and the infamous ex-Minister Calonne, wasted in a terrible manner the financial resources of France, and handed over incalculable sums to the emperor, and thus exhausted the national treasure;

Second, as well personally as by her counter-revolutionary

agents, entered into an understanding and a correspondence with the enemies of the Republic, and informed and caused to be informed those enemies of plans of campaign and attack concerted and designed in the council;

Third, by her intrigues and manœuvres and those of her agents hatched conspiracies and plots against the interior and exterior safety of France; and, to this end, kindled civil war in different parts of the Republic, and armed one citizen against another, and thus caused the blood of an incalculable number of citizens to be shed; which is contrary to Article IV. of the first section of the first title of the second part of the penal code, and to Article II. of the second section of the first title of the same code.

Therefore the public prosecutor requires that he may be given permission by the Tribunal now assembled, to present this accusation, that he be ordered to prosecute the same; and, by a *huissier* (usher) of this Tribunal, that Marie Antoinette, calling herself *de Lorraine d'Autriche*, widow of Louis Capet, presently detained in the prison called the Conciergerie of the Court (of Justice) be entered in the jail-book upon the registers of the said prison, to remain there as in a house of justice, and that the order be notified to the municipality of Paris and to the accused.

The official termination followed, and the signature of Fouquier.

The *greffier* proceeded to read the order of the Tribunal, making the order prayed for, namely, that Marie Antoinette should be brought to the Conciergerie, and so on, which was the official way of saying that she was ordered to be brought up for trial.

The matter was now in train; and the president thus addressed the prisoner: "That is the accusation of which you are accused. Lend an attentive ear; for you will now hear the charges that are to be made against you. We will proceed to hear the witnesses."

It may be said, at once, that wild as the accusations of Fouquier-Tinville appear in cold print, there really was an attempt made to prove them by the evidence of witnesses. And the testimony of these witnesses is extremely interesting. Nothing was wanting to a fair trial but an effective cross-examination and a real spirit of judicial impartiality amongst the judges.

The first to take his stand as a witness was LAURENT LECOINTRE, a deputy of the National Convention, who thus

spoke: He knew the accused to have been at one time the wife of the former King of France; and also that she was the same woman who had, when she was committed to the Temple, asked him to present a demand to the Convention for the purpose of obtaining, for what she called her service, thirteen or fourteen persons whom she named. The Convention passed to the order of the day, and referred her to the municipality.

He gives particulars of the "*fêtes* and orgies" which took place at Versailles from 1779 to the beginning of 1789. The result of these was a fearful waste of the finances of France.

He gives the details of what preceded and followed the Assemblies of Notables up to the time of the opening of the states-general; the condition of the generous inhabitants of Versailles, their sad perplexities on the occasion of the 23rd of June, 1790, when the artillerymen of Nassau, whose cannon were planted in the courtyards of the accused, refused to fire upon the people. [*Loud applause from the jury and the spectators.*] At last, the Parisians having broken the tyrant's yoke, the revolutionary movement put life into the free Versaillans. They formed the project, rash and daring, no doubt, of freeing themselves from the oppression of the despot and his agents. [*More applause.*]

On the 28th of July, the citizens of Versailles formed the resolution of organising themselves into a National Guard, on the model of their brethren of Paris. It was proposed, nevertheless, to consult the king; and the former Prince de Poix was chosen as the intermediary. It was sought (*by the enemy*) to drag the matter out; but the organisation was formed, notwithstanding the obstacles thrown in the way by the court. A staff was formed—D'Estaing was appointed commandant-general, Gouvernet, second in command, and so on.

[Hitherto, not a word of the evidence—except that as to extravagance prior to 1789—touched the accused. It was a mere glorification of the generous Versaillans, of whom the witness was one.]

He now dwelt with the facts as to the arrival at Versailles of the Regiment of Flanders. On the 29th of September, the accused caused to appear before her the officers of the National Guard and made them a present of two flags. There was a third, but this was announced to be for a batallion of an alleged paid Guard—with intent, it was said, to soothe the people of Versailles, of whom they [*I don't know who*] appeared to complain. While cajoling them (the Versaillans) the Court really detested them.

On the 29th of September, 1789, the National Guard gave a supper to their brave brothers, the soldiers of the Regiment of Flanders. Journalists recorded at the time [here we see the fundamental difference between the French notion of evidence, which admits rumours and anything else, and our own, which says that no witness shall speak of any fact which he did not personally see or hear done]—journalists recorded at the time that during the supper of the citizens nothing passed contrary to the principles of liberty. But at a similar supper given by the Bodyguard on the 1st of October nothing was done except provoke ill-will between the National Guard on the one hand and the Regiment of Flanders and the Chasseurs of the Three Bishoprics on the other.

Witness goes on to say that the accused presented herself at the last-mentioned supper, along with her husband; that they were received with great cheering; that the air "*O Richard, o mon roi*," was played; that the health of the king, the queen and her son were drunk by the company; but the health of the Nation, which was proposed, was rejected. After this *orgie*, the company repaired to the palace called the Chateau de Marbre, and there, apparently to give the king an idea of the way in which they were disposed to defend the interests of his family, if occasion should arise, one Perceval, D'Estaing's *aide-de-camp*, climbed up to the first floor balcony. After him, a grenadier of the Regiment of Flanders; while a third, a dragoon, having also tried the escalade and failed, wanted to kill himself. As to the said Perceval, he hastened to detach the cross which he wore, to give it to the Grenadier who, like himself, had climbed to the balcony of the former king.

[Here the inimitable Fouquier-Tinville interrupted the witness, and, rising in his place, solemnly asked the court to order Perceval and D'Estaing to be brought before it. The Court, amid the plaudits of the patriots present, and with the emphatic approval of Mesdames the Furies, solemnly granted the request, and issued a summons to Perceval and D'Estaing to appear.]

This solemn farce, intended for the edification of the public, being over, Lecointre resumed his story: On the 3rd of October, the Bodyguard gave a second supper. It was on this occasion that the most violent outrages were perpetrated on the national cockade. It was trampled under foot. It was torn. It was spat upon. [The indignation of the jury and the spectators knew no bounds. The ladies of the knitting-needles howled in concert

"*A bas l'Autrichienne*". The jurymen shook their fists. The virtuous Fouquier wept. It was an affecting sight.] When the tumult had died down a little, the witness proceeded with an account of what took place at Versailles on the 5th and 6th of October.[1] On the 5th of October (said Lecointre) D'Estaing, learning of the events transpiring in Paris, appeared before the municipality of Versailles, to try and obtain permission to bring the former king there. He (the king) was out hunting, apparently quite ignorant of what was going on. D'Estaing promised to remove the king when tranquillity should be restored.

Thus ended Lecointre's testimony. One would expect that it would be followed by a cross-examination of the witness by one of the counsel for the accused. By no means. It was, on the contrary, followed by a cross-examination of the accused by the judge on the subject of the witness's statements. Here it is :—

THE PRESIDENT. "Have you any observations to make upon the deposition of the witness?"

A. "I know nothing about the greater part of the facts of which the witness speaks. It is true that I gave two flags to the National Guard of Versailles. It is true that we made the round of the tables on the day of the banquet of the Bodyguard. But that is all."

Q. "You agree that you were in the hall of the former [2] Bodyguard. Were you there when the band played the air, *O Richard, o mon roi!*"

A. "I do not recall it."

Q. "Were you there when the health of the nation was preposed and rejected?"

A. "I believe not."

Q. "It is notorious that, according to the universal rumour in France at the time, you had visited yourself the three armed bodies which happened to be at Versailles, in order to gain them over to defend that which you used to call 'the prerogative of the throne'?"

A. "I have nothing to answer."

Q. "Before the 14th of July, 1789,[3] did you not hold nightly

[1] When the crowd from Paris joined forces with the Versailles mob, and stormed the royal palace.

[2] The French word *ci-devant* is not easy to render exactly into English. It rather means that which once existed but now no longer exists. The English word "late" as used by lawyers, is near it. I have used the word "former".

[3] Date of an alleged attempt to corrupt the Guards.

conciliabules at which *la Polignac* was present; and did you not there deliberate upon the means to be employed to hand funds to the emperor?"

A. "I never took part in any *conciliabule*."

Q. "Do you know of the famous bed of justice held by Louis Capet in the midst of the representatives of the people?"

A. "Yes."

Q. "Was it not D'Esprémeuil and Thouret, assisted by Barentin, who wrote out the articles which should be proposed?"

A. "I am absolutely ignorant on the point."

Q. "Your answers are not accurate; for it was in your apartments that the articles were written out."

A. "It was in the council that this business was settled."

Q. "Did not your husband read over to you his speech half an hour before entering the hall of the people's representatives, and did you not impress upon him to read it with firmness?"

A. "My husband had much confidence in me; and that is why he took the trouble to read it to me; but I never took the liberty of making any observation on it."

Q. "What were the consultations that took place, with reference to surrounding the people's representatives with bayonets, and assassinating half of them if possible?"

A. "I never heard anything like that spoken of."

Q. "You were not ignorant, I suppose, that there were troops in the Champ-de-Mars. You ought to know why they were brought there?"

A. "Yes, I knew at the time that they were there; but not with what motive."

Q. "But, having the confidence of your husband, you could not be ignorant of why they had been assembled?"

A. "It was to re-establish public tranquillity."

Q. "But, at that moment, everybody was tranquil. There was only one cry, that of 'Liberty'. Did you know of the project of the former Count d'Artois to clear the hall of the National Assembly? This plan having appeared too violent, was he not ordered to travel, for fear that by his presence and his audacity he would spoil the project already conceived, namely, of dissembling until a favourable opportunity should arise for the perfidious designs you had in view?"

A. "I never heard it said that my brother D'Artois had the design of which you speak. He went away travelling for his own pleasure."

Q. "At what precise period did you spend the immense sums remitted to you by the different controllers of the finances?"

A. "They never remitted 'immense sums' to me. What they did send me I used to pay the people who were about me."

Q. "Why were the Polignac family and several others gorged with gold by you?"

A. "They had places at Court which procured them riches."

Q. "Since the banquet of the Bodyguard could not take place without the king's leave, you ought necessarily to know why it did take place."

A. "It was said that it was to bring about their reunion with the National Guard."

Q. "How do you know Perceval?"

A. "As an aide-de-camp of M. d'Estaing."

Q. "Do you know by whose orders he was decorated?"

A. "No."

Hermann leaned back in his chair; and for the moment Marie Antoinette had a little respite, while another witness gave evidence. He was JEAN BAPTISTE LAPIERRE, adjutant-general of the fourth division. He was called to speak to the facts relating to what passed at the Tuileries during the night of 20-21st June, 1791. Witness was on duty there at the time. He remembered seeing, during the course of the night, a great number of individuals, to him unknown, who came and went from the palace into the courtyards and from the courtyards into the palace. Amongst those who attracted his attention, he recognised Barré, a literary man.

Q. "Is it not within your knowledge that after the return from Varennes the said Barré came every day to the palace, where it appeared he was welcome, and is he not the man who provoked the trouble at the Vaudeville Theatre?"

[This was just as fine a sample of a leading question, putting the answer into the witness's mouth, as any I ever saw or heard; and I have heard many eminent king's counsel. But honest Lapierre did not rise to it.]

A. "That was his brother!"

There were no more questions to this witness. He was too truthful, too exact, too particular to be of much use to such a prosecutor as Fouquier-Tinville. The president came to the rescue with another examination of the accused:—

Q. "When you set out, was it on foot or in a carriage?"

A. "On foot."

Q. "What way did you take?"

A. "By the Carrousel."

Q. "Were Lafayette and Bailly in the palace at the time of your departure?"

A. "I believe not."

Q. "Did you not come downstairs through the room of one of your women?"

A. "As a matter of fact, I had, under my apartments, a woman of the wardrobe."

Q. "Was it not you who opened the doors?"

A. "Yes, sir."

Q. "Did not Lafayette[1] come into the room of Louis Capet?"

A. "No, sir." [The president reminded the accused that "monsieur" had been abolished by the free French nation.]

Q. "At what hour did you depart?"

A. "At a quarter to twelve."

Q. "Did you see Bailly in the palace that day?"

A. "No."

Once more the president leaned back; and signed to Fouquier to summon his next witness. I beg the attention of the reader to the testimony of ANTOINE ROUSSILON, which was about as relevant to any charge of treason to the nation as it would have been to a charge against Jupiter in the little affair of Proserpine.

Écoutez! and you shall hear it:—

"I am a surgeon, and also a gunner. On the 10th of August, 1792, I entered, with other patriots, into the Palace of the Tuileries, and into the apartments of the accused, the Widow Capet. She had left those apartments a few hours before. Under her bed I found some bottles—some full, some empty. *I came to the conclusion that she had been plying with drink either the officers of the Swiss, or the* chevaliers du poignard, *who garrisoned the palace.*"

[Such "evidence" as this fills the British lawyer with amazement and despair. To begin with, the inference is so absurd. You find full and empty bottles of wine under a lady's bed; and you draw the inference not that she has been having a debauch; but that she has been giving drink to certain particular persons, none of whom has been seen to come out of the bedroom where the drink was. Again, why should the witness be allowed to state his inference. Inferences are, or ought to be, always a

[1] The reader is aware, no doubt, that Lafayette, once the demi-god, had become the bogey of the mob. Such is the fate of the moderate reformer in stirring times. The Royalists, meanwhile, had abated nothing of their hatred of him.

matter for the tribunal itself. But the reader must remember that in France, and in many other countries, there are no rules of evidence in our sense of the word. Any Dick, Tom or Harry may give his opinion, as matter of evidence, against any accused. But Roussilon had by no means finished.]

"I denounce Marie Antoinette, the Widow Capet, with having been the instigator of the massacres which took place in different districts of France, and notably at Nancy and on the Champ-de-Mars. I further accuse her of having brought France to the very verge of ruin, by handing over immense sums of money to her brother, the so-called King of Bohemia and Hungary, in order to maintain his war against the Turks; *and in thus strengthening him one day to make war on France*, the generous country which supported her and her husband and family."

[This kind of thing was much to the taste of the audience. Messieurs, — or rather Citoyens—the jury "*bravo'd*" heartily. Citoyennes the Furies howled with delight, and clapped their hands. The gunner and surgeon bowed to the applause, and then made the following communication.]

"I know a woman, a good citizen, an excellent patriot, who was in service at Versailles under the old régime, to whom a favourite of the former Court imparted a secret!"

Fouquier-Tinville was on his legs in a moment.—Did the citizen know the address of the citizeness in question? Would he be so good as to divulge it? Which the citizen doing with great pleasure, the public prosecutor made application to the court for an order on the citizeness to appear, so that she could give the court the benefit of her knowledge.

The brave Roussilon having made an end of testifying, Hermann, in his sternest voice, began the usual examination of the accused:—

Q. "Have you any observations to make against the evidence of the witness?"

A. "I had left the palace, and am ignorant of what took place afterwards."

Q. "Did you not give money to buy drink for the Swiss Guards?"

A. "No, monsieur."

[A lady of the knitting party reminded the accused that "monsieur" had been dead and buried—guillotined in fact—a long time. The other ladies of the knitting party laughed heartily at this pleasantry.]

Q. "Did you not say, when you were coming out, to a Swiss officer, 'Drink, my friend, I command you'?"

A. "No."

Q. "Had not the Knights of the Poniard promised to cover you with their bodies?"

A. "No."

Q. "Where did you pass the night of the 9th-10th of August, of which we are speaking?"

A. "I passed it with my sister [*Elisabeth*] in my room, and did not go to bed."

Q. "Why did you not go to bed?"

A. "Because every minute we expected to hear the tocsin sound from every quarter, and to be told that we were to be attacked."

Q. "Was it not in your apartments that the so-called nobles and officers of the Swiss Guard who were in the palace met, and decided to fire on the people?"

A. "No one came into my rooms at all."

Q. "During the night, did you not seek out the former king?"

A. "I remained in his room until one o'clock in the morning."

Q. "No doubt you saw the Knights of the Poniard and the staff of the Swiss Guards, who were there?"

A. "I saw a great many people."

Q. "Did you not see some writing on the table of the so-called king?"

A. "No."

Q. "Were you with the king when the review took place in his garden?"

A. "No."

Q. "Were you not standing at your window?"

A. "No."

Q. "Was Pétion with Roederer in the palace?"

A. "I do not know."

Q. "Did you not have an interview with D'Affry, in which you asked him to tell you if you could rely upon the Swiss Guard to fire upon the people; and, upon him replying in the negative, did you not employ cajolery and menaces in turn?"

A. "I believe I did not see D'Affry that day."

Q. "When, before, had you seen D'Affry?"

A. "It is impossible for me to remember that now."

Q. "Did you ask him if you could count on the Swiss Guard?"

A. "I never spoke of that matter."

Q. "You deny, then, that you threatened him?"

A. "I never threatened him at all."

Fouquier-Tinville here interposed. Addressing the queen, he said: "After the affair of the 10th of August, D'Affry was arrested, and tried before the tribunal on the 17th; but he was allowed to go free, because he proved that, he being unwilling to take part in what was going on at the palace, you compelled him by repeated threats".

[The reader will not be surprised, after what he has seen of the rules, or rather no-rules of evidence in French courts that the public prosecutor should be permitted to make a statement, so prejudicial to the accused, on mere hearsay—and that hearsay of such little value as the statement made by a man to save his neck from an exasperated mob.]

(Hitherto the evidence, though entirely worthless from the point of view of an English lawyer, and as to ninety-nine one hundredths not even admissible as evidence at all, had not exhibited any signs of malice against the prisoner personally.) She had been denounced by the worthy Roussilon as being the instigator of the "massacres" of Nancy and the Champ-de-Mars, and as having brought France to the verge of ruin by gifts of French money to her brother; and in these accusations I see no reason to doubt the sincerity of Roussilon. I have no doubt whatever that he firmly believed what he said, though he had no knowledge at first-hand on which to base his belief. Still, he believed it, as all France believed it. And, believing it, I do not say it was not his duty to press against the authoress of these mischiefs as far as the law allowed him. If you are going to condemn people on the ignorant but honest beliefs of others, then Marie Antoinette had no cause for complaint so far. It is here, by the way, that we see the value of the British system of cross-examination. Suppose Roussilon had been cross-examined by such a man as Scarlet, or Williams, or Brougham, he would have been compelled in a short time to admit that he knew nothing at all of what he had sworn to. He would have been asked whether he himself had carried money from the prisoner to the Emperor Joseph; and he must have said, No. He would have been asked if the prisoner had ever told him, personally, that she had sent such money; and again he must have replied, No. He would have been asked if he had ever seen any receipts for money by the Emperor Joseph; and once more he must have replied, No. In fact, if his testimony had been

sifted it would have turned out that his only knowledge on the subject, the only foundation for his belief, was a statement he had read in a journal. Then he would have been asked if he believed everything he read in every journal; and if he had any reason to believe that the journalist knew more than he, Roussilon, on the subject. So also with regard to the "massacres". Witness would have been compelled to admit that he knew nothing at all; that he never heard the queen give any orders, nor saw any in her handwriting; and that his knowledge was based entirely on rumour and the journals. I can imagine that witness, after about half an hour under the hand of an expert cross-examiner, leaving the witness-box with a downcast air and no very high opinion of himself. I can imagine, also, that the spectators would experience a very considerable revulsion of feeling, if they had originally believed his tale, when they found that it was founded on an airy foundation of nothingness; and that he himself had been compelled to show its unsubstantial character. Imagine—to give a few instances—Queen Caroline's trial without any cross-examination of Majocchi and Dumont. Imagine the Parnell Commission without any cross-examination of Piggott. Then you will be able to form some idea of the value of the British system as against the old French procedure.

The next witness was of a different kind from the sincere, if mistaken, men who had preceded him. He was that JACQUES RÉNÉ HÉBERT who acquired an infamous celebrity under the name of *Père Duchêne*—one of the scoundrels who helped to make the Revolution stink in the nostrils of Europe. Of infamous morals, but of some talent, entirely unscrupulous, a needy debauchee, Hébert found his market in the Reign of Terror. As a witness before the Revolutionary Tribunal he had no equal. He could, upon the most innocent facts and appearances, rear up an edifice of treason such as excited the hot indignation of a highly-strung people against the accused. His only equal, as far as I know, was Titus Oates. But even that worthy Doctor of Divinity would, I think, have drawn the line at some of *le Père Duchêne's* "evidence".

Thus it ran: Witness was procureur-substitute of the commune. As a member of the commune of the 10th of August he was entrusted with different missions of importance, which had proved the treasonable conspiracy of "Antoinette". In particular —one day, at the Temple, he found a church book, in which was one of those counter-revolutionary signs, consisting of a burning

heart, pierced by an arrow, upon which was written, "*Jesus, miserere nobis*".[1] On another occasion he found in Elisabeth's room a hat, which was recognised as having belonged to Louis Capet. After this discovery he could not doubt that there were amongst his colleagues some men who were degrading themselves by serving tyranny! He remembered that Toulan had gone into the tower one day with a hat on; and had come out bareheaded, saying he had lost his hat. The citizen Simon sent word to the witness that he had something of importance to communicate, and witness accordingly attended at the Temple, accompanied by the mayor and the *procureur* of the commune. They there took a statement from the young Capet (the dauphin) from which it appeared that Lafayette assisted in the flight of Louis Capet to Varennes; and that to this end he had passed a night at the palace. It further appeared that during their detention in the Temple the prisoners had for a long time been kept informed of what was happening outside. People brought letters to them in their clothes and shoes. The little Capet named thirteen persons as being those who had co-operated in forwarding this correspondence. One of them shut him and his sister up in a turret, but he heard him say to his mother: "I will procure you the means of knowing the news, by sending a paper-seller to cry near the tower the evening paper". [The next part of Hébert's evidence is so shocking that I shall indicate it as well as I can.] Simon noticed that the young Capet's health grew worse; his constitution seemed to be becoming undermined. Simon watched, and discovered the boy in certain improper acts. Questioned as to how he learned his bad habits, the boy replied that he learnt them from his mother and his aunt. In the presence of the Mayor of Paris and the communal *procureur* he stated that "ces deux femmes" had acted improperly with him; and there could be no doubt that Antoinette was guilty of an abominable crime. Hébert added that he believed this horrid act had been done by the accused solely to enervate the boy, so that if he ever ascended the throne she would be able to govern. Finally, "since he is no longer with his mother, the boy has become robust and vigorous". [The commentary on this was the wretched child's early death.]

[Dead silence greeted the conclusion of Hébert's testimony. It was plain he had gone too far. The judges looked down; and even that man of brass, the public prosecutor, shrugged his

[1] This passage suggests that Hébert had studied Titus Oates and taken him as a model.

shoulders and averted his face from the witness. Marie Antoinette sat, pale as death.]

The ghastly stillness was finally broken by Hermann asking in a voice less ferocious than usual, the stereotyped question:—

"What have to you say in answer to the deposition of the witness?"

A. "I have no knowledge whatever of the facts of which Hébert speaks. I only know that the heart of which he speaks was given to my son by his sister. As to the hat, it is a present made to the sister to remind her of her brother."

Q. "When Michonis, Jobert, Marino and Michel, the administrators, came about you, did they not bring some other people with them?"

A. "Yes. They never came alone."

Q. "How many people did they bring each time?"

A. "Often three or four."

Q. "Were these persons not themselves administrators?"

A. "I really do not know."

Q. "When Michonis and the other admistrators came about you, had they their official scarves on?"

A. "I do not recollect."

The jury here indicated the wish to know in what way the administrators performed their functions. Hébert was asked, but said he could not exactly tell. But he noticed, on the occasion when he took a statement from the accused, that the Capet family, while in the Temple, were acquainted with everything that went on in the town. They knew all the municipal officers who came on duty every day, as well as the careers of each one of them, and their different functions.

"I should like to add," observed the ineffable Hébert, "something which had escaped my memory; but which the jury ought to know. It will let them know the state of mind of the accused and her sister-in-law. After the death of Capet, the two women used to treat little Capet with the same deference as if he were king. He sat down at table before his mother and his aunt. He was always served first, and sat at the high end."

Marie Antoinette asked, very pertinently, "Have you ever seen it?"

"No," replied Hébert, "I have never seen it; but all the municipality will vouch for it!"

THE PRESIDENT (*to the accused*). "Did you not experience

a joyful agitation on seeing an individual carrying a carnation enter your room with Michonis?"

A. "Having been shut up for thirteen months without seeing any one I knew, I was agitated by the fear that he would compromise himself on my account."

Q. "Was this individual one of your people?"

A. "No."

Q. "Was he not at the so-called Palace of the Tuileries on the 20th of June?"

A. "Yes."

Q. "And doubtless he was there on the night of the 9th-10th of August also?"

A. "I do not recollect to have seen him there then."

Q. "Had you not an understanding with Michonis, on the subject of the individual who carried the carnation?"

A. "No." [A brave but useless lie, intended to save Michonis. The queen did not betray her friends.]

Q. "What is the name of that individual?"

A. "I am ignorant of his name."

Q. "Did you not tell Michonis you feared he would not be re-elected on the new municipal body?"

A. "Yes."

Q. "Why should you 'fear' it?"

A. "Because he was humane to all his prisoners."

Q. "Did you not say to him, the same day: 'This may be the last time I shall see you'?"

A. "Yes."

Q. "Why did you say that to him?"

A. "It was in the general interest of the prisoners."

Here Hermann leaned back again in his chair, as if he had put all his questions. It is to his honour that he did not take up the shameful cue given him by Hébert. Indeed, there can be no doubt that Hébert had concocted the horrible charge without the approval—possibly without the knowledge—of the members of the Committee of Public Safety. I am inclined to think it was the joint production of himself and Citizen Patriot Simon, that worthy cobbler. But even Hermann and Fouquier-Tinville had something to learn of brutality. One of the jurors was determined to have it out. I do not know whether he was deliberately brutal, or merely unusually foolish. At any rate, his action shows the extraordinary state of mind of many people at that extraordinary epoch. These people were willing to believe anything of a king,

a queen or an aristocrat; and I doubt not that if Hébert or another had sworn that Marie Antoinette was a cannibal, who was in the habit of dining on human flesh, he would have found believers. The juryman thus interposed:—

"Citizen President, I invite you to remind the accused that she has not replied as to the matter, spoken of by Citizen Hébert, with regard to what passed between her and her son."

Hermann looked disgusted. Even Fouquier-Tinville hung his head. But the president had no option in the matter. He passed the question on to the prisoner.

Then for the first and only time in that dreadful trial the daughter of the Cæsars lost her calm composure. Her cheeks flamed. She rose, with head haughtily aloft; and, turning to where sat the Furies of the Guillotine, she cried, in a voice vibrant with passion: "If I have not answered, it is because nature refuses to answer such an accusation made against a mother. I appeal to all mothers if I speak not truth!" She flung out her hands in eloquent gesture to the coarse women of the people to whom she had turned. And from that band of bloody-minded creatures, so low as to be almost infra-human, came back an answering note of fierce assent.

Ah! Marie Antoinette, daughter of kings, if you had only, ten years ago, put your trust in the common instincts of your subjects!

The effect was electric. The Peeping-Tom juror hid himself, abashed; for the sympathy of the audience with the mother was so evident that a demonstration in favour of the queen might easily have occurred. It is said that when Robespierre heard of it, that night, he flew into a terrible rage. "That mad fool Hébert," he cried. "He ought to have made her an Agrippina; and now, at her last moment, he provides her with a triumph." It is a little comfort to know that not many months rolled by before Hébert also kissed the fatal knife. But there was no effective demonstration. The queen sat down again, and the trial resumed its course.

ABRAHAM SILLY, a notary, testified. Being on duty at the *ci-devant* Palace of the Tuileries during the night of the 20th-21st June, 1791, he saw the accused coming towards him, at about six o'clock in the evening. She wished to take a walk with her son. Witness charged Monsieur Delaroche to accompany her. Some time afterwards, he saw Lafayette come five or six times during the evening to Gouvion's apartment. About ten o'clock, Gouvion gave orders to shut the doors, except that opening into

the court called formerly "the Court of the Princes". In the morning, the said Gouvion entered into the room where witness was, and said, rubbing his hands with an air of satisfaction, "They have gone away". Gouvion gave witness a packet to carry to the Constituent Assembly, for which packet the citizen Beauharnais, the president, gave him a receipt.

HERMANN. "At what hour did Lafayette leave the palace that night?"

A. "A little before midnight."

HERMANN (*to the accused*). "At what hour did you leave?"

A. "I have already told you; at a quarter to twelve."

Q. "Did you go out with Louis Capet?"

A. "No; he went out before me."

Q. "How did he go out?"

A. "On foot, by the great door."

Q. "And your children?"

A. "They left an hour before, with their governess. They waited on the Place du petit Carrousel."

Q. "What is the name of that governess?"

A. "De Tourzel."

Q. "What people were with you?"

A. "Three of the Bodyguard who accompanied us, and who returned with us to Paris."

Q. "How were they dressed?"

A. "Exactly as they were when they returned."

Q. "And you—how were you dressed?"

A. "I had on the same dress as when I returned."

Q. "How were people (*in the secret*) warned of your departure?"

A. "The three of the Bodyguard were the only ones who knew. But along the road, Bouillé had placed troops to protect us."

Q. "You say your children went out an hour before you; and that the late king went out by himself, who, then, accompanied (*escorted*) you?"

A. "One of the Bodyguard."

Q. "When you were going out, did you not meet Lafayette?"

A. "When I was going out, I saw his carriage in the Place du Carrousel; but I took good care not to speak to him."

Q. "Who supplied, or caused to be supplied to you the famous carriage in which you and your family travelled?"

A. "He was a foreigner."

Q. "Of what nationality?"

A. "A Swede."

Q. "Was it not Tersen, who lived in Paris, in the Rue du Bac?"

A. "Yes."

Q. "Why did you travel under the name of a Russian baroness?"

A. "Because it was impossible to leave Paris otherwise."

Q. "Who procured a passport for you?"

A. "It was a foreign ambassador who had asked for it."

Q. "Why did you quit Paris?"

A. "Because the king wished to go."

PIERRE JOSEPH TERRASSON, the sixth witness, opened with a statement that out-heroded Herod. The point was, to prove that the queen was responsible for the bloodshed on the Champ-de-Mars; and the witness proceeded to prove it in a manner that was so perfectly ludicrous that one is surprised he was allowed to go on. Thus he spake:—

"I am employed in the bureau of the Minister of Justice. When the Capet family returned from what was called the Journey to Varennes, I happened to be about the *ci-devant* Palace of the Tuileries. I saw the accused descend from the carriage, and [*observe this well, gentle reader*] cast upon the National Guards who had formed the escort, and upon the other citizens who happened to be in her way, a most vindictive glance!"

[The reader says to himself, What is the object of this? What if she did? What does it prove?—Let us see.]

"This made me think, in a hurry, that she would be revenged. And" [here comes the sting of this remarkable piece of evidence] "in point of fact, some time afterwards the scene of the Champ-de-Mars happened."

[Note, my logical reader, how conclusive this is: A lady, a queen, arrives home in compulsory fashion after an attempted escape. For several miles her carriage has been surrounded for a considerable time by a so-called escort, who amused themselves by making offensive remarks at her expense, and by a mob of yelling, ribald ruffians who have offered her every verbal insult possible to offer a woman. As she steps from her carriage she is hustled by the mob. She looks angry. Some time after that, a conflict takes place in a public square between that queen's troops and the mob—started by the mob, beyond doubt. What can be more clear than that the *fracas* was planned by the queen in revenge for her former humiliation?]

The witness could not improve upon this wonderful perfor-

mance; but the honest man had other testimony to offer. It was all hearsay, but it was at least relevant: Witness had been very friendly with Duranton, then Minister of Justice, for they both belonged to the same profession, which they practised together. Duranton told him that the accused had opposed the former king giving his sanction to certain decrees; but it had been represented to him (the king) that this affair was more important than she (the queen) thought, and that it was quite urgent that he should promptly comply. This observation made some impression on the accused; and then the king gave his sanction.

Being asked the usual question, Marie Antoinette said she had no observations to offer on this witness's evidence, except that she had never been present in the Council.

The next on the list was PIERRE MANUEL, the man of letters, who was careful to state that he had never had any connection with the Capet family except that he was *procureur* of the Commune. He had been to the Temple several times to execute decrees; but he had had no personal dealings with the wife of the former king.

Q. "You have been administrator of police?"

A. "Yes."

Q. "Eh bien! in that capacity you ought to have had dealings with the Court?"

A. [It was not too safe to admit such dealings.] "It was the mayor who had relations with the Court. As to me, I was, so to speak, every day at La Force (prison) where, from motives of humanity, I did as much as I could for the prisoners."

[I wish the reader to observe that Manuel was a person not altogether in favour with the Tribunal, or with the Patriots—the extreme faction who now dominated France. A short sketch of him will facilitate the understanding of the text. Manuel was one of the pioneers of the revolution. He had suffered in the Bastille; and it had caused him to become a leader in the early days of the movement. He had been nominated "Procureur du commun" of the Paris municipality in 1791; was removed by the king; and restored by the National Assembly. He and Petion were leaders on the 20th of June. He proposed the incarceration of the royal family in the Temple; and was authorised to carry out the decree. But when the Terror began, when massacres of "aristocrats" became the fashion, Manuel protested against the excesses of the People as vigorously as he had aforetime denounced the tyranny of kings. "The massacres which have stained the capital," he de-

clared, "are the Saint-Bartholomew of the People, who have shown themselves as wicked as a king." Subsequently, he headed a deputation to the Convention asking that the President of the National Assembly should reside in the Tuileries in state—a proposition rejected with contumely. Next he proposed that the Convention's first work should be the consideration of the question of Royalty. "You cannot begin to make a constitution in the presence of a king." He it was who told Louis, in the Temple, of the decree abolishing royalty: "You are no longer king: it is a splendid opportunity for you to become a good citizen". "You donned, on rising, the robes of a king; you will go to bed in the night-gown of a citizen"; "Louis is no more fit for the *rôle* of prisoner than that of king"—were some of his epigrams. Manuel used all his influence against harshness to the prisoners: "It is possible to be severe, and good," he told the municipality. His conduct with regard to the royal family is not easy to understand. He pressed, in the Assembly, for Louis to be brought to judgment: "A dead king is not a man the less," he snarled. "Legislators! hasten to pronounce the sentence that shall sound the death-agony of kings!" But, when the question was past in the Convention as to the sentence on Louis, Manuel protested. His protest seems to have been against the Convention assuming judicial functions; and, apparently, he thought Louis ought to have been tried by a Court of Law. When the infamous Orleans pronounced for death, Manuel broke out: "The Convention is not like a Court of Justice. If it had been, indeed, it would have had, if not the conscience, at any rate the shame not to allow Louis's nearest relative to condemn him." He immediately resigned his seat, and in his letter of resignation told the Convention what he thought of that body: "A decent man can only stand apart, and wrap himself in his mantle". This independence of mind and speech brought on Manuel the hatred of Robespierre, Danton and the Terrorists; and at the time of Marie Antoinette's trial Manuel was under arrest on a charge of "abuse of power". To conclude the sketch, less than one month after the queen whom he had assisted to dethrone, Manuel also was guillotined.]

To resume his evidence where we broke off:—

Q. "Louis Capet praised the administration of police, did he not?"

A. "The administration of police was divided into five branches, of which one was concerned with the food supply. This was the department where Louis distributed commendations."

Q. "Can you give any details of the day's work of the 20th of June?"

A. "On that day, I hardly left my post at all, believing that the people would be annoyed not to find in his place one of their first representatives. I went out into the garden of the palace; and there spoke with divers citizens; but did no other work as a municipal functionary."

Q. "Tell us what you know of what passed at the palace on the night of 9th-10th August?"

A. "I did not wish to quit the post in which the people had placed me; and I remained all night in the police office of the commune."[1]

Q. "You were closely connected with Pétion: didn't he tell you what had happened?"

A. "I was his friend officially, and from liking; but if I thought he was trying to deceive the people and to become admitted into the cabal at the palace, I should not have liked him any longer. He did tell me, in point of fact, that the palace desired the fight of the 10th of August in order to re-establish the royal authority."

Q. "Did you know that '*the masters*' up at the palace had given orders for the people to be fired on?"

A. "I learnt it from the commandant of the guard, a good republican, who came to tell me. I went in hot haste to the commandant-general of the troops, and, in my capacity as procureur of the commune, expressly forbade him to fire on the people."

Q. "How does it happen that you, who have just talked about not quitting on the 9th-10th of August the post where the people had placed you, have since abandoned the honourable office of legislator, to which the people's confidence had called you?"

A. "When I saw storms arise in the bosom of the Convention I retired. I thought I could do something better. I am a believer in the morality of Thomas Paine, that master of republican principles. Like him, I desired to see the reign of liberty and equality established on a fixed and lasting basis. In the means I have proposed to this end I have not been consistent; but my motives have been consistently pure."

Q. "What! You call yourself a good republican—you say

[1] The office of *procureur* is that of a prosecuting solicitor in inferior courts—a sort of procurator-fiscal.

you love equality—and you were the man to propose that honours equivalent to royal etiquette should be paid to Pétion!"

[The president did not relish Manuel's argumentative style, which appeared to be making an impression; and this outburst was to raise prejudice against him. Manuel kept his temper and answered.]

A. "It was not to Pétion, who was president only for a fortnight. It was to the president of the National Convention that I wished to render certain honours. This is what I proposed: That an usher and a gendarme should walk before him, and that the citizens in the tribunes (members of the Convention) should rise on his entry. Better speeches than mine were made on the proposition, and I gave it up."

Q. "Do you know the names of those who warned Pétion of the risks he would run in the palace?"

A. "No. I believe it was certain deputies who warned the Legislative Assembly."

Q. "Why did you take it upon yourself to enter alone into the Temple; and, above all, into the apartments called royal?"

A. "I never allowed myself to enter alone into the apartments of the prisoners. On the contrary, I always caused some of the commissaries on duty there to accompany me."

Q. "Why did you display solicitude for the domestics of the accused, in preference to other prisoners?"

A. "The truth is that at La Force the girl Tourzel believed her mother dead. The mother thought the same of her daughter. Guided by the dictates of humanity, I brought them together."

Q. "Have you had any correspondence with Elisabeth Capet?"

A. "No."

HERMANN (*to the accused*). "Have you ever had at the Temple any private interview with the witness?"

A. "No."

For some reason or other the accused was not asked if she had any observations to make on the witness's evidence. I do not know why, unless because the court saw that not a word of it in any way touched her, or was in the least degree relevant to the matters before the court. That the examination should take place at all was a scandal of the first magnitude.

We now come to a witness whose examination is, to my mind, the most interesting of any. The celebrated BAILLY was

brought into court by two gendarmes, for he, like Manuel was under arrest. Bailly was a scientific man of letters, a member of the Academy of Sciences, friend of Lacaille, Secretary of the French Academy, who had a natural gift of oratory. An ardent constitutional reformer, desirous of seeing in France a constitutional government like the English, he offered himself and was elected a deputy of the *tiers état* in the States-general of 1789. His high repute caused him to be elected first president of the *tiers état.* When the crisis came, it was Bailly who exhorted the deputies to stand firm, and administered the famous oath, "to resist tyrants and tyranny, and never to separate until they had obtained a free constitution". On the day the Bastille was stormed, Bailly was appointed Mayor of Paris; and in this capacity took a prominent part in extorting concessions from the king. But he had no sympathy with revolutionary—as opposed to constitutional—methods. He tried to persuade the people to allow the king and his family to retire to St. Cloud; for he foresaw that their constant presence in the capital must in the end lead to tumult and disaster. On the 17th of July, 1791, Bailly commanded the National Guard to fire on the mob, when forty were killed and over a hundred wounded. After this, the Mayor of Paris was hated by the Jacobins; and at the end of 1791 he resigned office and went to Nantes, in hiding. But in trying to join his friend Laplace at Melun, he was recognised, and thrown into prison. He, too, was tried and beheaded in less than a month after Marie Antoinette. It is to be said of Jean Sylvain Bailly that the purity of his motives was never assailed by any party. No one ever attacked his honour; or suggested that he ever had any end in view other than the good of his country. He stands out, like Hampden and Falkland, free from all charges of personal ambition.

After the wild and reckless assertions of Terrasson, Hébert and Co., the statements of Bailly come as a refreshing draught of spring water after the choking sands of the Sahara. Thus he spoke:—

"I have never had any relations with the former royal family; but I wish to enter my protest against those parts of the *acte d'accusation* which relate to the statement of Charles Capet (the dauphin). They are absolutely false. On this point, I say that during some days before the flight of Louis, there had been a rumour abroad that he would go; and I took part with Lafayette in recommending him to take the necessary steps."

Q. "Had you not private relations with Pastoret and Roederer?"

A. "I had no relations with them other than those which exist between magistrates."

Q. "Did you not, in conjunction with Lafayette, found the club called 'the 1789 Club'?"

A. "I was not a founder. I joined it because some Breton friends of mine were members. They invited me to make one of them, telling me that it only cost five louis. I paid it, and was received. Well! I have been at two dinners."

Q. "Were you not present at cabals (*conciliabules*) held at the residence of the *ci-devant* La Rochefoucauld?"

A. "I never heard speak of cabals. They may have existed, for anything I know; but I was never present at any."

Q. "If you were not present at the cabals why, before the decree of the 29th of June, 1790, by which the Constituent Assembly, wishing to give the conquerors of the Bastille some striking testimony of the recognition of a great nation, recompensed them for their courage and zeal, notably by placing them in a distinguished manner in the midst of their brothers in the Champ-de-Mars, on the day of the federation—why, I ask, did you stir up strife between them and their brothers in arms, the former Gardes Francaises? then why did you become the wet blanket at their meeting, and make them give back the reward they had received?"

A. "I went amongst them at the request of their leaders, to try to bring about a reconciliation between the two parties. Moreover, it was one of themselves who moved to send back the decorations with which the Constituent Assembly had honoured them: it was not I."

Q. "Those who so moved, having been recognised as being attached to you in the capacity of spies, the brave conquerors executed justice on them by driving them from their midst?"

A. [With great contempt.] "People are strangely deceived in this matter."

Q. "Did you not lend a hand in the Saint-Cloud journey, in the month of April; and, in collusion with Lafayette, did you not solicit from the department the order to unfurl the red flag?"

A. "No."

Q. "Were you informed that the former king was giving refuge in the palace to a considerable number of refractory priests?"

A. "Yes. I even presented myself before the king at the head of the municipality, to invite him to send away from his house the priests who had refused to take the oath."

Q. "Could you tell us the names of any persons in the palace known under the name of *chevaliers du poignard?*"

A. "I knew none such."

Q. "At the period of the revision of the constitution of 1791 were not you yourself along with the Lameths, Barnave, Desmeuniers, Chapellier and other famous revisers united with, or, rather sold to the Court in order to despoil the people of their legitimate rights, and to leave them only a pretence of liberty?"

A. "Lafayette was reconciled with the Lameths; but I was never able to work with them, never having been of their party."

Q. "It seems that you were very much allied to Lafayette; and that your opinions coincided with his well enough?"

A. "I had no intimacy with him except so far as related to his office. For the rest, at that time I shared the opinion of all Paris with regard to him."

Q. "You say you never were present at any cabal, but how do you account for the fact that at the very time you presented yourself to the Constituent Assembly, Charles Lameth said he had you in the power of his committee?[1] That proves that criminal alliances existed."

A. "The National Assembly had, by a decree, commanded the constituted authorities to submit to it; and I presented myself with the members of my department and the public prosecutors. All I had to do was to receive the orders of the Assembly, and I did not speak. It was the president of the department who made a speech on the occasion."

Q. "Did you not take orders from Antoinette to carry out the murder of the best patriots?"

A. "No. I was in the Champ-de-Mars simply because of an official order from the General Council of the Commune."

Q. "It was with the permission of the municipality that the patriots had assembled in the Champ-de-Mars. They had lodged their notice [of intention to meet] at the registry, and had obtained a receipt for it. How could you unfurl against them the hellish red flag?"

A. "The Council made up its mind because, from early in the

[1] The word is "bureau," which may mean committee, or public department. Possibly Lameth used it in the latter sense; but it suited Hermann to understand it in the former—*i.e.*, some secret committee or cabal.

morning, when we heard that two men had been killed in the Champ-de-Mars, the reports that followed each other became more alarming every hour. The Council was deceived, and resolved to employ armed force."

Q. "But was it not the people who were deceived by the Municipality? Did not that body procure the meeting [of the Champ-de-Mars], for the very purpose of shooting and trampling down the best patriots?"

A. "Certainly not." [Bailly is said to have laughed, contemptuously, when this question was put to him, which provoked the fierce resentment of the court, and especially the ladies of the knitting-party. They thought he was laughing at the patriots and the meeting of the Champ-de-Mars. I make no doubt he was laughing at the extraordinary foolishness of the question.]

Q. "What did you do with the slain—that is with the patriots who were assassinated?"

A. "The Municipality having drawn up a *procès-verbal* [an official report], caused them to be carried to the courtyard of the military hospital, where most of them were identified."

Q. "How many persons [*i.e. bodies*] were taken there?"

A. "The number was stated and made public in the official report which the municipality posted up at the time. There were twelve or thirteen of them."

A JUROR here interposed with the observation: "I may tell the tribunal that I was in the Champ-de-Mars that day with my father, at the time the *massacre* began. Near the river, where I was, I saw seventeen or eighteen persons killed—of both sexes. We ourselves only escaped death by wading into the river up to our necks."

[This was a nice impartial juryman! The word "massacre" is enough to tell that.]

BAILLY made no reply to the juror.

HERMANN: "How do you know how many priests you had at the palace (Tuileries)?"

A. "We had about us only priests who said Mass." [*That is only those actually on duty.*]

Q. "They had not taken the oath?"

A. "The law permitted the king, in this respect, to employ whom he would."

Q. "What was the subject of your private conversations with Barnave and Pétion on the road to and returning from Varennes?"

A. "We talked on a great many indifferent subjects."

In this case, also, the prisoner was not asked to make her observations on the witness's testimony; nor were any questions put to her thereon. It is obvious that Bailly's examination had nothing whatever to do with the trial of the queen—unless it was expected to prove, out of his mouth, that he was in league with her to "assassinate the best patriots" on the famous day of the Champ-de-Mars. Such an admission he was hardly likely to make, even had it been true; because it would have signed his death-warrant. The train of reasoning—if one can call it by such a name—was of this sort. "It is in evidence that Lafayette was friendly with the prisoner (*see evidence of Silly*). It is in evidence that Bailly was friendly with Lafayette, by Bailly's own admission. It is not denied that Bailly used force at the Champ-de-Mars. Therefore Bailly used force at the Champ-de-Mars on the instigation of Marie Antoinette, the friend of his friend." Inferences of this kind remind us of the inferences drawn by the scandal-mongers of a village. They are too puerile for a court of justice. Yet, so obsessed were the Parisians of the time by the demon of suspicion that they were willing to sacrifice at once a queen and a tried Liberal on the strength of such remarkable "evidence". I am not at all sure that you are not bound to have this kind of thing when you depart, in courts of justice, from a very strict rule of relevancy. In England we may be too strict; but at any rate there is no fear of any English judge ever allowing the ears of a jury to be regaled by such stuff as I have indicated.

The reader will also have observed, I doubt not, the judge's merciless treatment of a witness not friendly to the prosecution. It is impossible to believe that any prisoner can have a fair trial when a judge bullies witnesses in this fashion. The animus against the prisoner, the desire to obtain a conviction, creep out. Witness is asked: "What were you talking to Pétion and Barnave about?" The insinuation is that the three of them were concocting measures in favour of the royal family; though there could not be the smallest reason for such an insinuation. Again: "Did you know the names of the *chevaliers du poignard?*"—insinuating that he was in the dagger plot.[1] Yet again, note the question about the revisers having sold themselves to the court. This

[1] In the crisis of the struggle, it was rumoured that a number of aristocrats and their hangers on had formed themselves into a band of stabbers, with the object of killing off the patriots by private assassination—a sort of Nihilists, but on the other side.

was the unkindest cut of all. It was intended to flagellate the victim; who was of almost insolent probity.

After Bailly, came the man PERCEVAL, whose name was mentioned by the witness Lecointre (p. 234) as that of D'Estaing's *aide-de-camp*, who had climbed the balcony at Versailles. While the court was sitting, Perceval had been found,[1] and was dragged in just a little frightened. He was at once questioned by Hermann who extracted from him the following testimony:—

"I was formerly a royal huntsman. I am now a gunmaker. On the 1st of October, 1789, I was at Versailles. I knew all about the first banquet of the Bodyguard; but was not present at it. On the 5th of the same month, in my capacity of *aide-de-camp* to the *ci-devant* Comte d'Estaing, I warned him that there were movements in Paris. D'Estaing took no notice. In the afternoon the crowd grew considerably; and I warned D'Estaing a second time, but he disdained to listen to me. Witness was going on to tell of the arrival of the Parisians at Versailles, when he was suddenly asked:—

"Did you not wear an order at that time?"

A. "I wore the ribbon of the Order of Limbourg. I had bought the rank, like everybody else, for 1,500 livres."

Q. "After the debauch of the Bodyguard were you not in the Cour de Marbre, and there did you not, amongst the first, climb to the balcony of the *ci-devant* king?"

A. "I happened to be about as the Bodyguard were crowding out from their banquet; and as they directed their steps towards the palace, I accompanied them."

THE PRESIDENT (*to the witness Lecointre*). "Tell the court what you know concerning the present witness."

LECOINTRE. "I know that Perceval climbed the balcony of the king's apartment; that he was followed by a soldier of the Regiment of Flanders; and that, arrived in the apartment of Louis Capet, Perceval embraced the grenadier in the presence of the tyrant, and said to him: 'There is no longer a Regiment of Flanders: We are all Royal Guards'. A dragoon of the Three-Bishoprics' Regiment having tried to climb up after them, and failed, he wanted to destroy himself. *I was not an eye-witness of this scene;* but Perceval himself told me the same day. Ask him, Citizen President, whether he recollects having had a conversation with me to the effect I have related."

[1] A feat almost impossible in London; but quite possible in Paris, where every person is registered, with his place of abode.

PERCEVAL. "I remember having seen Citizen Lecointre. I believe I even told him the tale of the balcony. I know he (Lecointre) was, on the 5th of October, at the head of the National Guard, in the absence of D'Estaing, who had disappeared."

LECOINTRE. "My evidence is true to the best of my knowledge and belief."

The witness Perceval was a waste of time. He proved nothing; nor could he prove anything. Whether he climbed the king's balcony under dramatic circumstances or not, did not affect the guilt or innocence of the woman on her trial. But the next witness or two surpassed, in the matter of irrelevancy, and exceeded, on the score of remoteness, anything that had gone before.

The first of them was a domestic servant, REINE MILLOT, who came to prove the charge relating to the gift of French money to the Emperor Joseph. A strange witness, say you, to testify to great transactions between a queen and an emperor. True! But the way she was to prove it! She began, in answer to the court:—

"In 1788 I was in service in the great house at Versailles [*i.e.* at the palace]. One day I took it upon myself to speak to the Comte de Coigni, whom I found in a good humour: 'Will the emperor always continue to make war against the Turks?' I asked. 'Because, mon Dieu, it will ruin France if he does! Look at the enormous sums the queen sends to her brother for that purpose—it can hardly be less than two hundred millions.' "You are not far out,' the count replied, 'it is already well over one hundred millions and we are by no means at the end.'"

[Pausing here, I wonder if any one nowadays would place a farthing's value on such a tale as that. Most likely, I should think, Mademoiselle Millot was lying; because great men, such as the Comte de Coigni, do not, even when in a good humour, discuss matters of State with servant girls. But even if he did say what she says he said, what does it prove? Why, merely that he said it. It does not prove that over one hundred millions had been spent. The whole difference between gossip and evidence lies in the distinction.

But the young woman made a great sensation by her evidence. The jurors, when they heard of the one hundred millions, grew red in the face. The Furies, who had often wanted bread in those days, yelled for vengeance. Satisfied with the impression she had created, the witness continued.]

"The refractory priests lodged in the apartments of Madame Adelaide." [Then comes some more typical servant-girl's gossip; which, however, called from the audience fierce cries and calls for the blood of the accused.] "It is within my knowledge, that after the 23rd of June, 1789, I found myself in a passage where were some of D'Artois' guards and some officers of hussars; and I heard the first-named talking about a projected massacre of the Gardes Françaises. They were saying, let every man be at his post, and do his duty. But the Gardes Françaises were warned in time of the plot against them, and stood to arms. The plot, being thus discovered, was not carried out." [Here's blood-curdling stuff for you. But something even more sanguinary was to follow. 'Twas an ascending scale of horrors; and the servant-girl was thoroughly enjoying herself.] "I wish to observe, also, that I have been informed by different people that the accused, having conceived the design of assassinating the Duke of Orleans the king was informed of it, and ordered the queen to be searched on the spot, when it was found that she carried two pistols. The king ordered her to remain in her apartments for a fortnight."

[No doubt the reader perceives the object of this testimony. The Duc d'Orléans was a "patriot".[1] It is wonderful, but true, that on the authority of this servant-girl, all Paris believed that the queen had gone prowling about the palace with a couple of pistols, for the purpose of assassinating her husband's cousin. They never paused to think that if Marie Antoinette wished D'Orléans out of the way, there were other methods of doing it besides shooting him with her own hand. It is difficult to characterise such a tale as this.]

MARIE ANTOINETTE. "I may have received an order from my husband to remain in my rooms for a fortnight; but never on such an account."

THE WITNESS. "I know, also, that during the first days of October, 1789, women of the Court distributed white cockades to different individuals in Versailles."

MARIE ANTOINETTE. "I remember I heard the day or day but one after the banquet of the Bodyguard some women did distribute these cockades; but neither my husband nor I were the movers in such disorders."

THE PRESIDENT. "What steps did you take to have them punished, when you knew the fact?"

[1] The poor wretch was even then awaiting trial. He was too conspicuous to be allowed to live.

A. "None."

If the servant-girl's evidence was fearful and wonderful, what is to be thought of the testimony of a certain journalist, editor of *L'Orateur du Peuple?* This gentleman, whose name was LABÉNETTE, offered the following evidence: "I perfectly agree with a great number of the facts alleged in the *acte d'accusation!* I say, moreover, that three people came to assassinate me in the name of the accused!" [That was all; and quite enough, too, one would imagine.]

THE PRESIDENT (*to the accused*). "Used you to read *L'Orateur du Peuple?*"

A. "Never."

Following Labénette came another gentleman, by the name of TARD, whose evidence was even more valuable than that of the journalist; because he did not even pretend to speak to a single fact, or to know anything, or even to believe anything. I give a literal translation, because I think it is a gem worthy of preservation:—

"I declare by common report, that what is written in the *acte d'accusation* is true."

And I, the writer of this volume, declare that according to the official account, which purports to be full and accurate, Citizen Tard said neither more nor less than the above. Nor does he seem to have intended it for irony, nor as a practical joke.

The next witness, by way of a change, did purport to speak of something relating to the charges against the prisoner, namely the charge relating to the man of the carnation. He was a gendarme, named DUFRESNE, who stated that he happened to be in the accused's room at the time when the carnation was brought to her. He knew that the note contained these words, "What are you doing here? (*i.e.* Why are you here?) We have arms and money at your service."

I need hardly point out to the intelligent reader that this was a most unblushing lie. In the first place, he never said he had seen the note. In the next place, the queen tore the note to the tiniest fragments, and put some of them where they could never be recovered, and nobody saw it but herself. In the third place, the alleged contents are simply ludicrous. Imagine a man plotting for months, and risking his life—an intelligent man to boot—in order to ask the captive why she remained in prison! He knew as well as she could tell him—it was because she could

not get out. Depend on it, the note concealed in the carnation contained no such futile message.

Why, then, the evidence of the gendarme? For the gendarme had, I think, been primed with his testimony by Fouquier-Tinville. It was because some charge of conspiracy had to be founded on the carnation incident, and the alleged message was intended to show that an armed conspiracy (with plenty of money to back it) was on foot to overturn the Republic. The invention was clumsy enough; and could have been pulled to pieces in five minutes by any advocate; nor would it have deceived the French people had these not been in a state of hysterical excitement. Medical men know the form of alienation called "mania of persecutions," when the patient believes that everybody, or almost everybody, is trying to ruin him, or to kill him, or otherwise conspiring to his hurt. The French nation under the Terror was suffering from mania of persecutions. That was what made the Reign of Terror; and gave Danton, Robespierre, Morat, Hermann and Fouquier their opportunity. A yarn like Dufresne's would at another time have brought on its author the whole artillery of Parisian wit. At this time it was taken seriously; and Dufresne became a saviour of the Republic.

This did not end the evidence on the carnation question, by any means. Much more was to follow. Marie-Madeleine Barrassin, wife of RICHARD, the former concierge of the Conciergerie of the Palais de Justice, related how the gendarme Gilbert told her that Antoinette had received a visit from a man brought by Michonis; and that this man had given the prisoner a carnation containing a little note. She (witness) fearing she might get into trouble, told Michonis about it; and he replied that he had never taken any one near the Widow Capet.

A female jailer, named HAREL, swore she had been near the accused for forty-one days. She neither saw nor heard anything (suspicious) except that a man came with Michonis, and brought a note concealed in a carnation for the prisoner. Witness was at work at the time. The said man came again, a second time, in the course of the day.

This was the first time a second visit had been mentioned; and the president flew at the accused: "Was this true?" "Quite true," replied the queen, "he came twice within a quarter of an hour. Then the president turned to the witness: "Who placed you near the Widow Capet?"

A. "It was Michonis and Jobert."

A second gendarme, GILBERT, the discoverer of the carnation plot, the gendarme whose letter we have already mentioned, appeared. Gilbert was no small hero; and Gilbert was well aware of the fact. The Furies gave him an encouraging cheer as he stood forward; and the jury beamed on him. For was not this the man but for whom they would all have been murdered in their beds? His evidence, given with much dramatic effect, ran thus:—

Being on duty in the room of the wife of Capet, he noticed, one day when Michonis came, that he brought a man, whom the Capet woman afterwards said she knew as a Knight of St. Louis. That this man gave her a carnation with a note concealed in it. That the Capet woman tried to write an answer with a pin; and did, in fact, make some marks. That she gave him (Gilbert) the pin-pricked note to take to some one; but instead thereof he took it to the wife of the concierge; and reported the event to his colonel. In addition, the witness deposed, the prisoner more than once complained of the food supplied to her. [" Good enough for her!" "Too good!" growled the ladies of the knitting-needles. The reader sees how completely the case of conspiracy against the Republic is proved by showing that the prisoner complained of the Republican prison diet.] Witness further heard the Widow Capet one day say to Michonis: "Then I shall not see you again?" To which he replied: "Oh! excuse me! I shall at least be a member of the Municipal Council, and in that capacity I shall have the right to see you again." The accused told witness that she was under great obligations to the man [of the carnation].

MARIE ANTOINETTE. "I am under no obligation to him, except that he stood by me on the 20th of June."[1]

It will be remembered that Lecointre, the first witness, had made certain statements compromising the name of D'ESTAING, with reference to the events at Versailles in October, 1789; and that the Tribunal had issued orders for D'Estaing to be summoned as a witness. He had been found, and brought to the court, and Fouquier-Tinville now presented him for examination. Asked who he was, D'Estaing replied that he had served France by sea and land. How long had he known the accused? Ever since she came to France. What had he to say concerning the charges

[1] In fact it was De Rougeville who saved her life on the night of the 20th of June, when Santerre's mob broke open the door of her room. De Rougeville hastily collected thirty men, and made a fortification of a large table. Only the determined front shown by these men stayed the massacre that had been planned.

now made against her? Nothing, he replied, emphatically. But this would not do. Hermann took him in hand; and, under the skilful manipulation of the president, the old soldier was compelled to make disclosures not the least relevant to any charge against the queen, but confirmatory of Lecointre's statement.

Q. "Did you know that Louis Capet and his family were about to leave Versailles on the 5th of October?"

A. "No!"

Q. "Do you know that horses were ordered and countermanded several times?"

A. "Yes, on the advice the Court received. But I beg to observe that the National Guard would not have allowed him to go."

Q. "Did not you yourself take horses that day to assist the flight of the royal family?"

A. "No. It is a big lie."

Q. "Do you know that carriages were detained at the door of the Orangery?"

A. "Yes!"

Q. "Were you at the palace that day?"

A. "Yes."

Q. "Did you see the accused there?"

A. "Yes."

Q. "What did you hear at the palace?" [A wide question, surely; but the answer was a blow to the prosecution.]

A. "I heard the councillors of the Court say to the accused that the people of Paris were coming to slay her, and she had better go away, to which she replied, with great decision, "If the Parisians come here to assassinate me, they shall do it at the feet of my husband; but I will not fly!"

MARIE ANTOINETTE. "That is quite true. They wanted to persuade me to go away alone, because, they said, it was only I who ran any danger. I replied as the witness has said."

THE PRESIDENT (*to D'Estaing*). "Do you know anything about the banquet given by the former Bodyguard?"

A. "Yes."

Q. "Did you hear the cries raised of *Vive le roi* and *Vive la famille royale?*"

A. "Yes. I do know that the accused made the round of the table, holding her son by the hand."

Q. "Did you not also give a feast to the National Guard of Versailles?"

A. "Yes."

[In answer to further questions:] "On the 5th of October I was in command of the National Guard. When I saw the king and the queen, leading her son by the hand, present themselves on the balcony and announce to the people that the king and she would go to Paris at once, I asked permission of the municipality to accompany them."

MARIE ANTOINETTE. "I agree that I appeared on the balcony and announced my intention to set out for Paris."

Q. (*to the accused*). "You said before that you never led your son by the hand into the banquet of the Bodyguard?"

A. "I never said that. What I did say was that I believed I never heard the air *O Richard, o mon roi.*"

Q. (*to the witness Lecointre*). "Citizen, you said in your statement yesterday that this witness was absent from his post on the 5th of October."

LECOINTRE. "And I say so now. Not only was he not to be found from midday to two o'clock, at the meeting place of the National Guard, but that he did not appear in the course of the day. I say he was at the municipal offices; that is, with those of the municipal officers who had sold themselves to the Court. I say that he obtained from them an order or permission to accompany the king in his retreat, under promise of bringing him back to Versailles as soon as possible. I say," continued Lecointre, "that the municipality doubly betrayed their duty; firstly, because they lent themselves to a criminal device, in favouring the flight of the former king; and, secondly, in not keeping any record of the permission or leave."

WITNESS. "I should like to tell Citizen Lecointre that he deceives himself; or, at any rate, is mistaken. The permission is dated the 6th of October; and by virtue of it I set out for Paris the same day at eleven o'clock in the morning."

A long wrangle took place about the date; and at last Lecointre produced a letter from D'Estaing which fixed it at the 5th.

Q. "Do you recollect that the permission you had obtained authorised you to repulse force with force, if the voice of conciliation failed?"

A. "Yes, I remember that."

The queen was not asked any questions on this testimony; but Fouquier-Tinville proceeded to call his next witness, no other than the notorious SIMON, who described himself as formerly a shoemaker, but now tutor to Charles Louis Capet, son of the accused. His evidence consisted entirely of an account of "in-

trigues," or plots between Michonis, Jobert, Dangé and other former municipal administrators of prisons and Marie Antoinette. This is a sample :—

"The little Capet stated to me that Toulan, Pêtion, Lafayette . . . Michonis . . . Jobert (etc., etc.), were those with whom his mother was most friendly . . . that Dangé had taken him in his arms, and in the presence of his mother, said: 'I should very much like to see you in your father's place'.

"I know that the little Capet has been treated as a king . . . at the table his mother and aunt gave him precedence."

Q. (*to the accused*). "Since your detention, have you written to Polignac?"

A. "No."

Q. "Have you not signed orders on the funds kept by the treasurer of the civil list?"

A. "No."

FOUQUIER-TINVILLE. "I give you notice that your denial will avail you nothing in a moment, for amongst the papers of Septeuil were found two orders signed by you." [An English judge would have said, "Very well, Mr. Public Prosecutor, produce the documents."] "It is true," he continued, "that these two documents which were handed over to the Committee of Twenty-four,[1] cannot now be found, this committee being dissolved! But you shall hear witnesses who have seen them."

Accordingly, there stepped forth FRANCOIS TISSET. Asked to give an account of himself, he said he was a merchant, but on the 10th of August, 1792, he was employed, without salary, by the Committee of Superintendence of the Municipality. As such, he was deputed to search the house of Septeuil, treasurer of the former civil list. Accompanied by an armed force of the section of the Place Vendôme, now called The Pikes, he went. He failed to seized Septeuil, but amongst his paper he found two orders [*bons*] for about 80,000 livres in all, signed "Marie Antoinette," as well as a bond for 2,000,000, signed "Louis," payable at the rate of 110,000 livres a month, and drawn upon the house of Laporte at Hamburg. He also found a great number of notes of several payments to Favras and others, a receipt signed Bouillé, for a sum of 900,000 livres, another of 200,000 livres and so on. All these documents were deposited in the hands of the Commission of Twenty-four, now dissolved.

[1] The Committee of the Convention appointed to draw up articles of accusation against Louis XVI.

MARIE ANTOINETTE [*a very pertinent question*]. "I should like the witness to state what were the dates of the orders he speaks of."

TISSET. "One was dated 10th of August, 1792; as to the other, I cannot recollect."

MARIE ANTOINETTE. "I never wrote such an order. How could I, when we were before the assembly about eight o'clock in the morning of the 10th of August?"

Q. "Did you not, that very day, in the Legislative Assembly, in the box of the *Moniteur*,[1] receive money from those in your train?"

A. "It was not there, but during the three days that we were living at the Feuillans, that, finding ourselves without money, since we carried none, we accepted some that was offered to us."

Q. "How much?"

A. "Twenty-five single louis d'or—the same that were found in my pockets when I was taken from the Temple to the Conciergerie. Regarding this debt as sacred, I preserved them intact, intending to give them back to the person who gave them to us, if I should ever see her."

Q. "The name of the person?"

A. "A woman named Angerel."

Following Tisset came LEPITRE, one of the suspected officials of the municipality—shaking in his shoes, poor fellow; for to be suspected was but a very short step from being condemned. In answer to the usual questions, he said he had, in the course of his official duties, seen the prisoner in the Temple, but had never had any particular conversation with her, nor even spoken to her except in the presence of his colleagues.

Q. "Did you not sometimes talk politics?"

A. "Never."

Q. "Did you not procure her the means of knowing the news, by sending every day a paper-seller to cry the evening paper near the tower of the Temple?"

A. "No."

Q. (*to the accused*) "Have you any observations to make on the witness's statement?"

A. "I never had any conversation with the witness. Moreover, there was no need to engage newsvendors to come near the tower. I could hear them quite well every day when they passed along the Rue de la Corderie."

[1] The seat of the reporter of the official journal.

The prosecution now produced a packet, and the queen was asked if it was the packet she had sealed with her own seal when she was removed to the Conciergerie. She admitted it was the same, and the *greffier* then broke the seal, and produced one by one a number of things which it must have cost Marie Antoinette many a pang to see in such hands. The *greffier* called out the name of each article produced, and a clerk made an inventory.

GREFFIER. "A packet of hair of divers colours."

THE QUEEN. "It comes from my children, dead and living, and from my husband."

GREFFIER. "Another packet of hair."

THE QUEEN. "That comes from the same persons."

GREFFIER. "A paper containing figures."

THE QUEEN. "It is a table by which I have been teaching my son arithmetic."

GREFFIER. "Different papers of slight importance, such as washing bills, etc. A pocket-book in parchment and paper, upon which are written the names of divers persons."

All the articles were handed up to the judges, one by one. When it came to the pocket-book, they scrutinised it carefully. The president asked, "Who is the woman Salentin?"

A. "She is the one who for a long time managed all my business."

Q. "And who is Mademoiselle Vion?"

A. "She had the care of my children's clothes."

Q. "And dame Chaumette?"

A. "She succeeded Mademoiselle Vion."

Q. "What is the name of the woman who looked after your teeth?"

A. "I don't know. She was engaged by Salentin and Chaumette."

Q. "Who is this Bernier, whose name is so often written here?"

A. "He is the doctor who had the care of my children." [The public prosecutor rose, and moved the court to send warrants for Salentin, Vion and Chaumette, to bring them into court immediately. As for Dr. Bernier, he would be content with a simple request. The tribunal granted the request.]

Continuing his inventory, the *greffier* called out, "A *servante*, or little pocket-book fitted with scissors, needles, thread, etc. A small looking-glass. A gold ring with hair. A paper on which are two golden hearts, with some initials. Another paper, on

which is written, '*Prayer to the Sacred Heart of Jesus; Prayer to the Immaculate Conception.*' A portrait of a woman."

PRESIDENT (*to the accused*). "Whose portrait is that?"

A. "That of Madame de Lamballe." [The Furies groaned, hissed, and almost howled.]

GREFFIER. "Two other women's portraits."

PRESIDENT. "What persons do these portraits represent?"

A. "They are two ladies with whom I was brought up at Vienna."

Q. "Their names?"

A. "The Ladies of Mecklembourg and Hesse."

GREFFIER. "A *rouleau* of twenty-five single louis d'or."

THE QUEEN. "Those are what were lent to me while we were at the Feuillans."

GREFFIER. "A little bit of cloth, on which is a burning heart pierced by an arrow."

Fouquier-Tinville was on his feet in a moment. He invited Hébert to come forward and examine this burning heart, and say if it was the one he had found in the Temple. After looking at it, the Père Duchêne said it was not the same, but that it bore a close resemblance. "Citizen jurors," said the public prosecutor, "let me inform you that amongst the prisoners who have been tried before this tribunal, and whom the law has struck with the sword of justice, most of them, or, rather, the majority of them, carried this counter-revolutionary symbol!" Proceeding, Fouquier-Tinville inquired if it was not the fact that some days after the escape of the 20th of June she had ordered a dress of the Grey Sisters.

A. "Never did I give such an order."

Following this interlude, occurred a curious scene. It was desired to call as a witness La-Tour-du-Pin, the royalist ex-minister of war. The officers of the court had gone about and found two people of that uncommon name; and the first to be brought forward was one Philip Francis Gabriel La-Tour-du-Pin Gouvernet, a perfect specimen of a crusty old general officer. Asked what he knew of the charges against the accused, he said "Nothing!"

THE PRESIDENT. "Were you not present at the fêtes at the palace?"

A. "Never! I never went about the Court."

Q. "What! Were you not at the banquet given to the Bodyguard?"

A. "How the d—— could I be, when I was commanding in Burgundy at the time!"

Q. "What! Were you not minister (for war) at the time?"

A. "No! and what is more, I would not have taken the job if they had asked me to!"

The president, a bit nonplussed, turned to Lecointre: "Do you know whether this witness was, in 1789, minister for war?"

LECOINTRE. "No! The man who was minister is here; and will be heard immediately."

Whereupon the *ancien militaire*, as he is described, left the box, glaring angrily round him;[1] and the real Simon Pure stepped forward. This was:—

JOHN FREDERICK LA-TOUR-DU-PIN,[2] soldier, and ex-minister for war. Asked if he had anything to depose against the accused he says No, that he knows nothing of the facts alleged in the *acte d'accusation*. He was obviously a reluctant witness, so the president took him in hand, and the following dialogue ensued. Would it were possible to render in English the quick question and answer—the click of the foils, as it were.

Q. "Were you minister on the 1st of October, 1789?"

A. "Yes."

Q. "Doubtless, at that time, you heard speak of the banquet to the late Bodyguard?"

A. "Yes."

Q. "Were you not minister at the time when the troops arrived at Versailles, in the month of June, 1789?"

A. "No, I was then a deputy of the Assembly."

Q. "It appears that the Court was under obligations to you, or you would not have been appointed minister for war?"

A. "I believe there was nothing of the sort."

Q. "Where were you on the 23rd of June, when the *ci-devant* king held the famous 'bed of justice' in the midst of the representatives of the people?"

A. "I was in my place as a deputy of the National Assembly."

Q. "Do you know who drew up the speech read by the king to the Assembly?"

A. "No."

Q. "Did you hear that it was Linguet, Barentin, Lally-Tollendal, Desmeuniers, Bergasse or Thomet?"

A. "No."

Q. "Did you take part in the Council of the late king on the 5th of October, 1789?"

[1] His display of temper cost him dear. He was guillotined on 28th April, 1794.

[2] Also guillotined on the same day as his namesake.

A. "Yes."

Q. "Was D'Estaing there?"

A. "I did not see him."

D'Estaing interrupts with, "Well! then I had better eyesight that day than you, for I remember perfectly seeing you there".

Q. "Did you know that on that 5th of October the royal family were about to set out by way of Rambouillet, in order to reached Metz?"

A. "I heard the question raised in the Council whether the king should or should not set out."

Q. "Do you know the names of those who incited him to set out?"

A. "I do not know them."

Q. "What might be the motive upon which they based their advice?"

A. "Because of the great concourse of people who flocked from Paris to Versailles; and because it was said more were expected who wished for the life of the accused."

Q. "What was the result of the deliberation?"

A. "That they should remain."

Q. "Where was it proposed they should go?"

A. "To Rambouillet."

Q. "Did you see the accused at these times in the palace?"

A. "Yes."

Q. "She came to the Council, did she not?"

A. "If she did, I did not see her. I only saw her enter the cabinet of Louis XVI."

Q. "You say the Court was thinking of departing for Rambouillet—was it not Metz?"[1]

A. "No."

Q. "In your capacity as minister did you not make ready some carriages, and order pickets of cavalry upon the route, to protect the journey of Louis Capet?"

A. "No."

Q. "It is, however, a certainty that everything was ready at Metz to receive the Capet family—rooms had been furnished on that account?"

A. "I know nothing about that."

The cool, rather contemptuous air of the witness was exasperating Hermann, little accustomed as that tyrant was to

[1] The sting of this is that Metz was on the frontier, where communication with the German powers would be easy.

aught but obsequious humility. He thought it time to strike hard.

Q. "Was it by Antoinette's orders that you sent your son to Nancy, to direct the massacre of the brave soldiers who had incurred the hatred of the Court by showing their patriotism?"

A. "I sent my son to Nancy to put into execution the decrees of the National Assembly. It was not, therefore, on the orders of the Court that I acted, but because then it was the wish of the people. Even the Jacobins, when M. Camus made a speech in favour of the step taken, applauded him heartily."

A JUROR. "Citizen President, I should like you to tell the witness that he has either made a mistake or told a lie, because Camus was never a member of the Jacobins; and that club was far from approving the rigorous measure which a liberticide faction had decreed against the best citizens of Nancy." [This was another pretty clear intimation of the kind of impartiality to be expected from this jury.]

WITNESS. "That is what I heard at the time."

Q. "Was it by the orders of Antoinette that you left the army in the state it was found to be in?"

A. "I do not believe that any blame can be attached on that account, since when I left office the French army was on a respectable footing."

Q. "Was it to put the army on a respectable footing that you disbanded more than 30,000 patriots who were in it—distributing yellow discharge papers to them—with intent to frighten by this example the defenders of the country, and to prevent them from yielding themselves to the transports of patriotism and the love of liberty?"

A. "That is a curious thing to say to a minister. The dismissal of the soldiers was no business of mine. It was the heads of the different corps who had to do with that."

Q. "But you, the minister, it was your duty to cause an account of such operations by the heads of the corps to be rendered to you, so that you could know who was wrong and who was right?"

A. "I do not believe that any soldier can have any ground of complaint against me."

Contradiction was not long in coming. Up jumped Labénette, the obliging gentleman who had testified that he perfectly agreed with the facts stated in the *acte d'accusation*—the editor of *L'Orateur du Peuple* who spake of the three assassins. "Citizen

President," he cried, "I ask leave to mention something. I was one of those honoured by La-Tour-du-Pin with a yellow dismissal paper, signed by his own hand, and that because in the regiment in which I served I unmasked the aristocracy of *Messieurs les Muscadins*[1] who were there in great number, under the name of the staff!" [Mesdames the Furies applauded this champion of the democracy; and, heartened by their plaudits, he continued:] "I was a non-commissioned officer. The citizen will remember me. He will remember me by the name of *Clair-Voyant*, corporal of the regiment of ——"

Here the eloquence of the unmasker of *muscadins* was cut short by the witness. Turning to Labénette, the ex-minister regarded him haughtily; and in a voice of the most freezing politeness observed, "Sir, I never heard of you before!"

It was Labénette who was the angry man. Here he had been pluming himself that the minister for war had marked him down as a dangerous man—him, the unmasker of aristocrats. And, behold! the minister for war had never heard of him before! Taking advantage of the ex-corporal's speechless consternation, the president resumed his examination of the witness:—

Q. "Did not the accused, during your ministry, extract a pledge from you to inform her of the exact state of the French army?"

A. "Yes."

Q. "Did she tell why she wanted the information?"

A. "No."

Q. "Where is your son?"

A. "He is somewhere or other near Bordeaux, or at Bordeaux."

Hermann now turned savagely on the prisoner; and subjected her to a hot fire of interrogatories:—

Q. "When you asked the witness to tell you the condition of the army, was it not in order to pass on that information to the King of Bohemia and Hungary?"

A. "Seeing that the information was public, what need was there for me to pass it on. The public papers would have given him as efficient information."

Q. "What was your motive, then, in asking for the statement?"

A. "It was rumoured that the Assembly would make changes in the army; and I desired to know the strength of the regiments to be suppressed."

[1] Literally, "the musk-scented ones" = dandies.

Q. "Did you not abuse the influence you had acquired over your husband to extract from him orders on the public treasury?"

A. "Never."

Q. "Then where did you get the money to build and furnish the Petit-Trianon, in which you gave *fêtes*, of which you were always the goddess?"

A. "There was a fund set apart for the purpose."

Q. "It must have been a considerable fund; for the Petit-Trianon must have cost an enormous sum?"

A. "It is quite possible that the Petit-Trianon cost an enormous sum. The expenses grew little by little: we were led on from one thing to another. For the rest of your question—I, more than any other, desire that all the world may know what went on there."

Q. "Was it not at the Petit-Trianon that you first became acquainted with the woman La Motte?"

A. "I never saw her."

Q. "Was she not your victim in the affair of the famous necklace?"

A. "That is impossible; because I knew nothing of her."

Q. "Then you persist in denying that you knew her?"

A. "I have no object in denying it. I merely speak the truth, and shall persist in speaking it."

Q. "Was it not you who nominated ministers and others to civil and military positions?"

A. "No."

Q. "Had you not a list of the persons whom you desired to promote, with notes on them, all framed and glazed?"

A. "No."

Q. "Did you compel different ministers to accept for vacant posts the persons whom you named to them?"

A. "No."

Q. "Did you not compel the ministers of finance to hand over funds to you; and, when some of them refused to do so, did you not menace them with your indignation?"

A. "Never."

Q. "Did you not beg Varennes to send six millions to the King of Bohemia and Hungary?"

A. "No."

After this serious bout, a comic interlude intervened—to wit, one of the jailers of the Temple, who affirmed that Louis Charles Capet (the dauphin) once made a confession to him. There was

a song called "*Ah! il t'en souviendra du retour de Varennes*," which witness sang one day, with exquisite taste and delicacy, in the hearing of the little boy, following it by the jocular inquiry, "Thou rememberest the return from Varennes? Eh?" To which the boy replied that he remembered it well; because he was taken out of his bed, where he was sleeping, and dressed in girl's clothes, by some one who said, "Come to Montmédi."

Hermann drove the witness into another track by asking whether he had ever noticed the familiarity which existed between certain members of the commune and the prisoner. Oh! Yes! The witness (now it was suggested to him) had noticed that fact. Especially with regard to Toulan and Lepitre, who often came together, and walked upstairs before the others came, saying, "We will await our colleagues upstairs". He once saw Jobert give the accused some medallions of wax. The girl Capet let one fall, and broke it. He also remembered the hat being found in Elisabeth's room.

MARIE ANTOINETTE. "Let me say that the medallions of which he speaks were three in number. The one that fell and was broken was the likeness of Voltaire. One of the two others represented Medea; and the third some flowers."

Q. (*to the accused*). "Did you not give a gold box to Toulan?"

A. "No; neither to Toulan nor to any of the others."

The useful Hébert, who filled in all the gaps, begged to say that an officer of police had brought to the office of the commune a denunciation signed by two clerks of the rates department, of which Toulan was the head. Toulan had boasted about it in the office. "This denunciation was taken away from the police office, notwithstanding the protests of Chaumette and myself, and I have never heard of it since." More proof followed on the subject of the Septeuil civil list orders, which so far formed the most direct piece of evidence against the queen. One GARNERIN, formerly secretary of the Commission of the Twenty-four, affirmed that he had charge of the papers found in Septeuil's house, and in sorting them he saw an order, signed *Antoinette* for about 80,000 livres, drawn in favour of Polignac. Also a note relating to one Lazaille; and another document which showed that the accused had sold her diamonds in order to send funds to the French *emigrés*. Witness had placed at the time all the said documents in the hands of Valazé, a member of the Commission entrusted with the drawing up of the accusation against Louis Capet; but what was

the witness's astonishment when he learned that in the report rendered to the National Convention, Valaze had omitted all reference to the documents signed "Marie Antoinette".

Q. (*to the accused*). "Have you any observations to make on the statement of this witness?"

A. "I persist in saying that I never wrote any orders for money."

Q. "Did you know a person named Lazaille?

A. "Yes."

Q. "How did you know him?"

A. "As an officer in the navy. I saw him presented at Court, at Versailles, as others did."

GARNERIN. "The documents I spoke of were, after the dissolution of the Commission of the Twenty-four, taken to the Committee of Public Safety, where they should be now. A day or two ago I met two of my colleagues who were, like myself, employed on the Commission of the Twenty-four; and we spoke of the forthcoming trial of Marie Antoinette. I asked them if they knew what had become of the documents in question; and they told me that they had been deposited at the office of the Committee of Public Safety, where my said two colleagues are now employed."

The witness TISSET interposes: "Will the president ask the witness whether he did not find amongst Septeuil's papers some bought notes for sugar, coffee, etc., etc., amounting to two millions of money, of which 1,500,000 livres had already been paid; and whether the witness can say if those bought notes were not to be found some days after."

THE PRESIDENT. "Citizen, you hear the question—will you be good enough to answer it?"

GARNERIN. "I have no knowledge of the fact. But I do know that there were all over France advance bought notes [*what are called in the slang of the exchange "futures"*] for immense forestallings, with intent to produce a considerable rise in the price of the necessaries of life, so as to disgust the people with the revolution and liberty; and thus compel them to ask to be fettered again."

THE PRESIDENT (*to the accused*). "Do you know of immense forestallings of provisions of the first necessity, which were effected by order of the Court, in order to starve the people and constrain them to ask once more for the old order of things, so favourable to the tyrants and their infamous agents who held the people under the yoke for 1,400 years?"

Q. "I do not know that any forestallings were effected."

DUFRICHE-VALAZÉ, an innkeeper, and formerly a deputy to the National Convention, was called to corroborate Garnerin on the question of the Septeuil orders. He was a member of the Twenty-four; and remembered the Septeuil documents. Two of them affected the accused. One was an order for either 15,000 or 20,000 livres, to the best of his recollection. The other was a letter in which the minister begs the king to communicate to Marie Antoinette the plan of campaign which he (the minister) had had the honour to present to his majesty.

THE PRESIDENT. "Why did you not mention these documents in the report you made to the Convention?"

A. "Because I did not think it was of any use to cite in the proof a quittance of Antoinette."

Q. "Were you not a member of the Committee of the Twenty-four?"

A. "Yes."

Q. "Do you know what became of those two documents?"

A. "The documents which were used in preparing the accusation against Louis Capet were claimed by the Commune of Paris, since they had to do with certain charges against several individuals suspected of having wished to compromise several members of the Convention, in order to obtain decrees favourable to Louis Capet. I believe that at the present time the documents are in the custody of the Committee of Public Safety."

[The reader observes that after this pretty game of hunt-the-slipper, the documents were not produced; but the contents were admitted upon the evidence of people who could not recollect whether they were for 15,000 or 80,000 livres. To this day, if such documents were in existence, no one can suggest why they were not produced; except, perhaps, that the date of them might render them innocuous.]

THE PRESIDENT (*to the accused*). "What have you to reply to the statement of the witness?"

A. "I know nothing either of the order or the lettter of which he speaks."

THE PUBLIC PROSECUTOR. "It appears to be proved, notwithstanding your denials, that by your influence you made the *ci-devant* king, your husband, do whatever you desired."

A. "It is one thing to advise a thing; and another thing to make him do it."

Q. "You see, it follows from the witness's evidence that the

ministers knew so well the influence you had over Louis Capet that one of them requests him to confide to you the plan of campaign which had been presented to him some days before. The inference is that you persuaded his feeble mind to make him do evil acts. For, suppose that he only followed the best of your counsels, you will admit that it was not possible to use means better calculated to lead France to the edge of the abyss that was ready to swallow her."

A. "I never knew him to have the sort of mind you speak of."

This examination of the accused was, for a wonder, relevant; for it touched her very nearly on the charge of having been really responsible for the condition of France under Louis XVI. But it was followed by some evidence just about as wildly remote from anything in the world as could be conceived.

One NICOLAS LEBOEUF was called. He was one of the *municipals* who were accused of undue tenderness to the royal family in the Temple; and I rather suspect the object of calling him was to try to make him incriminate himself rather than the accused. Asked if he had anything to say with reference to the *acte d'accusation*, he promptly answered that he had not. "If I had perceived anything wrong when I was a municipal officer," said he, "I should have reported it."

THE PRESIDENT. "Did you never have any conversations with Louis Capet?"

A. "No."

Q. "When you were on duty in the Temple, did you not converse on political affairs with your colleagues and the prisoners?"

A. "I chatted with my colleagues, but we did not speak about politics."

[No doubt for the excellent reason that nobody was quite sure of his neighbour; and denunciations were unpleasantly frequent. Opinions that were highly patriotic to-day, became treason against the nation the day after to-morrow.]

Q. "Did you often speak to Louis Charles Capet (the dauphin)?"

A. "Never."

Q. "Did you not propose to give him the *The New Telemachus* to read?"

A. "No."

Q. "Did you not manifest the desire to be his tutor?"

A. "Never."

Q. "Did you not evidence regret at seeing this child a prisoner?"

A. "No."

The President gave Monsieur Leboeuf up as a bad job; and the queen, when asked if she had had any private conversation with this man, merely replied, "I have never spoken to him in my life".

The next of the implicated *municipals*, JOBERT, the ex-administrator of police, did not escape so lightly. He, too, led off with the declaration that he knew nothing on the subject of the charges; but Hermann fastened on him like a tiger.

Q. "When you were on duty at the Temple, did you not hold conferences with the accused?"

A. "Never."

Q. "Did you not one day show her some curiosities?"

A. "True! I did one day show the Widow Capet and her daughter some medallions, in wax, called cameos. They were emblematical of the Revolution."

Q. "Amongst those medallions was there not the likeness of a man?"

A. "I believe not."

Q. "For instance, the likeness of Voltaire?"

A. "Oh! yes! Let me say that I have at home about 4,000 articles of this kind."

Q. "Why, amongst those articles, does there happen to be the portrait of Medea? Did you wish to make some allusion to the accused?"

A. "Chance alone brought it about. I have such a lot of them. They are English works of art in which I deal; I sell them to merchants."

Q. "Do you know that, from time to time, the little Capet was shut up, while you and certain other administrators held private interviews with the accused?"

A. "I have no knowledge of such a fact."

Q. "You persist, then, in saying that you have *not* had any private interviews with the accused?"

A. "Yes."[1]

THE PRESIDENT (*to the accused*). "Do you persist in saying that you never had any interview at the Temple with the last two witnesses?"

A. "Yes."

Q. "Do you equally maintain that Bailly and Lafayette did not co-operate with you in your flight on the night of the 20th-21st June, 1791?"

[1] Jobert's denials availed him nothing. He was guillotined not long afterwards.

A. "Yes."

Q. "Let me point out to you that upon these facts you find yourself in contradiction to the statement of your own son."

A. "It is perfectly easy to make a child of eight years old say anything you like."[1]

Q. "But it does not depend on a single statement. He repeated it several times; and each time he has said the same thing." [No mention was made of the tutorial strap of Patriot Simon, which was, no doubt, a cogent aid to the lad's memory.]

A. "Really! Well, I deny the fact."

Q. "During your detention in the Temple was not your portrait painted?"

A. "Yes—I gave sittings."

Q. "Were you not shut up with the artist; and did you not avail yourself of this pretext to obtain news of what was happening in the Legislative Assembly and the Convention?"

A. "No."

Q. "What is the name of this painter?"

A. "It was Coëstier, a Polish artist, who has been established in Paris over twenty years."

Q. "Where does he live?"

A. "Rue du Cog-Saint-Honoré."

One MOYLE, formerly a pleader of the procureur of the Commune was called to say that he had been thrice on duty to the Temple, once in connection with Louis Capet, and on the other occasions in connection with the accused. [I call the attention of the reader to the next piece of evidence, so typically French.] "I remarked nothing, except that she looked at me fixedly as women usually do look at a man whom they see for the first time." In March last he went there for the last time. The people in the place were playing at different games (of cards). The prisoners sometimes came and looked on at the play; but they did not speak. Finally, he protested that he had never had any intimacy with the accused when he was on duty at the Temple.

THE QUEEN, somewhat haughtily, corroborated the last statement.

The Temple evidence was now broken by that of Madame CHAUMETTE, who had, in former days, been under-chambermaid at the Tuileries. She knew nothing, she said, of the charges—

[1] It is perfectly true. Any one with experience of the courts will bear me out when I say that you have only to put questions in a particular way for a child of eight to give you the answer you desire.

except, perhaps, that she had seen the king review the Swiss Guard on the 10th of August. In fact, this witness was a great contrast to that patriotic citizeness, Reine Millot. The president took her in hand; but with very little success:—

Q. "Were you at the palace at the time of the Varennes journey?"

A. "Yes; but I knew nothing about it."

Q. "In what part of the palace were you sleeping?"

A. "At the end of the pavilion of Flora."

Q. "On the night of the 9th-10th of August did you hear the tocsin sound and the *générale* beat?"

A. "No. I was sleeping in an attic."

Q. "What! Sleeping in an attic, and never heard the tocsin?"

A. "No! I was ill!"

Q. "And by what chance did you find yourself at the royal review?"

A. "I had been up and about since six in the morning."

Q. "Really! You were ill; and you got up at six o'clock?"

A. "Yes, because I had heard the noise."

Q. "At the review—did you hear them cry, '*Vive le roi! vive la reine!*'?"

A. "I heard some shout '*Vive le roi!*' and others, '*Vive la nation!*'"

Q. "The night before, had you seen the extraordinary concourse of Swiss Guards, and of the scoundrels who had assumed the uniform of that corps?"

A. "That day I never came downstairs."

Q. "Surely you came down for your meals?"

A. "I never left my room. A man-servant brought me something to eat."

Q. "But at least this man-servant told you what was going on?"

A. "I held no conversation with him."

The stolid denials of the witness, and her air of "make-me-tell-you-something-if-you-can," were too much for the citizen president. He lost his temper.

Q. "It seems you have passed your life at Court, and have learnt the art of dissimulation! Come, now, what is the name of the woman who had charge of the lace of the accused?"

A. "I do not know. Only I have heard speak of a woman named Couet, who mended the lace, and dressed the children."

The president gave it up as hopeless; but first he made her

tell the address of Couet, and the public prosecutor was allowed a warrant to bring her up at once as a witness.

After this little interlude, the incriminated ex-officials of the Commune were brought forward. First BEUGNOT, an architect, deposed that it had been his duty to look after the prisoners in the Temple. "Had he held any private conversation with the accused?" "Citizen," he replied, "I never so far forgot myself."

THE PRESIDENT. Did you not shut the little Capet up in a tower with his sister, while you and some of your colleagues held conversation with the accused?"

A. "No."

Q. "Did not you procure her the means of learning the news, by means of newsvendors?"

A. "No."

Q. "Did you hear it said that the accused had given Toulan a present of a gold box?"

A. "No."

MARIE ANTOINETTE. "I never had any interview with this witness."

A man named VINCENT, a working mason, and one of the colleagues alluded to, affirmed that he, too, had never had any conferences with the accused. He was not heckled by the president.[1]

FRANCOIS DANGÉ,[2] ex-administrator of police, who was charged as one of the principal municipals at fault, affirmed that of all the times he had been to the Temple he had never had any conferences or private conversations with the prisoners.

THE PRESIDENT. Did you never take young Capet on your knee? Did you not say to him, 'I should like to see you in your father's place'?"

A. "No."

Q. "While the accused was detained at the Conciergerie did you not procure admission to her cell for several of your friends?"

A. "No."

Q. "Have you heard it said that a great many strangers were admitted to the Conciergerie?"

A. "No."

Q. "What is your opinion about the accused?" [This question, put suddenly, was enough to disconcert any witness; but Dangé was ready for it. Without any change of tone he replied:]

[1] But he was guillotined very soon after.

[2] Dangé also went to the guillotine for this affair.

"If she is guilty, she ought to be condemned" [I commend this answer as being one of the best answers to an awkward question I have ever seen. Nobody could quarrel with it; not even the accused; for it is self-evident that a guilty person ought to be condemned. But it did not suit Hermann.]

Q. "Do you believe her to be a patriot?"

A. "No."

Q. "Do you believe she wishes for a republic?"

A. "No."

The last of the inculpated officers of the Commune to be examined, and the most important, was MICHONIS, who must have felt a premonitory pain in his neck as he glanced round the court.[1] He was the keeper of an eating-house, he said, and had been a communal administrator of police. He and his colleagues transferred the accused, on the 5th of August last, from the Temple to the Conciergerie.

THE PRESIDENT. "Did you not procure for some one admission to the room of the accused while she was in this prison?"

A. "Excuse me! I did so for one named Giroux, the keeper of a boarding-house, of the Faubourg St. Denis, and another of my friends, a painter, also for Citizen [name illegible], estate agent, and another of my friends."

Q. "You procured admission for other persons, is not that so?"

A. "I will tell you the facts; for I ought and I wish here to speak the whole truth. On the day of the St. Pierre, I happened to be at the house of one Fontaine, where there was good company, notably two or three deputies of the Convention. Amongst the other guests was the Citizeness Dutilleuil, who invited the citizen Fontaine to keep the feast of the Magdalen at her house at Vaugirard. She added, 'The Citizen Michonis will not be unwelcome'. I asked her how she knew me, and she replied that she had seen me at the *Mairie*, where she used to go on business. The day named having arrived, I went to Vaugirard. I found a numerous company. After the meal the conversation fell upon prisons. Some one mentioned the Conciergerie, and added "The Widow Capet is there; people say she is very much changed, and that her hair is quite white." I replied that in truth her hair had begun to turn grey, but she was in good health. A citizen who happened to be there expressed the desire to see her, and I promised to gratify him,—which I did. The day after, Richard's

[1] If he did, he was justified; for he suffered on the same day as Dangé.

wife said to me, 'Do you know who it was you brought yesterday?' 'No!' said I, 'except that I met him at a friend's house. 'Well,' she said, 'they tell me he is a *ci-devant* Knight of St. Louis.' At the same time she showed me a scrap of paper written on, or, rather, pricked with the point of a pin. I immediately said to her, 'I take my oath that I will never bring any one again'."

Q. "Did you not confide to the accused the fact that your duties at the Commune would soon be at an end?"

A. "Yes, I certainly did say something to that effect."

Q. "What did she reply to that?"

A. "She replied, 'Then we shall not see you any more?' I replied, 'Madame, I remain a municipal (councillor) and shall be able to see you from time to time'."

Q. "How came you, an administrator of police, in breach of the regulations, to introduce an unknown person to the presence of the accused? You must be cognisant of the fact that a great number of plotters leave no stone unturned to seduce the administrators!"

A. "It was not he who asked me to take him to see the Widow Capet; it was I who offered."

Q. "How many times did you dine with him?"

A. "Twice."

Q. "What is the name of this person?"

A. "I do not know it."

Q. "How much did he promise you or give you for the satisfaction of seeing Antoinette?"

A. "I never received any reward."

Q. "While he was in the room of the accused did you see him make any gesture?"

A. "No."

Q. "Have you ever seen him since?"

A. "I have only seen him once (since)."

Q. "Why did you not give him into custody?"

A. "I confess I am doubly to blame in this matter."[1]

A JUROR (*interposing*). "Citizen President, I ought to tell you that the woman Dutilleuil has just been arrested as a suspect and counter-revolutionary."

The reader sees in the evidence of Michonis the story of a plot such as Frenchmen, and particularly Frenchwomen, excel

[1] The free confession and avowal did not save Michonis. He was guillotined for his share in the affair.

in. How to obtain communication with the prisoner of the Tower. Madame Dutilleuil's meeting with Michonis—apparently casual, but really carefully planned—at Fontaine's house. The lady's flattery of Michonis—she recognised him as having seen him in his official capacity—her invitation of him to her house, in itself flattering to the *limonadier*, unaccustomed to cultured society. The company at Vaugirard: the animated conversation: the skilful leading of the conversation round to the subject of prisons: the gradual drawing nearer to the imprisoned queen: some one mentions the Conciergerie, in a casual way—has heard of it as being quite comfortable, for a prison—"Ah!" says somebody else, "la Veuve Capet est là: on dit qu'elle est bien changée; que ses cheveux sont tout blancs". What could be better calculated to make Michonis speak of the queen? He alone of all the company had seen her in the Conciergerie. He was in the habit of seeing and conversing with her daily. He was delighted, as so many men are, to be in possession of better information than others, particularly on a matter of such importance. He fell into the trap: he told them of the prisoner: it was not true that her hair had gone white, but "à la verite ses cheveux commencent à grisonner". Then the casual remark, so natural, of a citizen, "I should like to see this Widow Capet of whom people speak so much". And the administrator of police again falls into the trap, led into it by his politeness and his desire to show his authority and power—that he, Michonis, has the key of the Conciergerie, to bind and to unloose. One feels a little sorry for Michonis; but without withholding admiration from Rougeville and Madame Dutilleuil, and the rest of them, who fooled M. Michonis to the top of his bent so cleverly.

The victim of the clever ones having left the Tribune, with "Guillotine" written all over him, there appeared Bernier, a doctor who had attended the royal children as surgeon in order.

THE PRESIDENT. "In 1789 were you not the doctor to Louis Capet's children; and in that capacity did you not hear mentioned at the Court, what was the cause of the concentration of troops at Versailles and Paris?"

A. "No."

The witness is now confronted with HÉBERT, who says that during the days that followed the 10th of August the Republican Commune was paralysed by the astuteness of Manuel and Petion, who opposed any retrenchment in the table of the prisoners on the ground that the dignity of the people demanded that their

prisoners should want for nothing. Hébert added that the witness (Bernier) was often in the Temple during the first days of the detention of the Capet family, but his frequent visits had rendered him suspect, especially as it was observed that he approached the children of the accused with all the lowliness of the old régime.

BERNIER. "I assure you that it was merely kindliness; not lowliness."

Apparently it was not thought worth while to pursue the subject. Bernier was allowed to go; and there appeared one TAVERNIER, a more willing witness, who harked back to the Varennes flight. He was on duty as a sentry on the Pont Royal, on the night of the 20th-21st of June, 1791, and he saw Lafayette's carriage pass at about two o'clock in the morning. [Good eyes this Tavernier had, apparently, for he went on to state:] "Citizen President, I was in the company of Lafayette, this traitor, when news came that Louis Capet and Antoinette had been arrested at Varennes; and I saw him change colour!"

The next to appear was LEBRASSE, in whose presence the queen must have shuddered; for he was one of the two officers of gendarmerie who had accompanied the unfortunate Louis to the scaffold.[1] Lebrasse was a favourite witness of the Tribunal; but this time he had only to say that one of his men communicated the carnation affair to him; and, in consequence, he caused inquiries to be set on foot. Another quite unimportant witness followed; and while he was giving his evidence Marie Antoinette was observed to take a paper from her pocket and pass it to one of her counsel. This incident, so usual in British courts, called forth a little scene almost incredible to an English lawyer. Fouquier-Tinville promptly called upon the accused to declare what the writing was. The Englishman is accustomed to the rule that all communications between prisoner and counsel are privileged; and it certainly seems extraordinary that any one should be compelled to disclose what has passed between himself and his counsel. Marie Antoinette, however, was obliged to answer: "Hébert said, this morning," was her explanation, "that letters were brought to us in our clothes and shoes. For fear of forgetting it, I wrote down that both clothes and shoes were always searched and examined when they came to us—this precaution was taken by the administrators of police."

[1] Lebrasse himself did not survive long. Less than six months after Marie Antoinette he expiated his many crimes—not the least of them his constant perjury—by the same death to which he had escorted his king.

HÉBERT. "I based my evidence on the fact that so many shoes were sent. They amounted to fourteen or fifteen pairs a month."

Testimony of some importance came from Didier JUNDHEIUL, huissier,[1] who declared that in September, 1792, he searched D'Affry's house, and found a pile of papers. Amongst them was a letter written by Antoinette to D'Affry in which occurred these words: "Can your Swiss be relied on? Will they show a good front when the time comes?" [It is to observed that the letter was not produced; nor any copy.]

MARIE ANTOINETTE. "I never wrote to D'Affry—never at any time, on any subject."

THE PUBLIC PROSECUTOR. "I beg to state that last year I chanced to be director of the grand jury of the Tribunal of the 17th of August; and I had to undertake the conduct of the trial of D'Affry and Cazotte. I very well remember having seen the letter spoken of by the witness. But the faction of Roland being successful in causing the Tribunal to be suppressed, carried off all the papers by means of a decree which they obtained by jugglery, notwithstanding the opposition of all good republicans."

THE PRESIDENT (*to the accused*). "What are the papers that were burnt at the Sèvres factory?"[2]

A. "I believe it was a libel: at any rate, no one consulted me about it. I was told of it afterwards."

Q. "How can you possibly be ignorant of the affair? It was Riston who was charged with the negotiation of the business."

A. "I never heard of Riston."

Q. "And you never knew La Motte?"

A. "And I never knew La Motte. I certainly should have forbidden them to burn any document which was against me."

There was some stir in the Court as Fouquier-Tinville called PIERRE FONTAINE, the man at whose house Madame Dutilleuil met and inveigled poor Michonis. Fontaine was not at all anxious to give evidence; and began by saying he knew nothing whatever of the accused, except by repute, for he had never had any dealings with royalties or Courts. Pierre was a wood-seller.

THE PRESIDENT. "How long have you known Michonis?"

A. "About fourteen years."

Q. "How many times has he dined at your house?"

[1] Sheriff's officer; bailiff; tipstaff; one who executes the orders of a court.

[2] There was a rumour that some of the Diamond Necklace papers had been so destroyed.

A. "Three times."

Q. "What is the name of the individual who dined at your house with Michonis?"

A. "They called him Rougy. He was an individual whose manners and tone were not to my taste. He was brought by a lady, Dutilleuil."

[Note that Michonis never said a word about meeting Rougeville at Fontaine's. He only mentioned him in connection with the gathering at Madame Dutilleuil's.]

Q. "How do you know this woman Dutilleuil?"

A. "I met her one evening with another woman on the boulevard. We had a chat and took a cup of coffee together. After that she came to my house several times."

Q. "Did she take you into her confidence at all?"

A. "Never."

Q. "What are the names of the deputies who were there at the same time as Rougy and Michonis?"

A. "There was only one."

Q. "His name?"

A. "Santereau, deputy from La Nièvre to the Convention; and two other deputationists sent by the primary assemblies of the same department [*i.e.*, division] to bring up their formal acceptance of the Constitution."

Q. "What are their names?"

A. "They are Balandrot, curé of Beaumont; and Paulmier, from the same department."

Q. "Do you know what can have become of Rougy?"

A. "No."

That was the last evidence proffered on the case of the man of the carnation. It was now late. The court had sat for hours; but the president was resolved to finish the trial that day; and, as there was only one more witness, the case proceeded. The last to take his place in the box was MICHEL GOINTRE, a clerk in the War Office. Previous witnesses had offered testimony which could only by a severe stretch of the reason be called relevant to the indictment; but Gointre's evidence frankly dealt with something outside. This was it: "I have read the *acte d'accusation* very carefully; and was exceedingly surprised not to find there any charge of complicity in the false *assignats* of Passy.[1]" [That a witness should be allowed to speak of charges which ought to

[1] *Assignats* were paper money issued by the French government to tide over the financial crisis.

be in the indictment, but are not, was curious enough; but his reasons for believing Marie Antoinette an accomplice in the matter of the forged *assignats* was still more curious.] "Polverel, public prosecutor of the First Arrondissement, had been charged with the investigation into this affair; and he came to the bar of the Constituent Assembly to report on the stage at which he had arrived. He announced that it was impossible for him to proceed further, unless the Assembly should decree that *nobody but the king* was inviolable." [Now for the deduction.] "This conduct made me suspect that he (Polverel) was aiming at the queen; but no one else was in a condition to supply the funds necessary for so considerable an undertaking."

After this, one is surprised at nothing. The witness TISSET asked the president to ask the accused whether she had not bestowed the cross of St. Louis and a captain's commission on one La Reynie, to which the queen replied that she knew nobody of that name.

Q. "Did you not name Collot de Verrière a captain of the *ci-devant* King's Guards?"

A. "Yes."

Q. "Was it not you who procured for one Pariseau a nomination to the *ci-devant* King's Guard?"

A. "No."

Q. "You so influenced the organisation of the Royal Guard that it was solely composed of men against whom public opinion had declared itself. And, in fact, could patriots see without disquiet the head of the nation surrounded by a guard in which figured contumacious priests, knights of the dagger, and such like? Happily your policy was at fault. Their anti-civic conduct, their counter-revolutionary sentiments, forced the Legislative Assembly to disband them; and Louis Capet, after this operation, kept them in his pay until the 10th of August, when he, in his turn, was overthrown." After this absurd outburst, the president suddenly threw at the accused a question:—

"Since your marriage with Louis Capet, have you not known of the project to reunite Lorraine with Austria?"

A. "No."

Q. "You bear the name of that province?"

A. "One does, as a rule, bear the name of one's country."

Q. "Did you not, after the affair of Nanci, write to Bouillé to congratulate him on having slaughtered in that town seven or eight thousand patriots?"

A. "I never wrote to him."

Q. "Did you not busy yourself in sounding the temper of the departments, the districts and the municipalities?"

A. "No."

FOUQUIER-TINVILLE. "I beg to observe to you that in your desk we have found a document which proves this fact in the most precise manner, and in which the names of Vaublanc, Jancourt and others are set down."

[A document to that effect was read; but in whose handwriting it was, nobody was called to prove. Nor was anybody put in the box to show that the paper had been found in the queen's desk.]

THE QUEEN. "I never wrote what you say. I persist in saying so."

TISSET. "I desire, Citizen President, that the accused shall be examined and made to say whether, on the day when the people honoured her husband by bestowing on him the red cap [of liberty], a nocturnal cabal was not held in the palace, where they discussed the destruction of Paris; and whether it was not also decided to have placards on the royalist side composed by one Esmenard, of the Rue Plâtrière?"

A. "I know nobody of that name." [The reader observes the delicious suggestion about the *bonnet rouge.* The word translated by me "bestowed" is the word "décorer," the word used in connection with the bestowal of ribands and crosses of Orders of Knighthood.]

Q. "Did you not, on the 9th of August, 1792, give your hand to kiss to Tassin de l'Etang, a captain of the force armed by the Filles-Saint-Thomas, saying to his battalion, 'You are brave men of good principles. I count on you always'?"

A. "No."

Q. "Why, after you had promised to bring up your children in Republican principles, did you inculcate error—for instance, by treating your son with a ceremony which seemed to show your belief that one day he would succeed the whilom king, his father?"

A. "He was too young to speak to him of that. I put him at the foot of the table, and myself gave him what he had need of."

Q. "Have you written to the princes since their emigration?"

A. "Once or twice." [This was a damaging admission; for the extreme Revolutionists treated as treason the emigration of those princes whom they would have guillotined had they remained in France.]

Q. "Is there anything else you wish to add in your defence?"

A. "Yesterday I did not know who was to give evidence; nor yet what they would witness against me. At any rate, no one has uttered against me one single positive fact. I end with the observation that I was only the wife of Louis XVI., and that it became me to conform to his wishes."

THE PRESIDENT. "The evidence is closed." (*Les débats sont terminés.*)

For two days the case had been dragging its length along; and now it was nearly midnight of the second day. All those long hours had sat the court, the jury, and the packed dense crowd of spectators. Interest had never slackened. When Fouquier-Tinville began his closing speech for the prosecution, he could hardly be seen in the dim light of the candles that had been brought in to illuminate the great hall. Only the accused could be seen distinctly; for many candles had been grouped near her, so that judges and jurymen could see the play of her features. The spectators sat almost in darkness.

Fouquier-Tinville spoke as it was once the fashion, even in England, for prosecuting counsel to speak in State trials. Every topic of prejudice, every kind of distortion of evidence, every malignant construction put on acts the most innocent—all these, served up with the eloquent irrelevance of French advocacy, the prosecutor of the revolutionary tribunal employed against her who was once Queen of France. "Antoinette is the declared enemy of the French nation!" This was his text. He talked long and passionately of the corrupt Court, of its attempts to stifle liberty by civil war, and by intrigues with foreign Powers; he dilated on the number of Frenchmen who had been slain—on the troubles that for four years had wasted France. "There is the principal instigator," he cried, with much more of the same kind of oratorical fustian that I will not trouble to repeat.

Then the queen's counsel both addressed the court. Theirs was no easy task. The inimitable Fouquier had been interrupted by frequent salvoes of applause. No cheers greeted Chauveau-Lagarde and Tronçon-Ducoudray. But it says something for such an audience that the two advocates should be heard for a couple of hours in dead silence. What they said, I have no means of knowing; but all accounts agree that they spoke with great eloquence, and made an affecting appeal to the mercy of the court.

It was past two o'clock when Hermann began to sum up. A

verbatim report of his speech exists; and from it I shall cull passages of interest, summarising the rest.

"Citizen jurors," he began, "the French people, by the mouth of the public prosecutor, has accused before the national jury Marie Antoinette of Austria, widow of Louis Capet, of having been the accomplice, or, rather, the instigator of the greater part of the crimes of which that last tyrant of France was guilty; of having had, herself, compacts with foreign Powers, especially with her brother, the King of Bohemia and Hungary, and also with the *ci-devant* French emigrant princes, and traitor generals; of having furnished to these enemies of the Republic aid in money; and of having conspired with them against the external and internal safety of the State.

"This day a great example is shown to the world; and without doubt it will not be lost on the peoples who dwell therein. Nature and Reason, so long outraged, are at last satisfied. Equality triumphs. A woman, till lately surrounded by every brilliant enchantment which the pride of kings and the baseness of slaves could invent, occupies to-day, at the tribunal of the nation, the place which another woman occupied two days ago; and this equality assures to her impartial justice.

"This affair, citizen jurors, is not one of those where a single fact, a single wrongful act, is submitted to your consciences and your understandings—you have to judge the whole political life of the accused since she came to seat herself by the side of the last king of the French. Above all, you ought to fix your attention on the manœuvres in which she never for an instant ceased to engage in order to destroy our rising liberty; whether at home, by her infamous alliances with infamous ministers, traitor generals, and unfaithful representatives of the people; or abroad, by causing to be negotiated that monstrous coalition of the despots of Europe, which history will ridicule for its powerlessness; or, finally, by her correspondence with the whilom French princes, the *emigrés*, and their worthy agents."

That this is eloquence, though somewhat vituperative eloquence, nobody will deny. That it is, in any sense of the word, judicial, nobody can pretend. It is more like Burke's denunciations of Warren Hastings, or Disraeli's attacks on Peel, than like any other kind of speech.

From the preamble, the rest of this extraordinary summing-up may be gathered. Nothing in the prisoner's favour was so much as mentioned. The wildest conjectures of the most hearsay

witness were assumed for gospel truth. Indeed, the Citizen President, as he had an unprecedented opportunity, availed himself of it to the full. His object was, not to present every fact and argument on either side to the jury, but to make quite sure that an enemy of the nation should be convicted.

"If," he proceeded, "a moral proof of all these facts were wanted, it had sufficed to summon the accused before the whole French people. Material proof is found in the papers seized in the possession of Louis Capet, enumerated in a report made to the National Convention by Gohier, one of its members, in the summary of the documents *justicatives* of the indictment brought against Louis Capet by the Convention; and finally, and chiefly, citizen jurors, in the political events of which you have all been the witnesses and the judges."

This was pretty bad; but worse was to follow. What does the reader think of this:—

"If it were permitted, while fulfilling an unemotional duty, to give ourselves up to those emotions which the passion for humanity commands, we should have evoked before the national jury the *manes* of our brothers butchered at Nanci, in the Champ-de-Mars, on the frontiers in La Vendée, at Marseilles, at Lyons, at Toulon —butchered by the hellish machinations of this modern Medici; we should have brought before you the fathers, the mothers, the wives, the children of those unhappy patriots. What do I say! Unhappy! No! They died for liberty—faithful to their country! All those bereaved families, in the despair of nature, would have accused Antoinette of having taken away from them that which was dearest in the world, and of which the loss renders life unbearable.

"In fine, if the satellites of the Austrian despot have overrun our frontiers, and if there they commit atrocities to which the history of barbarous peoples furnishes no parallel; if our ports, our camps, our cities are sold and yielded to the enemy, is it not evidently the last result of the manœuvres planned at the Palace of the Tuileries, of which Antoinette of Austria was the instigator and the centre? Citizen jurors, it is all these political events which constitute the body of proof which overwhelms Antoinette."

The citizen jurors having been thus worked into a thoroughly cool and impartial frame of mind, Hermann proceeded to take some notice of the evidence in the case. He prefaced his observations thereanent with the general remark "that the accused agrees that she had the confidence of Louis Capet".

Valazé's evidence proved that Antoinette was consulted on political affairs, because "the king wished her to be consulted on a certain plan of which the witness could not or would not tell the object".

The summing up of the evidence of the patriot servant girl was quite delightful. "One of the witnesses," he observed, "whose preciseness and ingenuousness were remarkable, has told you that the Duc de Coigni told her, in 1788, that Antoinette had caused to be remitted to the emperor, her brother, 200,000,000 to aid him in carrying on the war he was then waging."

Since the Revolution, an order for 60,000 or 80,000 livres, signed Antoinette, and drawn upon Septeuil had been given to the woman Polignac, then an *emigrée;* and a letter from Laporte recommended Septeuil not to leave any trace of this gift. Lecointre of Versailles, had deposed, as an eye-witness, to the enormous sums spent at the Court for *fêtes* of which Marie Antoinette was always the goddess.

[So much upon the head of ruining the State by her extravagance. Now for the charge of having let loose the soldiery upon the people.]

Hermann recited the incidents of the banquet to the Regiment of Flanders, the appearance thereat of the king, the queen and the dauphin, the royalist cries, the assumption of the white cockade, the trampling under foot of the *tricoleur.* Under the same heading came the evidence of the witness who had seen women distributing white cockades to the people in the palace; and "those slaves, bending knee to the ground, kiss this hateful sign which they desire to dye in the blood of the people".

As to the flight to Varennes, the accused admitted that she opened the door of exit from the palace, and let the family out. Nor did this impartial judge fail to impress upon the jury the dire evidence that "when she returned from the journey, the visage of Antoinette and her movements expressed the most evident desire of vengeance".

This brought him to the "massacres". It was proved, he said, that on the 10th of August, the day when the Swiss dared to fire on the people [he said nothing about the twelve pieces of cannon that the people first used on the Swiss], empty and full bottles were seen under Antoinette's bed. Another witness had seen the Swiss "regaled" on that day. Besides, some of the Swiss who died that day declared that they had received money from a woman; and several witnesses proved that at D'Affry's trial it was

established that Antoinette had asked him, at the time of the 10th of August, if he could answer for his Swiss.

This was the whole summing up, except for a few remarkable utterances on the accused's conduct in prison, which I reproduce. "The persons who had the duty of watching her in the Temple have always remarked in Antoinette a tone of revolt against the sovereignty of the people. They have seized an image representing a heart, and this image is a rallying-sign carried by nearly all the counter-revolutionaries whom the national vengeance has been able to reach."

Dealing with the incident of the carnation, Hermann very fairly and properly declared it to be a mere "prison intrigue," which ought to have no weight in a cause of such great interest as this.

"I end with a general reflection, that I have already had occasion to make to you: It is the French people who accuse Antoinette; and all the events of the last five years bear witness against her."

While Hermann was speaking, the candles, miserable tallow dips, had been one by one spluttering and dying out; and he ended his speech almost in the dark. His voice sounded sepulchral. The air of tragedy deepened as the gloom increased.

Four questions he left to the jury, namely:—

(1) Is it proved that there have existed manœuvres and intelligence with foreign Powers and other external enemies of the Republic; the said manœuvres and intelligence tending to furnish them with aid in money, to open for them the way into French territory, and to facilitate the progress of their arms?

(2) Is Marie Antoinette of Austria, widow of Louis Capet, guilty of having co-operated in such manœuvres and of having entered into such intelligence?

(3) Is it proved that a plot and conspiracy existed tending to kindle civil war in the interior of the Republic?

(4) Is Marie Antoinette of Austria, widow of Louis Capet, guilty of having been a party to this plot and conspiracy?

The jury retired. It was three o'clock in the morning. A few more candles were brought in; and in the enlightened gloom spectators talked feverishly and earnestly. Counsel chatted. Only the prisoner, the woman on whose lightest word thousands once were wont to hang, sat silent. After a while she was removed to a cell. For a whole hour the jury deliberated—God knows what about; for their demeanour had long since made plain the

decision to which they would come. At last they returned. The *greffier* puts to them the questions of the Tribunal, and to each the foreman answers, "Yes." Guilty on both counts. The crowd yells approval. The knitting-party asserts itself; and flings insults at the doomed woman. As last Hermann obtains a hearing, and thus addresses them, not without dignity :—

"If they were not free men, who, therefore, feel all the dignity of their being, who form my audience, I would remind them, at the moment when National Justice is to pronounce the Law, that reason and morality enjoin them to be absolutely calm; that the Law forbids any sign of approval; and that when a woman, of whatever crime convicted, has once been attainted by the Law she belongs only to unhappiness and to humanity."

The appeal had its effect; and in breathless silence the audience regarded the reappearance of the queen. Pale as marble, and as cold, she walked in between her guards. Hermann's hard voice breaks the stillness :—

"Antoinette! Hear the finding of the jury." The questions and answers are read. "Listen! You are about to hear the application of the Public Prosecutor!"

FOUQUIER-TINVILLE advances to the bar, to fulfil the function required by French law—fortunately for English advocates it has never been required of an English barrister—he demands that the court shall pronounce sentence of death. He bases his demand on two sections of the Penal Code which he reads: (1) "All manœuvres, all intelligence with the enemies of France, either to facilitate their entry into the dependencies of the French empire, or to yield up to them towns, fortresses, ports, ships, magazines or arsenals belonging to France, or to supply them with aid in soldiers, money, victuals or munitions, or to favour in any manner whatsoever the progress of their arms on French territory, or against our forces by land or sea, or to undermine the fidelity of officers, soldiers or other citizens against the French nation, shall be punished with death."

(2) "Every conspiracy and plot tending to trouble the State by civil war, in arming citizens against each other, or against the exercise of lawful authority, shall be punished with death."

"Antoinette!" says the terrible president, "have you any reasons to allege against the laws cited against you by the public prosecutor, to show that they do not apply?"

The doomed woman did not speak. Her lip curled a little. She merely shook her head.

The defending counsel, being asked if they had ought to urge [by way of legal argument] Tronçon arose and announced, "The finding of the jury being unequivocal, and the law in order, I declare my service in respect of the Widow Capet is ended." A pusillanimous caitiff, this Tronçon. He ought to have fought to the last gasp for his client. Instead, he was thinking of himself—the one thing no advocate should ever do.

The president and his coadjutors put their heads together for a moment, and then Hermann pronounces judgment.

"The Tribunal, according to the unanimous finding of the jury, carrying out the law upon the application of the public prosecutor, according to the laws cited by him, condemns the said Marie Antoinette, called Lorraine of Austria, widow of Louis Capet, to the penalty of Death! Conformably to the law of the 10th of March last, her goods, if any she has in French territory, are declared forfeited to the use of the Republic. It is ordered, at the request of the public prosecutor, that the present judgment of the court shall be carried out on the Place de la Revolution; and shall be printed and posted throughout the whole extent of the Republic."

The queen heard the sentence without change of countenance. She said no word; but bowed her head and followed her jailers to the Conciergerie. In a few minutes the Hall of Justice was empty, and vast crowds discussed in the boulevards and the faubourgs the sensation of the hour.

THE TRIAL OF QUEEN CAROLINE

CHAPTER I

INTRODUCTORY

THE conjugal relations of kings and queens have not been uniformly felicitious. Nor is this to be wondered at when it is remembered that royal marriages commonly are arranged for reasons of state without reference to the wishes or affections of the persons most intimately concerned. Thus it comes about that the Louis of France have their Pompadours, their Dubarrys, their Maintenons, their Montespans; and the Georges of England their Suffolks, their Jerseys and their Perditas.

But of all the amazing marriages ever heard of, the marriage of George, Prince of Wales, and Caroline of Brunswick was surely the most remarkable.

George was a *roué* and a libertine from his youth up. He had engaged, at the early age of twenty, in licentious intercourse with Mary Robinson, an actress; commonly known as "Perdita," from a stage character played by her. There were other *amourettes* running concurrently with this. Then in 1781 or 1782 he met, at Richmond, the beautiful and charming Mrs. Fitzherbert.

Maria Anne Fitzherbert was the well-born daughter of a Hampshire gentleman, who married in 1775, Mr. Weld, of Fulworth Castle, Dorsetshire. Mr. Weld died the same year; and after about two years and a half of widowhood, the lady united herself to Thomas Fitzherbert, of Swynnerton, Staffordshire. About three years afterwards she was again a widow (1781); being then about twenty-seven years of age; and in the prime of her beauty.

On her comfortable jointure of £2,000 a year she set up house at Richmond; and speedily became known not only for her rare beauty, but also for her wit and charm of manner. Amongst other exalted persons, she made the acquaintance of the young Prince of Wales, then newly separated from Perdita. He fell violently in love; and, when she rejected his suit, used to weary

his friends by antics as of a man distraught. On one occasion he even threatened to commit suicide; and went so far as to let a little blood.

The widow fled to the continent; but George swore he could not live without her. And as she would be his on no other terms, he finally agreed to marry her. This he did; the ceremony being carried out in the lady's own drawing-room by a Church of England clergyman in the presence of Mrs. Fitzherbert's brother. That the ceremony was carried out there is no doubt whatever; but that Mrs. Fitzherbert was the lawful wife of the prince is more than doubtful. The Royal Marriages Act had expressly made illegal such marriage without the king's consent; and that consent had never been given. If it had been, George would have forfeited his right to the throne, according to the Act of Succession "as if he were naturally dead"; for Mrs. Fitzherbert was a Roman Catholic.

But however that may be, the ceremony was acknowledged to confer upon the lady a status above that of mistress; and she was thenceforth received everywhere; and nowhere more cordially than at the Court of Queen Charlotte.

For some years the young couple were happy together. It would have been too much to expect such a man-about-town as the Prince of Wales to refrain from extraneous affairs of gallantry. That would have been much too *bourgeois*. Nevertheless he treated Mrs Fitzherbert as his wife; and loved her better than any other.

In appearance, the Prince was, in his young-manhood, a very personable man—what an old Scotsman would call "a proper man". At the time of the Fitzherbert marriage he was one of the handsomest men in England; and one of the best dressed. His manner, when he was reasonably sober, was distinguished—he had the grand air to perfection. Although his own brains were none of the keenest, he delighted in the society of wits. Burke, Sheridan and Fox, the most brilliant men of the time, were his constant associates. Yet had he no political ambitions. To him, his great position in the world was merely a vantage-ground from which he could procure the means to live the life that was the only life for him—the life, that is, of a votary of pleasure; for he was intensely selfish. In fact, he had discovered "exaggerated ego" long before the phrase came into existence.

If he had an aspiration of any kind, it was to lead the fashion in dress, in gallantry, in taste; or what used to be called "*ton*".

The cut of a new kind of waistcoat was more to him than the drafting of a treaty with France; and the capture of a new mistress of greater importance than the taking of Badajoz. In short, George, Prince of Wales, cared for nothing but the gratification of his lusts and appetites; and sought no higher glory than to be arbiter of those elegancies that make up the existence of the complete man-about-town.

In brief, the prince was a sot, a gambler, a debauchee; and the most perfect specimen of selfishness on the habitable globe.

So much for the bridegroom. Now let us consider the bride.

Caroline Amelia Elizabeth was the second daughter of Charles William Ferdinand, Duke of Brunswick-Wolfenbüttel, and of the Princess Augusta, the sister of George III. of England.

Of her childhood and girlhood we know little. But some details have been preserved about her young womanhood.

She seems to have been a young woman of a kind heart and entire absence of dignity. She would play with children of any rank without tiring; and the maternal instinct was strong within her. She reached the age of twenty-five before any proposal was made for her hand. Chroniclers of Court scandal, however, have not scrupled to aver that she found consolation in the attentions of less exalted lovers than such as should aspire to the honour of marriage with her.

Her father told the English ambassador that his daughter had been strictly brought up. What the duke meant by that is not easy to determine; since we know that his serene highness lived openly at Court with Mlle. de Hertzfeldt; while the duchess alleviated the sufferings of an outraged wife in the society of a gentleman of the Court. These amours were hardly attempted to be disguised; and formed an example which was not too solid a foundation upon which to build a strict up-bringing for a young and impressionable woman.

For the Princess Caroline had no great strength of character. She was good-natured; she was generous. But she was intensely frivolous and entirely without distinction of either thought, speech, or manner.

She is described by a contemporary, the Earl of Malmesbury, so vividly that one can picture the fair-haired, plump, fussy little woman as easily as if one had seen her. She had a pretty face (says Malmesbury), not expressive of softness. Her figure was not graceful, for although she had a good bust she was so short as to give the appearance of dumpiness. Her eyes were expres-

sive. Her teeth "tolerable but going". (Malmesbury recommended her to invest money in a tooth-brush.) Her hair was fair, of the fussy order, and her eyebrows light and not very well marked. She had—to complete the catalogue—a good hand, and an arm finely shaped.

As to her mental equipment and temperament, she was a rattle—fond of company,—talkative to excess, and apt to be indiscreet. She spoke first and thought afterwards. But withal she was cheerful, gay and good-tempered.

Such was Caroline of Brunswick when, in the year 1794, James Harris, Earl of Malmesbury, appeared at the ducal Court to demand her hand in marriage on behalf of George, Prince of Wales.

The wooing was a strange one. To begin with, the bridegroom was unwilling. He had only consented to the marriage in order to raise money for the payment of his debts. Then there was the awkward fact of Mrs. Fitzherbert. Lady Jersey, being a mistress, did not count so much.

But his royal highness was in the most terrible pecuniary distress that any prince has ever found himself in. He had piled up debts amounting to £600,000 and more by every device known to the spendthrift. Wine, women, cards, dice, the turf, the money lender—all these had claimed their quota.

The heir to the throne of England even raised money on bills backed by his own cook. He was, moreover, suspected of having ordered his jockey to "pull" a horse, in order to turn an honest penny on the turf; and the Jockey Club had gone so far as to warn the royal sportsman that if he employed this jockey any more, he (the prince) would be warned off Newmarket Heath.

Not only had this outrageous prodigal spent his own money and that of all his friends and favourites of whom he could borrow; but he had even dissipated to the last sixpence the small fortune of the faithful Fitzherbert—the last and most despicable depth of meanness.

When George III. suggested to his eldest son that it was time he married and gave an heir to England, the prince was obdurate for a time. But when it was suggested to him that the only way out of his embarrassment was by making a marriage that could be recognised by law, the *roué* sullenly accepted the situation.

It was not without some contest in the royal family that a bride was fixed up for this eligible husband. The Queen

Charlotte wished to secure the hand of that virtuous lady who became illustrious under the name of Queen Louise of Prussia. But the Duke of York, the military genius of the family, had seen the Princess Caroline; and, being a scatter-brained sort of person himself, had come to the conclusion that she was the right bride for his brother George. The king decided in favour of Caroline.

The bargain made with the Prince of Wales was remarkable. His allowance was to be increased from £60,000 to £125,000 a year. Of this £25,000 a year was to be set apart to pay his debts, which would thus be liquidated at the end of about thirty years. Caroline was to have a jointure of £50,000 a year; and in order that the young couple might start housekeeping on a suitable scale, the sum of £81,000 was to be handed to his royal highness in order that he might make suitable preparations for the marriage, and might purchase the necessary furniture and jewels and plate to set up housekeeping.

Notwithstanding these advantageous terms, the Prince of Wales was not happy at the idea of contracting a second marriage. Possibly he thought that if he found himself with a wife of imperious disposition, his relations with Mrs. Fitzherbert, Lady Jersey and others might be curtailed. At any rate, he despatched to Caroline a letter in which he begged her for pity's sake to refuse him. He informed her that his heart could never be hers; and that if she married him he would leave her immediately.

The ordinary man, and especially the ordinary woman would be inclined to say that if a woman marries a man after such an intimation she deserves all the unhappiness that may fall to her lot.

Caroline did not refuse. She does not appear to have been coerced by her father and mother; but she seems to have had an idea that at any rate she would have an establishment of her own in England, and would enjoy position and power. Possibly, also, she may have entertained the notion that she and her husband could agree to exist upon the same terms as her father and mother—the terms of live and let live.

The wooing was not of long duration. The Duke and Duchess of Brunswick joyfully confirmed their daughter's acceptance of the proffered match; and preparation were at once made for sending her to England. The Earl of Malmesbury, in his capacity of Cupid's ambassador, spent a good deal of time with the princess; and endeavoured to instil into her mind some

of the principles upon which she ought to act in the position that was to be hers. As far as one can gather from the diary of that observant nobleman, the princess never anticipated conjugal bliss. What she did expect however was that she would be able to make a position for herself. Malmesbury told her quite plainly that unless she altered her manners she would never attain popularity in England. Over familiarity, he said, and lack of dignity were not by any means the same thing as graciousness of manner. He told her that if she blurted out her thoughts on persons and things in general in her native style, she would speedily earn the contempt of the prince and of all persons of consequence in her new country. And he hinted broadly that she was not sufficiently fastidious in the matter of personal cleanliness. In fact, he told her that although she could not expect to be loved by her husband, her one chance was to make herself respected both by him and by the nobility and people of consideration. This she could only do by keeping a strict watch on her words and actions. And he hinted in the bluntest manner that she must reform very greatly if she did not wish to become the laughing-stock of the prince and his friends.

If the admonitions of the ambassador caused any perturbation of mind in the princess, she managed to disguise the fact; and was as cheerful as possible, when in April, 1795, she landed at Greenwich. The prince did not hasten to meet her. But on the day after her arrival he came.

In the whole history there has never been, I think, any reception of a bride by a bridegroom to equal the greeting of Caroline by George. Even Henry VIII. when he met Anne of Cleves for the first time, and discovered that she was "a great Flemish mare," instead of the beautiful creature he had imagined, was not so brutal in his behaviour as was the first gentleman in Europe towards the light-hearted creature who sank on her knees before him.

There was only one person present at this interview—the Earl of Malmesbury; and he has left an account of it. The prince raised his future bride and kissed her. But apparently he found the case nauseous, for without saying one word to the poor woman, he turned immediately to the earl and said, "Harris, I am ill. I want a glass of brandy." Even the administration of this potion failed to give him courage to continue the conversation; for he said hardly half a dozen words, and of these not one was a word of welcome, before, turning on his heel, he hurried from the room.

How far this connoisseur in female charms was disappointed by the appearance of Caroline, I do not know; but it is certain that three months afterwards he complained bitterly to Malmesbury because he had brought such a creature to be his wife. I am inclined to think, however, that this complaint had reference not especially to the personal appearance of the princess, but rather to her utter lack of tact and dignity. For, after all, at that time there was nothing repulsive about Caroline's appearance.

It is quite certain however that Caroline herself was grievously disappointed. She had heard her cousin described as an Adonis, as the most elegant man in his dominions. But twenty years of debauchery had left their mark on the prince. And Caroline turned to Lord Malmesbury with the distressful cry, "Oh! I did not think he was like that. He is much too fat." Well would it have been for the unlucky lady if her husband's excessive rotundity of figure had been the the only thing she had to complain of.

With a disregard for the common decencies of life that characterised the Prince of Wales above all men, he had caused to be appointed as one of the ladies in waiting to his bride the notorious Lady Jersey, whom all Europe knew to be his reigning mistress. Caroline herself was well aware of the relations between the two; but she appears not to have made any protest against the appointment. In other respects the princess's reception was forbidding. Her kindly uncle the king, who in the letter proposing for her hand had promised to be her friend through life, received her affectionately, and treated her well; but the ruling spirit of the Court was not the king, but the queen. And Charlotte had made up her mind in advance to hate her son's wife. Caroline did not manage to create a good impression upon the stern old queen; and from the first moment that vindictive woman added as many insults to as many injuries as she could heap upon the Princess of Wales. She could have stopped the appointment of Lady Jersey as lady in waiting; and it is one of the most extraordinary things in this curious history that Charlotte so far forgot what was due to womanhood and wifehood as to encourage her son in his amours. On the one hand she received Lady Jersey and made much of Mrs. Fitzherbert; while on the other hand she snubbed and insulted Caroline on every available opportunity.

On the 8th of April the ill-omened marriage took place in the evening. The bridegroom had tried to brace himself up for the occasion by copious draughts of brandy, with the result that he had

to be propped up during the ceremony, and prompted by his father in the responses.

According to one story, the night of the marriage was passed by the bridegroom on the floor of the nuptial chamber, from which he was unable to rise for the very sufficient reason that he was dead drunk. I do not know how far this story is true; but Caroline herself never said so; nor did her husband. And at any rate the Princess Charlotte, the only issue of the marriage, was born on the 7th of January, 1796. For a short time after the marriage the husband and wife lived at Carlton House, with Lady Jersey in attendance. It was a curious household. Caroline might have been excused if she had marked her sense of the preference shown by her husband for Lady Jersey's conversation and society by adopting an attitude of freezing dignity. The foolish little woman had no notion of tactics. Instead of standing on her dignity, she tried to outshine her rival in wit. On one occasion, at any rate, during dinner, at which the Earl of Malmesbury was present, the Princess of Wales bantered Lady Jersey with cheap sneers and unmistakable innuendo. No doubt everything she said was true; but her clumsy wit merely had the effect of exasperating the person at whom it was aimed and annoying the prince beyond all bounds.

As soon as it became fairly certain that an heir was to be born, the Prince of Wales left his wife severely alone, and absolutely ignored her existence. And no sooner was Princess Charlotte born than he employed Lady Cholmondeley to negotiate a formal separation. By this time Caroline was quite as disgusted with her husband as he was with her; and she readily consented to part from him for ever. On the 30th of April, 1796, less than four months after the birth of the child, the prince wrote a letter setting out the terms that had been agreed. The only reason given for the separation was "our inclinations are not in our power". The princess replied six days later agreeing to the proposal, but was careful to state in black and white that the blame was his and not hers. This is one of the few actions in which Caroline acted with common prudence.

For some years this widowed wife resided at Blackheath with her little Court, happy in her child and in the exercises of almost daily benevolence. Many an anxious mother, and many a boy and girl at Greenwich and Deptford had cause to bless the Princess of Wales. The form her good deeds took was usually something for the benefit of a child. She educated many at her

own expense. For others she obtained situations; and a few promising lads were placed in the navy through her influence. Little Charlotte was growing up a healthy bonny girl, the idol of her mother's eyes; but Caroline knew that very soon her baby would be taken from her to be educated. Whether because she did not wish to be left without a child in the house, or for what other reason, I do not know, Caroline adopted a baby boy named William Austin, whom henceforth she treated as if he had been her own. It was in connection with William Austin that the first great scandal connected with the name of the princess arose. Probably everybody has heard of the "Delicate Investigation"; but probably few people know exactly to what those words were applied. The story is simple:—

In or about the year 1800 Caroline made the acquaintance of Sir John Douglass and his wife, who had come to reside at Blackheath. In the year 1806 the Douglasses formally charged Caroline with marital infidelity. The names of the men mentioned were Sir Sydney Smith, Thomas Lawrence, and a Captain Manby. Lady Douglas also averred that William Austin was Caroline's own child. The accusation of the Douglasses was made in writing addressed to the Prince of Wales; and the injured husband promptly forwarded it to the king.

George III. acted with promptitude and wisdom. He made no public scandal, nor did he alter his behaviour to his daughter-in-law, but he confided the whole matter to four noblemen of unimpeachable character and position, Lord Grenville, Lord Spencer, and two law lords, Ellenborough and Erskine. These four conducted a searching investigation into the truth of the accusation; and in the end made a report completely exonerating Caroline. At the same time they found that she had been somewhat indiscreet in her conversation with Lady Douglass. The evidence against the princess was that of the usual divorce kind, servants who deposed to prolonged visits at unusual hours by Smith and Manby; and the testimony of Lady Douglass. This lady affirmed that the princess visited her house expressly to meet the three gentlemen whose names she had mentioned, and that open flirtation was carried on. But the most damaging part of her testimony was the repetition of certain conversations she had had with Caroline who, she said, had told her unmistakably that she was about to become a mother; and, after the appearance of little William Austin, had confessed that this was the child she had expected.

It became clear in the investigation that the Douglasses were spies, or even worse, who had gone down to Blackheath on the suggestion of the Prince of Wales in order to collect or even to manufacture evidence against Caroline. The princess had discovered in some way the *rôle* of her new neighbours and had fooled them to the top of their bent. It is more than likely that she had cast significant glances at Sir Sydney Smith and others in the presence of Lady Douglass; and it is more than likely, also, that she had told Lady Douglass the things about herself which Lady Douglass deposed to. But it is also pretty certain that she had done these things simply as a hoax, a course of proceeding not uncommon when one has to do with spies.

At any rate it was conclusively proved in the "Delicate Investigation" that William Austin was the child of a poor woman of Deptford, and that he had been adopted by the princess purely out of charity.

So completely was Caroline vindicated from the charges levelled against her that King George caused one of the royal dukes to pay her a visit of ceremony at Blackheath; and to take her to the royal box at the opera. Moreover, his majesty caused her to remove from Blackheath to apartments in Kensington Palace.

In 1811 Princess Charlotte was removed from her mother's custody to that of her father. Caroline opposed the removal, but her husband was at this time Prince Regent and she could not resist his will. It remains to be said on this part of the story that George inflicted every kind of petty annoyance possible on the wife whom he had wronged; his aversion for her seemed to amount to malignant hate. In order to wound her in her tenderest feelings—for she was a good, though foolish mother—he ordered the coachman who took out Princess Charlotte's carriage never on any account to stop if he should meet the carriage of the Princess of Wales. The daughter was peremptorily forbidden to see or speak to her mother. In addition to this, the prince used his almost regal position to detach from his wife's Court all persons of rank and consideration. It was given out that no person would be received at Court who had any acquaintance with the Princess of Wales; and the result was, as might have been expected, that practically all the nobility ceased to visit Caroline.

The unfortunate lady's life grew so unbearable that in 1813 she wrote a humble letter entreating her husband to allow her to speak to her daughter. The regent returned the letter unopened, after his usual courteous manner. But at that time a new factor

had entered into the situation. Henry Brougham, the most rising man at the Common Law Bar, had become Caroline's adviser. I shrewdly suspect that he dictated the humble letter. At any rate, when the prince returned it unopened, Brougham caused it to be published in the press, speedily followed by the two letters of 1796. From that moment a strong current of public opinion set in in favour of Caroline.

The following year, 1814, the situation was somewhat complicated by an escapade of Princess Charlotte's. Every one concurs in the opinion that this young lady had escaped the moral contamination both of Kensington Palace and of Carlton House. She was neither vicious like her father, nor foolish like her mother. The prince regent had been trying to coerce her into a marriage which she was unwilling to entertain. She promptly showed him that she was not to be bullied with impunity, by running away to her mother at Kensington Palace. Caroline did not know what to do; and accordingly summoned Brougham to advise her. The great advocate has left an account of the scene in an article written by him for the *Edinburgh Review*.[1] If Brougham is to be believed[2] it was only his persuasiveness that prevented a serious public disturbance. The news of Charlotte's escape from Carlton House had poured through London like wildfire. The public immediately enlisted itself on her side; for the Prince of Wales was so well known, that no one had any doubt but that the blame, whatever it was, was his. I do not hesitate to say that Charlotte could not have been taken from Kensington Palace forcibly without bloodshed. For the common people had resolved to protect mother and daughter at all hazards. Brougham represented to the princess that she would be assuming a serious responsibility if she did not return to Carlton House. He pointed out the risk of a riot; and in the end persuaded her to go back.

This incident made Caroline's life in England absolutely intolerable; and we find her in July of the same year writing to Lord Liverpool, as representing the Government, announcing her intention of going abroad. I think she had been approached on the matter before she wrote this letter; otherwise I do not quite understand why she should volunteer an offer to accept only £35,000 out of the £50,000 voted to her by Parliament; nor do I understand the alacrity of Lord Liverpool's reply.

That reply was in these terms: "Lord Liverpool was in-

[1] 1838.

[2] I say this with reserve, because accuracy was not Brougham's strong point.

structed to let the princess know that no restriction will be placed upon her movements, neither as to the time of her departure, nor as to the places in which she may choose to take up her residence". To my mind this letter really means that if Caroline is willing to clear out of the country the minister and the king will be only too glad for her to go; and will be so thankful for the relief that they give her full leave and licence to do exactly as she pleases.

In August, 1814, Caroline's wanderings began. She took out with her a suite sufficiently respectable. Lady Charlotte Lindsay and Lady Elizabeth Forbes were her ladies in waiting. And her chamberlains were Sir William Gell and the Honourable Keppell Craven, and Captain Hesse was equery; Herr Sukherd, Maitre d' Hôtel, and there were other inferior servants, the chief of whom was Hieronimus, a courier. William Austin, then about thirteen years old, was also in the suite, as an adopted son; not as a servant.

The exiled princess first visited her native Brunswick, where nothing of importance happened except that Lady Charlotte Lindsay left her to return home. After a few weeks' stay, the party moved on to Switzerland, where the sober peasants were a little shocked at the behaviour of the great lady who had come to see their lovely lakes and mountains. She danced with all sorts and conditions of people and exposed her ample bust to an extent not usual in retired places. But Caroline did not remain long in Switzerland. She was eager to see Italy, a country which evidently had some attraction for her. It may be remarked that before she left London she had been very intimate with a family of Italians of no particular status. It was October, 1814, when the cavalcade debouched on the plains of Lombardy. Arriving at Milan, Caroline was received by high and low as Princess of Wales, and she might well be delighted; it had been a long time since she had been treated with so much deference and consideration.

It was at Milan that she first saw the man whose name was to be linked with hers, the man on whose account she was to undergo indignities such as rarely fall to the lot of a queen.

It appears that her royal highness was in need of a courier who knew Italy thoroughly and could superintend the journeys she intended to make. Naturally enough she asked General Pino of the Austrian service, one of the chief men in Milan, to look out for a suitable man for her. The general speedily found the man required, and gave him a letter of introduction to the princess.

Thus it was that there came into Caroline's life Bartolomeo Pergami.[1]

The new courier was a man with many personal advantages. He was tall and well made, handsome in a bold kind of way, and had some conversation, although he filled the menial situation of a courier. He was not of the lowest origin, as couriers usually were. He had served in the ranks of the Austrian army under Pino; and had been raised to a non-commissioned rank; and latterly the general had taken him as a sort of personal attendant. General Pino stated afterwards that Pergami left the army because of a duel which he fought with a person of higher rank who had insulted him. Bartolomeo certainly seems to have been desirous of filling a higher situation than a menial one. He was not the only ambitious member of his family. One of his sisters had married a count. To complete the tale, the bold Pergami was still a young man; his age being only thirty, but although so young he had separated from his wife.

Under the guidance of the new courier, Caroline travelled down the Italian Peninsula to Naples, where Joachim Murat and a princess of the House of Bonaparte reigned on the throne of the old Bourbon princes. Florence and Rome were taken *en route;* and it was at Rome that the princess first seems to have come under the surveillance of Baron Ompteda. There was a good deal of society at Rome in those days; and Caroline indulged her fondness for company to the full. She was a perfect child in her delight in routs and balls and parties; and was particularly fond of dancing. She appeared at one Roman ball in such a costume as to shock even the latitudinarian Romans of the nineteenth century. The Roman matrons of the pontifical capital, who had been accustomed to regard the English as a little prudish, were aghast at the very full display of her charms exhibited by the Princess of Wales.

At Naples Caroline was feted and made much of by king and Court; and state performances at the opera, water parties, and state balls succeeded each other in an apparently endless round of pleasure. The princess indulged in a further immoderate costume at a fancy dress ball at Naples; and whether it was this, or whether it was the influence of the prince regent, certain it is

[1] In the official records of the trial, this man appears as Bergami; I am advised and believe that the other is the real name. Probably Caroline herself would call him Bergami, owing to her German inability to pronounce the harder consonant; and that is how, probably, the wrong name became stereotyped.

BARTOLOMEO PERGAMI
AFTER THE PORTRAIT BY CARLONI

that for some reason the attentions of the Neapolitan Court began to slacken after a time.

Three things happened in the early part of 1815 that had a considerable effect on future events. One was the establishment of the Milan Commission. The second was a considerable change in the *personnel* of the princess' suite. The third was the rise of Pergami in the favour of the princess. I do not propose to deal with these at any length now by way of comment; because they were all dealt with at the trial. I merely wish to record that as to the second of the events mentioned, Sir William Gell, Mr. Keppel Craven and Captain Hesse left the princess' service in March of that year, having been preceded in retirement by Lady Charlotte Lindsay. Lieutenant Robert Hownam, one of the poor boys whom the princess had advanced in the navy, came to be chamberlain or equerry, I am not sure which, and Lady Charlotte Campbell took the place of the chief lady in waiting. Lady Charlotte Campbell did not remain long. It is a significant fact that she retired in May, 1815.

As to Pergami, he became a person of more and more importance in the household of the princess. He installed friends and relatives of his own in the service. His brother Luigi and his native daughter Vittarina, his friend Teodoro Majocchi, and finally his sister the Countess of Oldi. The countess became lady in waiting in succession to Lady Charlotte Campbell.

In July, 1815, the princess bought the Villa d'Este in Milan; and there installed her household; and at once promoted Pergami to be her chamberlain, and admitted him to her table.

As to the Milan Commission, some little explanation of it must be given. The prince regent, who hated his wife not one whit the less because she had removed herself from his presence, made up his mind to have her conduct carefully watched. A man of his type could not believe that a woman would or even could live a chaste life. At any rate he determined to accumulate evidence against his wife for future use. He did not dare to do anything during the life of George III. to get rid of the princess, but there cannot be the slightest doubt that he intended, immediately he ascended the throne, to rid himself of her once and for all.

He took into his confidence and employed as his instrument not his English ministers but the Prime Minister of Hanover. The reader will remember that the prince regent was also heir apparent to the dignity of Elector of Hanover. Count Munster, the

Hanoverian prime minister, was only too pliant an instrument; and he committed the work of spying on the princess to Baron Ompteda, then Hanoverian minister at the Court of his holiness. Ompteda did his work with German thoroughness. He established a sort of department or bureau at Milan, whence went out spies who followed the princess everywhere, and reported to their pay-master almost every action of every hour of her life. To our shame be it said, an Englishman, one Colonel Browne, was the principal assistant of Ompteda in this ignoble service; and in addition the head spies employed Cooke, an English solicitor, Powell, also an English lawyer, and an advocate of Milan named Vimerati. From the time the Princess of Wales set foot in Rome she was dogged by the agents of this commission. All the time-honoured methods were resorted to. Servants of the unfortunate household were bribed; false keys to fit all her drawers were manufactured; and, especially at the Villa d'Este, her house was beset day and night by spies, male and female. In a country like Italy it is not surprising that when it became known that there were people in Milan who would pay money for statements against the character and behaviour of the Princess of Wales, such statements accumulated to a vast bulk. If one may travel a little in advance of the narrative and so get rid of this part of the story, it may be said that ere long Caroline discovered somewhat the machinations of Ompteda. For a while she amused herself by sending him and his agents on wild-goose chases. But at length she could not resist the temptation of triumphing over him. So one night, when he was dining with her household at the Villa d'Este, she gave him a broad hint that she knew he had a set of false keys. The spying went on as vigorously as ever, save that Ompteda now knew that he was suspected.

There is one bright passage in this sordid recital. Young Hownam was so enraged at the perfidious conduct of Ompteda that he entered the lists against him in prudent chivalrous fashion. The adversaries agreed to meet; but Ompteda was opportunely recalled and forbidden to fight Hownam on the grounds that the Englishman was a person of plebeian birth. One rather likes to think of that lieutenant of the navy who was so prompt in the cause of his benefactress. Indeed it may be said that Hownam was one of the few who served his mistress with self-effacement and single-mindedness.

After a few months at the Villa d'Este the princess made up her mind to travel once more. She wished to see something of

the gorgeous East, so she set sail aboard the *Clorinda*, an English ship, for Sicily (November, 1815) with the intention of sailing afterwards to Greece and the Holy Land. The captain, Pechell, who commanded the *Clorinda* formally refused to sit at table with Pergami. The princess would not abandon her favourite; and in the end separate tables were provided. But Captain Pechell conducted himself so haughtily towards the ex-courier that the voyage to Sicily was extremely uncomfortable, and Caroline saw that it would be impossible to continue such a state of things. For this reason she chartered the *Polacca* rechristened the *Royal Charlotte*, and engaged another naval lieutenant, named Flynn, to command her. It was in this uncomfortable vessel that the Princess of Wales made that voyage which gave her enemies the greatest handling against her. After a sojourn of over four months in Sicily she set out (April, 1816) for Tunis and thence to Malta. It is worth noticing that in Sicily, Pergami had bought a small estate by virtue of which he had become a baron. And at Malta Caroline procured her favourite the rank of a Knight of Malta, the mere bestowal of which proves either that Pergami was of noble blood or that he was represented to be of that quality.

The *Polacca* made its tedious way to Greece and Capria; and Caroline had the delight of visiting the tomb of our Saviour at Jerusalem. Sober people in England could hardly believe their ears when they heard that the Princess of Wales had founded a new order of knighthood, called the Order of Saint Caroline; and that she had appointed as master of the order her former courier and present chamberlain, Bartolomeo Pergami.

The suite who accompanied Caroline on this memorable voyage were Hownam, Pergami, the Countess Oldi, Count Schiavini, Hieronimus, one or two inferior male and female domestics, and the inevitable William Austin.

Some four months after they left Sicily the royal lady and her followers returned once more to the Villa d'Este, where they settled down to a quiet commonplace life, only broken by such diversions as they could organise amongst themselves with the occasional aid of the neighbouring villagers. In 1817 the Princess Charlotte was married to Prince Leopold of Belgium, a prince of high character and great judgment. The Princess of Wales was not consulted in any way; and did not even receive an official notice of the engagement. At the ceremony she was neither present nor represented. And when the hope of England died in childbed, nearly nine months after the marriage, the prince

regent inflicted a still more cruel blow upon his outcast wife by neglecting to tell her of the death of her child. In fact, the only notice of Caroline's existence taken by her husband was the Milan Commission, which continued its espionage unabated. I am inclined to think that from this moment Caroline made up her mind to retaliate on the prince by every means in her power.

Almost exactly a year after the death of the young princess, Queen Charlotte died; and in January, 1820, the imbecile king was gathered to his fathers, having spent the last nine years of his life in insanity and blindness. Of his fifteen children, eleven survived him, but with the exception of the Duke of Cumberland not one of his sons had a child at that time. The political sins of George III. were many and great; but he was a man of considerable kindness of heart. And to him Caroline owed such consideration and freedom from persecution as she had enjoyed since her marriage. Time and time again he had intervened on her behalf; and had it not been for the queen he might have been able to compel the wayward prince to treat his wife with an appearance of decency.

On the death of the old king, war soon began. To begin with, she found herself deprived of her allowance, her then income being limited to the time she was Princess of Wales. In the second place, the proceedings of the Milan Commission had been bruited abroad in England. The king's friends said that the evidence collected by the commissioners was conclusive of Caroline's guilt. The opposition, on the other hand, roused the public to the wildest indignation by denouncing the commissioners as spies, and their work as subornation of perjury. Most people were disgusted to think that a husband so openly profligate should first drive his wife from his house and then seek to attack her honour on the testimony of discharged servants. Numbers of people, accordingly, wrote to the princess at Geneva advising her to come to England and assert her rights. It would be amusing if it were not shocking to contemplate the moral and religious George IV. engaged in striking out the queen's name from the liturgy on the ground that she was unworthy to be prayed for as Queen of England. Nothing in the whole of the proceedings leaves quite such a nauseous taste in the mouth as this. Nor did it pass without indignant comment and protests both loud and deep. In Scotland, where his most religious majesty was not the head of the kirk, the queen was prayed for with a fervour and frequency that might almost have compensated for the absence

of petitions on her behalf south of the border. Addresses and petitions on the subject rained upon the House of Commons from all parts of the United Kingdom. Questions were asked in both Houses. Speeches were made at meetings up and down the country, in which the character of the king was delineated with considerable force and truth; and details of his life, both past and present, were not spared. The new monarch made his first public appearance in London and was greeted without a single hurrah! Not a man in the street even raised his hat.

George and his advisers were not insensible to the situation in which they found themselves. What they dreaded most was that the queen might land at Dover and create a commotion. The king had made up his mind with the most determined obstinacy that he would never recognise Caroline as his wife, or accord to her the position of queen consort. If she landed, she would inevitably have to stand a trial for misconduct; and as inevitably an attempt would be made to obtain a divorce. The ministers were anxious, as ministers always are, to avoid scandal and disturbance. Therefore Lord Liverpool, the prime minister, opened up negotiations with Brougham and Denman (Caroline's attorney-general and solicitor-general respectively) for an accommodation. The terms offered were that the queen should remain abroad, on a liberal allowance; but that she should not assume the style or rank of queen consort. If she accepted these terms nothing more was to be said about the life that she had lived for the last five years. If she did not accept, it was hinted that worse would befal her.

Brougham, while denying that there were any grounds for suspicion against his client, agreed that a public inquiry into her conduct, a public washing of the very much soiled linen of the royal spouses, would be calamitous to the kingdom. He entered, therefore, into the negotiations. But before any conclusion could be arrived at Caroline had made up her mind. She set out for England.

Arrived at St. Omer she was met by Brougham and Lord Hutchinson, the latter of whom represented the Government. The queen expressed her willingness to listen to any proposals that did not touch her honour; but when Lord Hutchinson named his terms she peremptorily declined them, and set out for Calais without giving him the opportunity of obtaining fresh instructions. Brougham frantically implored her to wait; but the irate woman had thoroughly made up her mind for open war.

In June (1820) Caroline landed at Dover. The guns thundered forth a royal salute; the whole population turned out to welcome her; and her progress to London was marked by such scenes as had not been witnessed since Charles II. returned to his kingdom. The greeting of the populace was not always discreet. One man called for cheers for "Mr. Austin, her majesty's son!" In London, the returned wanderer was welcomed with even greater enthusiasm, as she drove to South Audley Street, to the house of Alderman Wood. Some of her friends, however, were highly annoyed because the queen permitted the worthy alderman to sit by her side in the carriage.

At St. Omer, Lord Hutchinson had written: "I think it right to send to you an extract of a letter from Lord Liverpool to me. His words are: '. . . The decision, I may say, is taken to proceed against her as soon as she sets foot on British shores.'" Caroline had not long to wait. The day after her arrival in England the leaders of the Government in the two Houses brought down a message from the king, asking for the immediate appointment of secret committees to investigate the evidence against the queen. This evidence was contained in two green bags; and was, as the reader will guess, the result of the proceedings of Ompteda and Colonel Browne and their associates. The lords immediately appointed a secret committee of fifteen. The faithful commons, however, allowed the sealed green bag to lie on the table; and declined to be hurried.

A fortnight later (20th June, 1820) "Slavery" Wilberforce moved and carried an address to the queen, expressing regret that the endeavours to frame an arrangement had not been successful, and entreating her majesty to accept certain of the proposals that could be accepted (in their opinion) without sacrificing her honour. But Caroline would none of it.

Meanwhile the ministers had resolved to introduce a Bill of Pains and Penalties to degrade the queen from her rank and to dissolve her marriage with the king. Caroline having rejected the mediation of the Commons, battle was now joined.

A word as to the bill. Bills of Pains and Penalties are now obsolete; and had, even in 1820, fallen into desuetude. Such bills had always been reserved, in former times, for great public offenders, who had injured the State, but had done so in such a way as not to be punishable by the ordinary law. That they were highly objectionable, all men at all times allowed; because such a bill either declares some past act to be criminal which was

not criminal when it was done; or else imposes on a criminal act a punishment in excess of that which could be inflicted by law. Moreover, a Bill of Pains and Penalties is directed against an individual by name; and not against a class of offenders. Thus, a Bill of Pains and Penalties is open to the weightiest objections—it is retrospective, particular, penal legislation. No jurisprudent could defend it on principle; and all that can be said in favour of any such bill is the tyrant's plea, "Necessity of State".

In form such a bill always begins with a preamble to the effect that A B has done this and that acts; and then goes on to enact that, this being proved, A B shall suffer such-and-such consequences. It has always been the practice to try the accused on the preamble—that is, to allow A B to be present, and represented by counsel, and to hear evidence for and against on the question whether the acts alleged in the preamble were done by the accused or not. So that there was a mixture of the judicial and the legislative in respect of such a measure as admirably illustrates the mixed judicial and legislative functions of the High Court of Parliament.

The bill put forward by Lord Liverpool on the report of the secret committee was curious in character. Its preamble asserted that Caroline, while Princess of Wales, had left Great Britain, had travelled abroad, and had there formed an undesirable intimacy with one Bartolomeo Bergami, that with him she had carried on a disgraceful and licentious intercourse; and that by reason of these facts it was necessary to dissolve her marriage with the king. The enacting part of the bill simply dissolved the marriage.

Caroline applied, in the usual way, for liberty to be heard by counsel in opposition to the bill; and the House of Commons took the unusual step of giving leave to Brougham, as well as to the attorney-general and solicitor-general, to appear before the House of Lords. Ordinarily, a member of the Commons' House cannot act as counsel on a parliamentary bill. Both sides now armed for the fray; and the whole nation looked on with intense interest at this unprecedented battle.

CHAPTER II

THE TRIAL

ON the 19th of August, 1820, the great trial began.

It had been preceded on the 17th and 18th by a preliminary discussion in which the queen's counsel objected to the proceeding *ab initio.* Brougham led off with a speech in which he reviewed the whole history of Bills, Pains, and Penalties; and from that history asked the Lords to say that they would not consider the proposed measure on the ground that "it was a private law introduced in a particular case for the punishment of an individual". He reminded the House of the celebrated protest of Lord Chancellor Cowper in Bishop Atterbury's case, which laid down the principle that "nothing but absolute necessity, to avoid pain or a direct failure of justice".

Brougham pointed out that all the acts alleged against Caroline had taken place when she was Princess of Wales; and that there was nothing at that time to prevent her husband from bringing a common bill of divorce. Why was this not done—undoubtedly because a bill of divorce was always regarded as a strictly judicial proceeding; and, moreover, because no divorce could be granted by law on the petition of a husband who had driven his wife from his house, and had himself frequently violated the matrimonial vow. Brougham was careful to state that he desired to avoid recrimination; but that if it became necessary to use this weapon as a last resort, he might be obliged to use it, no matter what the consequences should be. "I willingly postpone to the day of necessity all other questions respecting the conduct or actions of any parties *previous to the marriage.* These I say not one word about; they are dangerous and tremendous questions, the consequence of disclosing which, at the present moment, I will not even trust myself to describe. At present I hold them to be needless to the safety of my client, who when the necessity arrives, an advocate knows but one difficulty; and cost what time he must discharge it. Be the consequences what they may, to any other persons, powers, principalities, dominions, or nations, an advocate

is bound to do his duty; and I shall not fail to exert every means in my power to put a stop to this bill."

We have his own authority for stating that what he hinted at in this passage was not merely the defence of recrimination, the common *tu quoque* of the divorce court, but something far more deadly. He had in his mind to raise the question if not in the Lords, then in the Commons, of the act of succession; and whether George IV. had not forfeited his crown by marrying Mrs. Fitzherbert, a Roman Catholic. That was what he meant by alluding to the conduct of the parties before the marriage.

The second objection Brougham took, to show that a Bill of Pains and Penalties was not necessary, was that it would have been possible to try the queen under the law of treason. The statute of Edward III. is in these words: "If any man shall violate the wife of our ownest son he shall be deemed guilty of treason; and if she consents to that violation she shall be deemed guilty of treason also". Brougham declared that he would rather his client be tried for treason than have the question of her guilt or innocence be determined upon a Bill of Pains and Penalties. The reasons he urged were: (1) that upon accusation of treason the indictment must specify with absolute particularity of deeds, places and persons, the acts complained of; (2) That in all cases of treason a list of the witnesses to be called must be furnished before night to the prisoner, thus giving an opportunity to prepare an efficient cross-examination; and last but not least, (3) that a trial for treason was a purely judicial proceeding where the peers would be bound by strict rules of evidence, and by law, whereas in a Bill of Pains and Penalties they were acting partly in a legislative capacity, and may consider reasons of state policy in supporting or opposing the measure.

Eventually Brougham's objections were overruled. The judges decided that as Caroline had misconducted herself with a foreigner who owed no allegiance to the British Crown, she could not be tried under the statute of Edward III. for treason. The foreigner could not be tried for treason, they said, because you cannot have treason where you have no allegiance. And if the foreigner thus had committed no offence, it would be absurd to say that the adulterous princess had committed one. I confess I am unable to follow this reasoning. It is impossible to point to any precedent one way or the other; because no such case has ever arisen. But I should imagine that if A B, a subject, conspires with C D, an alien residing abroad, to depose the King of England, A B would have

very little defence to a charge of treason. The cases are not quite the same, but I am imagining a case where there is no overt act of treason apart from the united action of the subject and the alien.

So Brougham took nothing by his mission. I do not suppose he expected to; but he was pleading his case not really with the House of Lords, but with the country. And he delivered his speech rather with a view to raising up a storm against the ministers outside, than with the hope of converting the peers to the cause he was arguing. He was a master of sarcasm and invective, and he did not spare either the king or the ministers. "I ask whether the Crown can desire the fame of the country tarnished and the morals of the people put in jeopardy, if an adulterous intercourse (which no one ventures to call adultery) shall be proved against a lady, when that which I venture to call adultery, because the exalted individual himself has confessed it to be so, has actually been committed by a prince."

"Men may do all they please, however exalted their station, however intimately connected with the Crown, and with the highest interest of the State. Their conduct is perfectly indifferent. But let the truth of slander once fix upon a defenceless female of the family, who has been residing abroad, who has been led to expatriate herself, who has been assisted in removing from the country and even encouraged to keep away from it; then at that instant the venom must distil, and she must be persecuted and prosecuted under the canting hypocrisy and disgusting pretence that the character of the country, and the honour of the Crown are at stake . . . the people at large must look upon it as something too ridiculous to be examined. Here is a man, they will say, who wishes to get rid of his wife; he talks of the honour and safety of the country; yet its dearest interests, its peace, its morals and its happiness are to be sacrificed to gratify its desires."

The learned counsel asked who it was that had pressed the queen to go out of the country and remain abroad. "Who but those who are arrayed against her with a green bag of documentary evidence in one hand and this bill of degradation in the other."

After Brougham's fiery oration, Thomas Denman tore the preamble of the bill to rags and tatters. He pointed out that the preamble set out a large number of circumstances, many of them very trivial; and that it was quite possible for there to be a majority in favour of the bill, although as to each particular charge, it was only supported by a small minority:—

"I do not wish to treat the subject with levity, but I must say

I have almost conceived myself to be in a theatre, when I see so many noble lords on a committee each producing, as it were, its own little fact, and adding some new circumstance in order to make out, if possible, a substantive offence. I think I hear one noble person observe that a menial servant has been promoted; another that an order of merit has been conferred on him; and a third that the queen's deportment did not correspond with her dignity. A fourth, in the spirit of Mrs. Candour, might declare that she does not believe one-half of what is alleged, and then start a doubt whether an inquiry may not disclose very important matters. It appears to me, my lords, that we have been rehearsing the *School for Scandal*. . . . Had Malvolio really intrigued with his mistress? or had other servants quarrelled with the steward, and tried to seek revenge? . . . Suppose you are satisfied that there is no evidence of adultery—some of you may entertain such high notions of female propriety, as to condemn what others may think innocent, and feel induced to lend your sanction to this measure. Some may require conclusive proof of adultery; others may be content with grounds of surmise."

Having riddled the preamble thus effectively, Denman turned his heavy guns on the king, and in my opinion his straight hitting was even more effective than the fancy fighting of Brougham:—"Let your lordships then suppose the case of a young and accomplished woman coming to these shores from a foreign country, with prospects of splendour almost unparalleled; that on her arrival, instead of meeting an affectionate husband, she found an alienated mind; that the solemnities of marriage did not prevent his being still surrounded by mistresses; that the birth of a child, instead of affording a pledge of mutual regard, became the signal of greater insult, and was shortly followed by her expulsion from the husband's roof; that even then spies were placed over her, to report or to fabricate stories of her conduct. . . . Would your lordships listen for one moment to the husband's case?

"If scandalous or immoral conduct is to lead to the forfeiture of a crown, and conflicting claims should ever arise as to the superior title of any future child of his majesty, the heir might be told that his claim was gone, and that to prove this it was only necessary for the minutes of the House of Commons to be produced, by which it appeared that he was guilty of all that was imputed to the queen and of much more. So with regard to the other royal dignitaries of the same illustrious family, the same objection might perhaps be addressed to them, if their whole lives

are to be examined with a view of detecting scandalous freedoms or adulterous intercourse."

But Denman's thunder had no more effect than the lightning of his leader, a motion by Lord King that it was not necessary that the bill should pass was rejected decisively; and at length, on the 19th of August, the attorney-general (Gifford) was called upon to open his case.

The scene was impressive. The House was crowded with peers of the United Kingdom. In addition to the attorney-general, the solicitor-general Copley and the King's Advocate, Dr. Adams and Mr. Parke appeared to support the bill. On the other side were ranged a number of men of the highest possible talents, each of whom was destined to write his name large upon the history of the laws of England. Brougham led—at that time easily the first orator of the English Bar. Next to him came Thomas Denman, afterwards illustrious as Lord Chief Justice of England, and then renowned as a man of singular uprightness and equal ability. He too was an orator. These, the principal of the queen's counsel, had the assistance of several others. There was Dr. Lushington, a great practitioner in the ecclesiastical courts, to whom the Divorce Law was familiar. Williams, a leading junior from the northern circuit, came next. He was renowned in the north for the closeness of his cross-examination; and ere the queen's trial was at an end he was to show that he had not acquired his reputation for nothing. Tindall and Wilde, two rising juniors, brought up the rear of this wonderful array of advocates. It is worthy of record that every one of these men afterwards attained high judicial rank. Brougham became lord chancellor, Denman lord chief justice of England, Wilde chief baron of exchequer, Tindall chief justice of the common pleas, and Williams also a judge. The House of Lords preserved a dense silence as Gifford came to the Bar to begin his speech; but the superstitious noted that as the attorney-general stood up, loud peals of thunder broke over the building in rapid succession, so as to drown the voice of the speaker. It was as if heaven itself was protesting against the accusation.

Gifford's speech was not a very forcible performance, for the attorney-general lacked the vigour of his coadjutor Copley. If the peers had not intervened to protect him from Brougham's interruptions it is highly probable that "the learned person," as Brougham contemptuously called him, would have broken down altogether.

The space is too short for me to inflict upon the reader the whole of this speech; but I will summarise it as well as I can. He began by saying that the highest individual subject in the country was charged with the serious offence of an adulterous intercourse—carried on under the circumstances of the greatest aggravation. The addendum proves that the attorney-general did not lack a certain kind of courage; for it required considerable pluck to state to an audience, every one of whom knew the abominable fashion in which the queen had been treated, that her misconduct was carried on under circumstances of aggravation.

The speech continued: "Her majesty has left the country of her own free will in 1814, accompanied by a suitable attendance. With this suite she arrived at Milan; where she received into her service a person of the name of Pergami, who had been recommended by General Pino. After this person, who was a courier, or *valet de place*, had been in her majesty's service about three weeks, Pergami's intimate relations with her majesty began. The royal party arrived at Naples on the 8th of November. At that time, William Austin, who was a boy of about six or seven years of age, was in the habit of sleeping in the queen's room. The menial servants, amongst whom was Pergami, slept at the other end of the house, away from her majesty's apartment. The day after the arrival at Naples, however, the servants were told, to their great surprise, that William Austin was no longer to sleep in her majesty's room, and that Pergami was to change his apartment for one not far removed from the queen's, and having free communication with it by means of a corridor or passage. He (the attorney-general) charged that criminal intercourse between this exalted person and her menial servant began on the 9th of November. It would be proved that on that night her majesty on returning very late home from a ball dismissed her attendants hastily; and the next morning it was apparent that her bed had never been slept on. The bed of the courier, on the other hand, appeared to have been occupied by two persons. From that time forth, Pergami began to give himself airs of great importance. Having been lamed by the kick of a horse he contrived to introduce into the house a person to wait upon him, and this person, who slept in an adjoining room, would come forward to say that he had seen the queen not once but several times on her way to Pergami's apartment. It was a singular circumstance that four of the seven principal attendants of her royal highness left her service at Naples, and it was suggested that they did so because

of their royal mistress's conduct. During her majesty's residence at Naples, she went to a masquerade at a theatre, accompanied only by Pergami and a chambermaid named Demont; and she went in a common fiacre; and attired in a dress of such indecent description as to call down upon herself the disapprobation of the people at the masquerade. It would also be proved that at Naples Pergami used to breakfast with her majesty; and he was the only one of the suite who entered her presence without being sent for. Then after the queen left Milan for Genoa, her intimacy with the courier remained unchanged. He accompanied her majesty in all her rides and walks; and had a bedroom near hers. If it was really necessary for a male attendant to sleep near her bedroom, why did she not fix on some of the gentlemen of her suite, why should she fix on this stranger, with whom unless there were guilty relations she could have no intimacy or conversation? At Genoa, there was still the same observations made about the beds; and about the queen breakfasting with Pergami alone. At this time something occurred which plainly indicated the power this man had obtained. He was a married man; and he had a daughter named Vittorina, whom he brought to the princess and procured to be taken into the household. A person of the name of Faustina was engaged as a nurse. This person proved to be one of the sisters of Pergami. His mother also had been taken into the house; and at quite an early stage one of the brothers had been engaged in a menial capacity. Of these unusual marks of favour and influence some explanation was necessary; and no innocent explanation appeared possible. Another fact which he should prove was that although Pergami was a married man, the queen told others that he was not.

From Genoa the queen passed to Milan; and it was notable that Pergami, though still nominally a courier, frequently rode in her carriage with her. At Milan the last of her English ladies in waiting (Lady Charlotte Campbell) left her; and this exalted person received into her household, as her principal lady, a low person of vulgar manners and totally uneducated. Incredible as it may appear, this person was a sister of Pergami, and was called the Countess of Oldi. Thus there were two sisters, one sitting at the table of the queen, while the other dined with the servants.

Another significant incident occurred during a visit which her majesty paid to Venice. She resided at a hotel; and one day after she had dined, during which time Pergami had waited on her at table, she was seen by a servant of the hotel to take a gilt chain

off her neck and put it on his, with much playfulness and familiarity. Pergami took the chain off his neck and replaced it on her majesty's; and this "reciprocal endearment" was continued for some time. Could anything prove more conclusively how much influence the man had acquired over the mind of his royal mistress.

On the return of the queen to Milan she occupied the Villa Villani where she was less and less reserved in her intercourse with her servant. She presented him with a blue silk dressing-gown that she had previously worn herself. It would be proved that in August, 1815, on a tour which the queen made to Mont St. Gothard, she was alone with Pergami, and declined the best room in a hotel in order to have one which connected directly with Pergami's room; and finally, on this tour, he was admitted to dine with her majesty in his courier's dress. The learned attorney-general considered the last fact most degrading and disgusting.

"Call Theodore Majocchi."

In a few moments a man of middle stature, with the dark complexion of the Southerner was ushered in. It was observed that he was very handsomely attired for a man whose rank in life was that of a gentleman's servant. On his entrance, the queen turned her head to look at him. Evidently she had not been listening when the name was called; for no sooner did her eyes rest upon his countenance than she exclaimed in a piercing tone, "Teodore! Oh, no, no!" and rising in great agitation left the House.[1]

The queen's dramatic exclamation and evident agitation threw the House into a flutter of confusion for a few moments; but calm was speedily restored, and an interpreter was sworn, as the witness was utterly ignorant of the English language. Brougham did not object to the interpreter proffered by the prosecution, but at the same time insisted on the swearing in of a second interpreter nominated by himself.

The witness's examination in chief may be summarised as follows:—

I am a native of Italy. I know Pergami, having first become acquainted with him in the service of General Pino in the year 1813 or 1814. Pergami was *valet de chambre* to the general, and I was a postillion. At that time Pergami was rather poor than rich; his wages were three livres of Milan a day, but I do not know

[1] It has been alleged that the queen really said, "Traditore," but I think the evidence is against it. At any rate, the official shorthand writer and Brougham agree that her exclamation was that in the text.

whether he had any private property. I afterwards entered the service of the King of Naples and there I again saw Pergami about Christmas, 1814. At that time he was a courier, and, it was reported, equerry in the house of the Princess of Wales. This was about the beginning of 1815. About a fortnight afterwards, I entered the service of the Princess of Wales. At that time Pergami was lackey, and wore a livery. He dined at the table of the upper servants along with Sicard, Hieronimus, and the waiting-maid of the princess's lady-in-waiting.

"Do you know what was the situation of the sleeping rooms of the princess and of Pergami at that time?—"Yes, I recollect it well."

"Describe it."—"The rooms of the princess and of Pergami led to each other by a corridor, in which there was a small cabinet. Pergami's bedroom was situated to the left."

"And are we to understand that there was no space between the two rooms, except what was taken up by the corridor and the cabinet that you mentioned?"—"There was nothing else; and it was necessary to pass through the corridor to go from one room to the other."

"What was there on the other side of Pergami's bedroom?"—"A saloon."

"Who usually slept in the cabinet?"—"Nobody; it was free."

"Did the rest of the family sleep in that part of the house, or at a distance?"—"Their rooms were separated."

"I remember Pergami receiving a kick from a horse and in consequence of it he was put to bed. I saw the princess in his room on one occasion with Hieronimus, and Dr. Holland, who was dressing Pergami's foot. After this accident I was directed to sleep on the sofa in the cabinet. I slept there five or six months."

"Did you see anybody pass during any of those nights through the corridor?"—"Yes, I did."

"Was a fire kept there at the time?"—"Yes, there was a fire always."

"Whom was it you saw pass?"—"Her royal highness."

"Did she pass in the direction of Pergami's room?"—"Yes, she did."

"How often did this happen during the time you slept in the cabinet?"—"Twice."

"Do you recollect at what hour it happened the first time?"—"Half-past midnight."

"How long did she remain in Pergami's bedroom on the first occasion?"—"About ten or fifteen minutes."

"In what manner did she pass?"—"Very softly. She came to my bedside, looked, and passed on."

"After she had entered Pergami's room, did you hear conversation, or anything else pass between them?"—"I only heard some whispering."

"After a stay of forty or fifty days at Naples, the princess went to Rome and afterwards to Leghorn, on board the *Clorinda*. I continued in her service. After that time the princess passed on to Genoa where she resided in a palace. Pergami also slept in that palace in a room near the princess's. There was a luggage room in which nobody slept between the two chambers. While we were at Genoa, Pergami frequently breakfasted with the princess in a small room. Nobody else breakfasted with them. I remember one night coming at a late hour to the door of Pergami's chamber to try and wake him because some people had arrived in the house late. It would be about half-past one o'clock in the night. Pergami did not answer my knocking, though had he been in the room he must have heard me."

"Was Pergami's manner like that of the other servants in the house, or did he appear different from them?"—"Yes, he was different."

"Did he seem to have more authority?"—"Yes, he had more authority than the other servants."

"Between him and the princess was there any apparent difference, like that towards any other servants, or was there an apparent familiarity between them?"—"There was rather an intimacy."

[I pause here to observe that these questions were of the most leading character, and before a legal tribunal the answers would have carried little weight, for the simple reason that Mr. Solicitor-General was putting the answers into the witness's mouth.] "Before the princess left Genoa, a female, named Faustina, who appeared to be unmarried, was taken into her royal highness's service. Faustina was a relation of Pergami's. A child about three years old, named Vittorina, was also brought into the house, but not the child's mother. Louis Pergami also came into her service."

"How was Pergami's room situated as to the princess's?"—"The rooms were separated by a wall."

"How were the doors of the two rooms placed as to each other?"—"At first there was an ante-room on the right left for

Mr. William (Austin), and Pergami's was the room at the near side next the Princess's."

"Was there a door or wall separating Pergami's from the Princess's room, or a staircase?"—"Yes, there was a landing-place which had a door opening into it."

"Where was the landing-place?"—"Between both rooms."

"Did the door of each open into it?"—"Yes. Each door of the princess's apartment and of Pergami's opened into it. The distance between the doors was about two braccie, or about seven or eight feet. The staircase and landing-place were private; the staircase led into a small apartment which was unfrequented, save that sometimes Pergami's brother slept there. I sometimes waited on the princess at breakfast. So also did other servants, sometimes Louis Pergami, and occasionally a courier named Cameron. I remember the princess's journey to Venice. About five or six days before that journey, Lady Charlotte Campbell left the service. Nor did any English lady of honour remain in the suite after that time. A person called the Countess of Oldi joined the princess. She was Pergami's sister. She had a place at the princess's table. At Venice the princess and her suite went to the Grand Bretagne Hotel and afterwards to the house next thereto. In this house the bedrooms of her royal highness and Pergami were next to one another. By next to one another I mean there was only a grand saloon between them!" [Many of their lordships displayed amusement at the witness's idea of "next one another."] "Both at Milan and Venice I have seen the princess walk out with Pergami arm by arm (or arm in arm). This was between nine and ten o'clock at night. At Genoa, Pergami first dined at the princess's table; and after that always dined there. Sometimes he sat on her right, sometimes on her left, and sometimes opposite to her. After Milan we went to the Lake of Como and remained there about six weeks. The bedrooms of the princess and Pergami were one at one side, and the other at the opposite side of a cabinet. There was only a small passage which separated them. It was part of my duty to help in making Pergami's bed, and I sometimes remarked that it had not been slept upon."

"The other servants lived separate in another part of the house?"—"They did."

"Did you assist in making the beds of the princess and Pergami?"—"I did."

"Did you observe that either of the beds had the appearance of having been slept in by two persons?"—"They had not that

appearance always." [One is a little surprised that Brougham did not object to this very leading way of putting the questions, which I have set out *verbatim*, in order that the reader may observe how evidence was put into the witness's mouth.] "I remember the princess at Villa Villani, wearing a blue silk bed-gown; and I afterwards saw Pergami wearing it in her presence.

"The princess usually rose in the morning at from half-past ten to half-past eleven, and Pergami got up at the same time or a little later. After the Villa Villani we removed to the Villa d'Este. I do not remember the relative situations of the bedrooms of the princess and Pergami there, because they were changed anew.

"I accompanied her royal highness on the voyage to Egypt. She embarked in the *Leviathan* man-of-war at Genoa and sailed to Porto Ffrajo, and then to Palermo. At Palermo the princess went to Court, but I do not remember who accompanied her. After Palermo we went to Messina where the princess took a house. Between her room and that of Pergami there was a room in which the Dame d'honneur slept—a sister of Pergami. There was communication through the last-named room from Pergami's room to the princess's. Pergami breakfasted with the princess at Messina alone. I remember Pergami at Messina asking leave of the princess to go to make some purchases."

"Describe what took place between them when he parted from her for that purpose."—"I saw Pergami when the queen was going to take her breakfast; and he said 'Will your royal highness permit me to make some purchases?' and having obtained leave gave a kiss to her lips."

"After Messina we went to Syracuse, where the princess took a house. There was a private staircase leading immediately from one bedroom into the other."

"Do you remember seeing Pergami going into the room of the princess without being entirely dressed in any house before they went to Syracuse?"—"Oh, yes."

"Do you remember where it was?"—"If I do not mistake it was in the Villa Villani."

"What part of his dress had he on?"—"That morning-gown with stockings and drawers."

"From Syracuse the princess went to Catania. There the bedrooms were separated by a yard or court, smaller than this house. That was the only separation between the rooms. At Catania Pergami was taken ill. I saw the princess in his bed-

room while he was sitting by the side of the bed only partly dressed. She gave directions for his bed to be warmed. From Catania, we went to Augusta by sea, and there embarked on board a polacre for Tunis. At Catania Pergami had received a title, and was called 'his excellency'. His title was Baron Francina. He also wore the order of the 'Knighthood of Malta'."

"Where did Pergami sleep on board the polacre?"—"In the cabin where they dined."

"Was the cabin of the princess that cabin?"—"It was near it."

"Did any other person sleep in the room where they dined?"—"I do not remember."

"At Tunis the bedrooms were at a little distance, separated by first a little room, then a small corridor, then a large room in which nobody slept. The rest of the suite all slept in another part of the building. The princess went from Tunis to Constantinople and thence to Scala Nuova. She went to the Grotto of the seven sleeping men, half a day's journey. The princess slept on the first night under a tent made of the boughs of trees in the vestibule of a small church surrounded by a wall. Pergami and the princess were alone in that vestibule. The princess's travelling bed was carried thither by myself by the direction of Pergami and the princess. I carried dinner for them to the vestibule, and they dined there alone. The princess was sitting on a bed, and Pergami on the ground at her feet. I waited upon her. After dinner they remained there alone for about an hour or an hour and a half. Next we embarked for St. Jean d'Acre, where we landed and travelled to Acre. We rested in tents in the daytime, and travelled by night. The princess's tent was at a distance of three or four paces from the others, and in it was the ordinary travelling bed of the princess and a Turkish sofa. In the interior of the tent I saw the princess and Pergami and the little child; they were there during the time of rest. Between Acre and Jerusalem the princess and Pergami again slept in the same tent. We travelled in this way for two days. After the return from Jerusalem the princess embarked again at Jaffa on board the same vessel. On the voyage home a tent was raised on the deck. In the tent was a travelling bed and a sofa, and the princess slept in that tent always during the journey home."

"Did anybody else sleep in the same tent?"—"Pergami."

"On the deck?"—"On the deck."

"Did that take place every night?"—"Every evening."

"Were the sides of the tent drawn down so as to shut them

in entirely?"—"When they went to sleep the whole was enclosed."

"Did they use a lantern or lamp for the purpose of going to bed?"—"Yes."

"After they were undressed and prepared to go to bed what was done to the light?"—"Sometimes Pergami told me to take away the lamp when he made the bed, and sometimes he came and put the lamp out with his hand between the deck and the tent."

"Were the beds regularly prepared every night?"—"Every night."

"Do you remember whether the princess bathed on board the vessel?"—"I remember it."

"Where was the bath prepared?"—"In the cabin."

"Who assisted her at the bath?"—"The first time I carried the water into the bath and then Pergami came down, and put his hand into it to try the temperature, then he went upstairs and handed the princess down, after which the door was shut, and Pergami and the princess remained alone in the cabin."

"Did the bathing take place more than once?"—"More than once as well as I can recollect."

"Do you remember at any time when Pergami and the princess were below in the cabin in the bath, being called upon to supply additional water?"—"I do, two pails, one of hot and the other of cold water."

"Who took the water in?"—"I went with the water to the door of the cabin, and Pergami came half-way out of the door, and, taking the water, went in."

"Do you know whether when you took the water, the princess was actually in the bath or not?"—"I cannot know that."

"We landed at Capitan. Pergami had gone on shore at Terracina before the princess landed to obtain leave not to make quarantine. I remember too well the princess and Pergami taking leave of each other and at the time I saw him kiss her royal highness. It was in the cabin. Some time afterwards the princess and Pergami went to a place called Barona which had been bought by Pergami and was now called the Villa Pergami. The princess and Pergami remained there about six weeks. Their bedrooms opened on the same landing-place which was about a yard in length and was separated from the rest of the house.

"I remember while the princess and Pergami were at the Villa

Pergami balls and dances being given twice. Country people attended these balls.

"After this the princess went on to Bavaria. In the course of the journey we landed at the Golden Stag, at Munich. Here the bedrooms were altered by the orders of the princess and Pergami, after they had been arranged by the master of the inn. I accompanied the princess on her journey to Carlsruhe, Nuremberg, Vienna, and Trieste."

"I wish to know in general whether, to the best of your recollection, the rooms of the princess and Pergami were on this journey contiguous and had a communication with each other, or whether they were distant?"—"They were more near than apart (*meggio viccino che lontano*)."

"In general there was a communication between the rooms which were separated from the rooms of the rest of the suite. The princess and Pergami made the distribution of the chambers.

"During this journey Pergami travelled in the same carriage with the princess. She breakfasted alone with him at the Convent of Benedictine St. Alessio. I remember going with the princess to Pavia.

"At the Villa d'Este, during the journey in Greece, certain changes were made in the rooms. When we returned, the rooms of Pergami and the princess were near and had direct communication with each other. The apartments of the rest of the household were apart. When the door of Pergami's room was closed, and locked, nobody else could go into the princess's apartment.

"I remember a person named Mahomet, a Turk, who was taken into the princess's service at Jaffa. He travelled back to the Villa d'Este. In the presence of the princess, this man, Mahomet, performed a dance in which he made certain gestures.

"I left the princess's service at Pessaro, after having been in it nearly three years."

Brougham at once entered upon the cross-examination; and his performance was a nine days' wonder. Indeed, had this been an ordinary action or suit for divorce, it would probably have been abandoned at the end of the cross-examination.

The first question he asked was whether the witness had left General Pino's service on account of killing a horse. Majocchi denied it. He had never killed a horse at all, never told any one he had.

While Brougham was putting his question, some whispering or gesture made by some of the peers, seemed to indicate dis-

approbation. Brougham was up in arms at once; and in his most truculent manner begged to know whether he had fallen into any irregularity. Glaring round the House, he observed, "Any symptoms of admonition must have great weight with me, and are certainly calculated to withdraw my attention from the serious duty I have to perform." "Go on," cried the peers, and immediately Brougham began that celebrated part of his cross-examination which resulted in the famous—"Non mi recordo".

"Did not Sir William Gell's servant also sit at the second table of the princess's household?"—"What servant, chevalier?"

"An English servant."—"Non mi recordo."

"Did Mr. Craven's servant?"—"Non mi recordo."

. . . . . .

"In the queen's house at Naples, where did William Austin sleep?"—"Non mi recordo."

"Will you swear that he did not sleep in the next room to her Royal Highness?"—"I cannot remember (Non posso riccordormi)."

"Where did Dr. Holland, her royal highness's physician, sleep?"—"Non mi recordo."

"Will you swear there was no other passage through which her royal highness could go to Pergami's apartment when he was ill except that in which you slept?"—"I have seen that passage I spoke of, but other passages I have not seen."

"Will you swear there was no other passage?"—"I cannot swear; I have seen no other passage than this."

"Will you swear the only passage to Pergami's room was through the cabinet?"—"I cannot swear that there was any other passage."

"You will not take it upon you to swear this, that there might have been another passage?"—"There might have been another passage, I cannot say. I speak of one passage. I have only seen that one that I remember."

LORD LONGFORD. "Will you swear that there was no other way in which a person wishing to go through the princess's room to Pergami's room could go except by passing through the cabinet?"—"There was I think another passage going to the room of Pergami."

BROUGHAM. "Without passing through the room in which you slept?"—"Yes, sir."

"Where did Hieronimus sleep?"—"Non mi recordo."

"Where did Cameron sleep?"—"Non mi recordo."

"I see you do not remember. I take it for granted you do not remember where Mr. Craven's servant slept?"—"Non mi recordo."

["Non mi recordo" was beginning to have its effect. The peers began to laugh. Brougham perceiving his advantage, followed it up.]

"Do you know the female servant Demont?"—"Yes."

"Where did she sleep?"—"Non mi recordo."

"Were there other female attendants?"—"Yes."

"Where did they sleep?"—"Non mi recordo."

Here the monotonous answer came to an end for a while, but it soon began again; for after the witness had been compelled to admit that Pergami had been seriously injured by a kick of a horse, as in his examination, so seriously that he could not ride nor walk, Brougham began again.

"Was he attended by any medical man?"—"Non mi recordo."

"Did you not see her royal highness go into the room of Hieronimus when he met with an accident?"—"Non mi recordo."

"Have you not seen her go into Sir William Gell's when he was confined by illness?"—"Non mi recordo."

"Was it not her constant practice to go into an apartment of any of her suite when they happened to be ill, in order to see after their health and treatment?"—"Non mi recordo."

"You were never ill yourself at Naples?"—"Non mi recordo."

Here ensued a little sparring between the cross-examiner and the solicitor-general. Brougham wanted to ask whether the princess made any difference between the highest and lowest of her servants when any of them were ill. The worthy Solicitor objected that Brougham must first prove that some of them were ill, other than Pergami. Brougham finally accepted the proposition and put the question:—

"Were all the servants of her majesty's suite always in perfect health, except Pergami during the illness from the kick of a horse?" Amid roars of laughter Majocchi once more answered, "Non mi recordo". After two or three more "Non mi recordos," Brougham took the witness back to the little cabinet at Naples, and ascertained from him that the bed whereon he slept in the cabinet was a mattress without any curtains. Witness was further compelled to admit that when the princess went from Naples to Rome, in March (1815), there was several English people in her suite, including Lady Charlotte Lindsay, and Madame Falconette and her

two daughters. After these admissions, the witness once more lapsed into—"Non mi recordo".

Pretty soon there was a further breeze. Brougham asked the witness whether on the occasion when he said he had knocked at Pergami's door without getting any answer, there was not an alarm of robbers. "Was not the alarm given, that it was a part of your friend Ompteda's gang." Mr. Solicitor, glad to seize the opportunity, struck in with an objection. "It was assuming there was a person of the name of Ompteda and that he was a friend of the witness, and that it was a gang of robbers." "So they were," said Brougham, "by the witness's own admission." "Do you also assume," retorted the Solicitor, "that the friend of Majocchi the witness was a part of the gang."

BROUGHAM. "A part of the gang! He was their head, their ringleader!"

Here the lord chancellor interposed in the interest of peace; and suggested that Mr. Brougham should go by steps, and not assume the whole of the facts. Brougham having done exactly what he wanted to do by the irregularity, magnanimously waived the question.

"Did you wake from your sleep on that occasion, and go to the windows?"—"I opened the window and saw a tall person below me. I went out; I took a gun and fired at this person; and these persons—for there were more than one—fled."

The next piece of cross-examination simply smashed the witness's story that he had knocked for a long time at Pergami's door without being able to obtain an answer. For Brougham first of all confused him by putting the events of the night to him backwards, and then asked him suddenly how long after the first alarm was it that he went to knock at Pergami's door, the witness answered, "Three minutes".

From this Brougham took the witness to the question of the proximity of the bedrooms at Naples; and Majocchi soon began to have a lapse of memory. He did not know of a staircase; he did not know where William Austin slept, nor where Captain Hownam slept. He did not know whether Pergami's child was there; but he did know that this child always slept in the same room with the princess. After swearing this, Majocchi said he did not know where the child slept, and at last when Brougham put the question: "Did you ever know her to sleep in any other part of the house?" there came the now familiar answer, "Non mi recordo". But Brougham stuck to his man, and finally made him

admit that the little Vittorina never slept anywhere except in her highness's room.

Majocchi's memory proved just as treacherous in other matters. He did not remember how long her royal highness was in the habit of riding on horseback during the journey through Egypt to Jerusalem, but he did remember that she was very tired and immediately went to rest herself on a Turkish sofa. As to the bed in the tent, Brougham extracted from the witness that it was a travelling bedstead without bedclothes, having only a small mattress encased in leather. Passing by easy transition to the voyage home from Jaffa, Majocchi's testimony was soon riddled. He first swore that during the voyage, as well as on the journey overland through Egypt, her royal highness when she retired to rest removed her clothes. Then he was compelled to admit that all she did was to remove her upper garments. Brougham pressed the question whether this upper garment was not a cloak; but could get nothing better than, "Non mi recordo". As to the bed itself, it was witness's duty to make it.

"You did not put any sheets or blankets on it?"—"Non mi recordo."

"Was not it exactly so with the sleeping in the tent as on board the polacre?"—"Non mi recordo."

"Will you swear that you ever saw, either during the land journey in Palestine, or the voyage by sea home, one stitch of bedclothing upon the beds?"—"Non mi recordo."

"No one except yourself and Demont, have made these beds on land or during the voyage?"—"Non mi recordo."

"You told us who made the beds at night, who removed them in the morning?"—"Non mi recordo."

"Will you swear it was not yourself?"—"Non mi recordo."

"Did you happen to see William Austin rest in the tent in the same way?"—"Non mi recordo."

"Do you know where Lieutenant Hownam slept?"—"Non mi recordo."

"Do you know where the Countess of Oldi slept?"—"Non mi recordo."

So the witness went on, doggedly repeating his phrase, until it became plain to the meanest understanding that the only thing he had come to swear to was that Pergami and the queen slept under the tent. At last his collapse became so pronounced that when he was asked, "Where did Pergami sleep?" he even answered—"Non mi recordo".

By way of testing the Italian's memory, Brougham then asked him where the queen slept on her other voyages, and was again met with the same monotonous answer. The bath evidence was also whittled away very considerably; for Majocchi was compelled to admit that on the occasion when he had been requested to bring more water, it was immediately after he had filled the bath for the first time, that is, immediately after Pergami had tested it to see if it was in the right temperature. Thus as evidence of guilt—of the fact which it was meant to prove, the testimony dwindled to nothing.

Brougham then took the witness to the episode of Pergami breakfasting with the princess. He could not remember whether Hieronimus was present at the time, nor whether the Countess Oldi was present also—admissions which considerably discounted his former testimony.

As a final assault Brougham asked some questions which he afterwards turned to excellent use in his speech for the defence.

"Did you ever apply to be taken back into the service of her royal highness after you left it?"—"Non mi recordo."

"Did you ever apply to Count Vassali to be taken back?"—"Non mi recordo."

"Did you ever apply to Baron Pergami to be taken back?"—"If I well recollect, never."

"Did you ever make application to Louis Pergami for that purpose?"—"Non mi recordo."

"Did you ever apply to Schiavini to make interest for your being taken back?"—"Once I did."

"When was that once?"—"At the Hotel of Italy."

"How long after you left Pessaro?"—"Non mi recordo."

"A week after?"—"More than a month."

"Will you swear it was not more than half a year?"—"I cannot recollect how many months it was."

The witness then was taken through his appearance before the Milan Commission, and the delicate question of the remuneration he had received or had been promised for giving evidence. Majocchi denied that he had been paid, except that he had received a little sum of money at Vienna from Colonel Browne. But his answer to Brougham's question as to whether he had received any money at Milan was very curious.

"While you remained at Milan did anybody give you money?"—"I remember that there was not—I do not know—Rather no than yes—I do not remember."

The solicitor-general in re-examination did his best to pick Humpty-Dumpty up again. In particular he asked him what he meant when he said "Non mi recordo," to which he replied—"When I say 'Non mi recordo' now (the question was whether he had received any money) I mean I have it not in my head to have received such money, for if I had, I could say, 'Yes,' but I do not recollect it now". The re-examination was not long; and was chiefly remarkable for the fact that every other question or so was objected to by Brougham and disallowed. An attempt was made to put in a document purporting to be a testimony as to character given to Majocchi when he left the princess's service. But as it was not proved that this was done by her royal highness's orders, the document was ruled out. After counsel had done with him, Majocchi was taken in hand by several of the peers, some of whom handled him rather roughly. The bath incident on board the polacre seemed to excite the most interest in their lordships; and at last, the Marquis of Buckingham extracted from the witness that in the dining-room were two cabinets, in one of which the bath was prepared. The witness only admitted this after he had sworn that he did not remember whether there were two or one, and being reminded that on the previous day he had sworn there were two.

There can be no doubt that the accomplished Teodore left the House considerably damaged. The next witness was a man named Paturzo, mate of the polacre. His evidence in chief amounted to this:—

On board his ship the princess had slept in a large cabin, divided into two by a painted canvas. On the other side of the canvas, slept Countess Oldi. Pergami slept in the dining-room, next to the princess's cabin; and it was possible for any one in the one to see the person in the other bed when the door was opened. This was on the voyage out. On the voyage home, the witness corroborated Majocchi as to the princess sleeping in the tent that was raised on the deck. He also corroborated as to Pergami remaining under the tent all night. Paturzo's original contribution to the evidence was some testimony as to familiarities between the parties during the voyage. Sometimes he had seen them sitting on a gun with their arms round each other's backs; sometimes he had seen Pergami lying on his back on a small bed and the princess sitting near to the bed leaning upon it.

"When the captain saw me on these occasions he would make some excuse; sometimes this, sometimes that, to send me

away, because we were distant relations"; but his most striking piece of testimony was the following:—

"In what situation have you seen them?"—"Sometimes I have seen Pergami sitting on a bench near to the mainmast, and the princess sitting in his lap, with her arm round his neck, over his shoulder."

"How was Pergami's arm placed on that occasion?"—"Pergami's arm was behind the back of the princess and the arm of the princess was round the neck of Pergami."

It fell to the lot of Denman to cross-examine this witness, and that forcible advocate very soon discounted the value of Paturzo's testimony.

"Who first applied to you to come here for this business?"—"The English vice-consul at Messina."

"Did you go to the consul, or the consul come to you?"—"The consul asked for me because he had been charged to do so by the minister at Naples."

"What are you to have for coming here?"—"For what I have lost it will be very little indeed."

"What is that you are to have?"—"I for coming here must receive as compensation for the ship and trade I am obliged to give up $800 per month."[1]

"Have you paid any travelling expenses?"—"I have paid nothing, because I came accompanied by a courier. I was obliged of course to come; because the minister applied to the consul, and the consul told me if I did not come I would be obliged to come by means of the Government. Otherwise I was not willing to do so."

The rest of the cross-examination, which was very short, was in the same vein. Not a single question was put as to the facts of the case itself; the only question tending to show that the witness had been "got at" by the Milan Commission and that his testimony had been bought.

One of the peers, Lord Auckland, elicited an excellent point on behalf of the queen, tending to discredit Majocchi's evidence still further, if that were possible.

Majocchi had sworn that he had heard noises proceeding from the tent in the night when he was in his hammock. Paturzo swore that Majocchi's hammock was slung in the hold; and that

[1] The dollar then varied in value. Sometimes it was worth four shillings and sixpence, at others it fell to four shillings and threepence; taking the last of these rates the witness was receiving £170 per month for giving his evidence.

it would be impossible for him to hear anything that took place in the tent, because it would have to pass through two decks.

After the mate, the captain appeared. He rejoiced in the name of Gargiulo. He corroborated the mate as to the situation of the bedrooms in the polacre on the voyage out, and was positive that on the voyage home Pergami had slept under the tent while the princess slept. At night, he said, the tent was closed as a pavilion; and it was usually opened again about eight o'clock in the morning, at which time Pergami was always entirely dressed. There was no light in the tent during the night. This witness's little addition to the previous evidence was that the princess and Pergami often retired under the tent for a siesta in the afternoon. He had also seen Pergami with the princess sitting on his lap; but his tale varied a little from that of the mate; for he said that Pergami was seated on a gun at the time and that the guilty pair were kissing each other. Another of this witness's embellishments was that on one occasion at Porto Lanzo, Pergami was absent for three days; when he returned, the princess went to meet him at the top of a ladder, and they both went under the tent.

Williams, whom many considered at that time the ablest cross-examiner in England, tackled the captain; and cross-examined him on the same lines that had been so successful in the case of the mate. First of all the witness admitted that he had been approached by the British minister at Naples who had promised him $1,000 a month. He had been paid one month in advance at Milan. But this witness was acute enough to see the drift of the question; or perhaps he had been coached. For he soon volunteered the information that the $1,000 per month was quite insufficient; and that he was losing money by being in England. For one thing, he said, he was now a merchant on his own account, and while he was away, his agent had sold a cargo of corn for about fifty sous less per bushel than the regular price.

"Do you mean to state that your being here affects the price of corn in Italy?"

A perfect storm of "Order! Order!" broke from the Government peers. Williams observed rather icily that he was not aware that his question was irregular. The lord chancellor immediately ruled that the question was quite in order. Whereupon Williams without the slightest hesitation, remarked that in those courts where *judges* presided, it was usual for silence to be observed; and their lordships must forgive him therefore if he did

not understand this sort of interruption. It was the policy of queen's counsel to make it appear that they were not being treated fairly.

Having disposed of the question of remuneration, Williams went on to score another point. When had witness last seen Paturzo, the previous witness? Had they spoken together about the evidence Paturzo had given? Gargiulo admitted that he had breakfasted with the old mate that very morning, but stoutly denied that they had said a word about the case. In order to clinch the assertion, Gargiulo said that he himself had told Paturzo that he would not discuss the matter with him. Whether the worthy Italian expected any one to believe this extraordinary statement or not, I do not know.

Some of the peers were curious enough to make further inquiries, from which it soon appeared that this gentleman who was in receipt of $1,000 per month as a witness had only received $750 per month from the queen for the hire of his polacre, including the services of himself and his crew of twenty-two men. A chance expression led to the further interesting discovery that Signor Gargiulo had had a dispute with Pergami about money. Pergami had refused to pay him certain claims he had made for extra remuneration in respect of the voyage to Egypt; and it was quite evident that the worthy mariner bore Pergami no very great love.

A little interlude then took place, caused by Brougham requesting to be allowed to cross-examine Majocchi again on some further information. Permission being granted, and Teodore being once more placed at the bar, Brougham proceeded to get from him that in the course of the previous year he had been living in Gloucester in the service of one Hyatt. He admitted having said to various people at Gloucester that the Princess of Wales was a good woman; but that she was surrounded by bad people. He could not recollect whether he had ever said that she was quite prudent and proper in her conduct. Then it came out that Majocchi had a grudge against Pergami also; for he admitted, after some hesitation, that he had told somebody at Gloucester that Pergami had kept part of the servants' wages, and that was why he (Majocchi) left the princess's service.

Majocchi, however, repudiated with some heat a suggestion that he had ever told anybody that he had been offered a great reward to come forward and give evidence against the princess, and he afterwards observed that when he called the princess "*Buona*

Donna," it was because he knew if he had said anything against her highness somebody would have knocked him down.

Francisio Barillo, who had been the Princess of Wales's cook in Italy and during her voyage, was the next witness. He swore to one occasion, at an inn in Tunis, when he went up to Pergami's bedroom, at half-past nine in the morning, he saw that gentleman coming out of the princess's bedroom in a half-dressed condition.

He said he had looked at Pergami's bed at the time and was sure it had not been slept on. He also gave some particulars of the tricks performed by Mahomet in the princess's presence. According to this witness, there can be no doubt of the indecency of the Turk's behaviour. In cross-examination, this witness admitted that he had been examined by Colonel Browne and the advocate Vilmarcati at Milan. He further said that one time when he was injured and confined to bed, the princess came to see him.

The attorney-general next called Captain Pechell of the *Clorinda* frigate in which the queen had sailed in 1815 and 1816. On the first voyage, he said, her royal highness dined at his table and Pergami waited on her as a servant. On the second voyage, he, knowing that Pergami was now in the habit of dining with the princess, had represented that it would be inconsistent with the position of an officer in the British navy to admit to his table a person who had been a menial servant. Upon this, the Princess of Wales had provided her own table in her own cabin; he was unable to say who dined with her.

The next witness was Captain Briggs of the *Leviathan*, who had conveyed the princess and her suite from Genoa to Sicily in November, 1815. She dined at the captain's table, and Pergami always dined with her there. It was this witness who had conveyed Captain Pechell's message to the Princess as to Pergami's dining at table; and her royal highness had said, "He has sat at the table, and I cannot conceive what objection can be made to it now". He had also seen the princess walking arm and arm with Pergami at Messina; but he said he did not think it at all uncommon.

The cross-examination of Captain Briggs was neither long nor interesting; but in answer to a question by one of the peers, he said that he had never seen any improper familiarity between the princess and Pergami, nor had he any reason to suspect any improper freedom or familiarity between them.

After this little interlude of English, the Italian witnesses

were resumed. The first was Pietro Puchi, the manager of an inn at Trieste where the princess and her suite had once stayed. It was attempted to get the witness to swear that the princess and Pergami occupied adjoining rooms; but Puchi would only say that the princess had a room next to that of the Countess Oldi, the countess's room opened into the dining-room, and Pergami's room opened into the countess's. During the days her royal highness remained at Trieste, the witness had often seen Pergami coming out of her room at about eight o'clock in the morning, very imperfectly clad. The exact extent of the clothing the witness would not swear to, because he had only seen it by looking through the keyhole of his own room. He had also observed that Pergami's bed was never slept in the whole time he was at the inn; and he also gave other testimony as to certain articles used in the princess's bed-chamber.

This testimony, if true, was conclusive against the queen; but Williams shook it very considerably in cross-examination. He first made the witness admit that he could not remember what day of the week the princess arrived, nor the day on which she left. He also admitted that when he was first approached to give evidence in this case by some one who asked him, "How did the princess conduct herself?" he had answered, "I cannot complain, she behaved very well". He also had been examined by the Milan Tribunal; and had received eight gold Napoleons, and eleven francs. He further admitted that if the attorney-general had been instructed and had stated in his speech that Pergami's bedroom opened into the dining-room, the attorney-general was wrong; for Pergami's room opened into his sister's bedroom only.

In answer to the Marquis of Buckingham, the witness shed a little light on his statement that Pergami had never occupied his bed, by the singular statement that the bed was so small that nobody possibly could sleep in it! As to the keyhole through which Puchi said he had peeped, it ultimately turned out that the whole of the wall in which the door was, was covered with canvas, so that no one could see that there was a door there.

The witness swore, however, that there was such a door, and that he had cut a little hole—a very little hole—in the canvas with a knife. Most of their lordships exhibited some signs of incredulity at this story, as well they might.

As a little relief from the constant Italian patois, the attorney-general next introduced Barbara Kress, a German. This woman

was not of a prepossessing appearance, though she was somewhat sumptuously dressed. The effect of her evidence was as follows:—

I live at Carlsruhe. I have been married for about three years; before my marriage I had been chambermaid at the Post Inn at Carlsruhe for about a year and three quarters. I remember the Princess of Wales and Pergami coming there. The princess slept in room No. 10. The adjoining room, No. 11, was used as a dining-room; and the room next that, No. 12, was Pergami's bedroom. Both No. 10 and No. 12 opened into No. 11. I remember one day carrying water to No. 12. When I entered the room, Pergami was in bed and the princess was sitting on the bed next him. Pergami had his arm round the neck of the princess, and when I entered, he let it fall. She jumped up and was much frightened when I entered. I cannot describe how Pergami was dressed. I immediately withdrew. One morning when I was making the bed in No. 12, I discovered a silk cloak, a lady's cloak, in the bed. In tucking up the same bed, she had also noticed certain unmistakable signs. In describing these marks, the witness burst into tears.

Brougham cross-examined; and first took the witness through her career. Before being at the Post Inn at Carlsruhe, it turned out that she had been chambermaid at one or two other inns, and housemaid at another. Asked how she came to give evidence in the case, Mrs. Kress said that she had been asked by a minister of the Grand Duke. She had also been spoken to by M. de Galle, a person occupying some position in the Grand Duke's Court; she had also been spoken to on the subject by the ambassador to the Court of Wurtemburg, by M. von Grim, and M. Rathvegn, whom she supposed to be the Hanoverian minister. Brougham pursued his inquiries:—

"Did you ever see Colonel Douglass?"—"I know not what was the name of the gentleman where I was."

"Where was it you went to? What place?"—"To Hanover."

"When did you go to Hanover?"—"It was on leaving the Post Inn that I was called to go there."

"Who called you to go there?"—"Mr. Rathvegn."

"How long did you remain at Hanover on that occasion?"—"Six or seven days, I cannot tell you the exact time."

"Were you examined there on this subject?"—"They asked me whether I had seen such and such things."

"Did you go back from Hanover to Carlsruhe?"—"Yes."

"What did you get for going to Hanover?"—"I have received a small payment for the time I have lost."

"How much was the small payment?"—"I cannot exactly tell, it was written down."

"Then it is more easily remembered? How much was it?"—"About sixteen or eighteen ducats."

"What wages had you at the inn?"—"I had only thirteen florins a year out of the inn."

The ex-chambermaid then admitted that she had also been to Frankfort on this business and had again received a considerable sum, twelve or fourteen ducats.

The witness then said that the person who fetched her told her that she would be obliged to go to London, because she would be forced to go if necessary.

Brougham's somewhat roving style of cross-examination speedily brought about a conflict between himself and the Earl of Lauderdale, and two days and a half were spent by the house in debate as to how far the queen's counsel ought to be allowed to go in cross-examination. Ultimately the defence triumphed; and the queen's advocate was allowed to pursue his own course. The witness was soon compelled to say where she was living, and how, and give considerable details as to her family. For a long time Mrs. Kress swore and stuck to it, that she had never been promised anything for coming over to give evidence; but after a while she coyly admitted that the minister of the Grand Duke had told her she should be reimbursed for the time she had lost.

"When you had the conversation with Baron Birgstead about compensation for coming here, what did you say to him when you demanded it?"—"Well, your excellency, must I go? I am a married woman, and I have business to attend to."

"What answer did his excellency make to that?"—"He said if I should not go, I would be forced. And then I answered, 'I will go, and God may settle the matter as he pleases'."

"When you asked for the compensation for coming, what did the baron say?"—"He said he could not give me anything, but I should leave it to the gentlemen, and he had no doubt they would recompense me when I came here."

Further inquiries yielded the information that Mistress Barbara had made rather a good thing out of her connection with the case. In addition to the sixteen ducats, and the eight ducats, she had had one or two odd pieces of money—a large sum for a servant

girl, whose total earnings, including tips, were rarely more than forty florins a year.

The witness further admitted that until she was asked about it by a person in authority, she had never mentioned to any one that she had seen the princess sitting on Pergami's bed.

One Bianchi, an Italian Swiss, who had been hall porter at the inn of Grand Bretagne, when the princess was staying there in 1815, told of an incident which was intended to convey the impression that Caroline was on very intimate terms with Pergami. The princess he said had bought a Venetian chain of gold, which the jeweller brought to the hotel at the time when all the company were going to get up from dinner. Pergami was in the room at the time standing behind the princess's chair. The rest of the company left the room, leaving the princess and the courier together. She got up from her chair, took the chain from her own neck, and put it round Pergami's neck. Pergami took it off and replaced it on the neck of the princess.

Denman cross-examined in his usual forcible style:—

"Did you see what was done to the gold chain through the keyhole?"—"I was in the same room where they dined."

"Then they saw you very plainly, I suppose, standing by?"—"I was there."

"Have you been to Milan to be examined as to these facts?"—"I have."

"What money or compensation had you for going from Venice to Milan on that occasion?"—"I received nothing else but my expenses for the journey."

"Had you anything for your loss of time?"—"Nothing."

"What are you to have for coming here?"—"To come here I have received nothing but my travelling expenses."

"Do you mean to swear that you are to receive nothing as compensation for loss of time for coming here and staying here?"—"They told me I was to receive nothing, but to come to London to tell the truth, and this I have done."

"But what are you to be paid for telling the truth?"—"I have made no agreement nor condition; if they will give me something I will take it."

. . . . . .

"Do you wish to persuade us that you have made no bargain, and do not expect to receive any compensation for what you have lost?"—"I do come here to tell the truth without pay, and what am I to expect?"

"Did anybody tell you lately to give that answer here?"—"Nobody; I never have spoken upon this business to anybody."

"Whom had you lived with in this country?"—"In company with twenty or twenty-five more."

"Is Teodoro Majocchi one of them?"—"He is."

"Will you swear that you have had no conversation with that man about the evidence you were to give here?"—"I have."

"Did he not remind you that he was in Venice the first time the princess came there?"—"The first time he saw me, because we were together; but the second time he remained behind."

"Have you breakfasted with Majocchi every day for the last fortnight?"—"Yes, we breakfasted and dined together."

"Who sent you to England?"—"Colonel Browne."

"What power had Colonel Browne to send you here?"—"He sent the Commissary Androzzi to Venice to tell us we must go to Milan, to pass to England."

"But what power had a colonel of the army to send you away from your place to England?"—"This I do not know; but he said that if we would not go willingly, we should be made by force."

The next witness was Ragazzoni, a stone mason, who said he had been employed at the Villa d'Este to do some repairs. He had often seen the princess and Pergami walking in the garden alone.

One day he was making a cornice for a rotunda there, when he heard some one enter the adjoining room. Stooping down to see who it was, he saw Pergami and the princess. In that room were two figures of Adam and Eve. Adam was dressed in the conventional fig-leaf, which also formed the sole costume of Eve. These fig-leaves were fastened by wires, and could be put aside.

He saw the princess and Pergami put aside the fig-leaves, look under and laugh.

The cross-examination by Dr. Lushington was directed solely to show that the witness had been "go at," by the Milan Commission. Ragazzoni, admitted that he had been examined at Milan by Colonel Browne and the advocate Vilmarcati. He was sent for by the Governor of Milan, and taken to Milan by the courier Rastelli, whom he had known as the Princess of Wales's head groom. At Milan witness had taken an oath on the cross. On the old question of remuneration, this witness swore that he had not received as much as the price "of a drop of water". He had been brought from Italy by Rastelli, who had paid all the travelling expenses. After this came a procession of witnesses

who described various acts of familiarity. One of them said he saw the princess sitting on Pergami's knees, and once saw them kissing. He had also heard them talking together in French, but all he had been able to hear of the conversation was the incriminating expression *mon cœur*. Another one had seen her coming into the kitchen arm in arm with Pergami.

The cross-examination of all these witnesses was on the same lines—that is, directed to show that they had been primed and bribed by the Milan Commission.

After these comparatively trifling witnesses, came the most important who had been called since Majocchi left the box—Louise Demont, the princess's chambermaid. Rumour had been busy with the name of this woman for some time. The defence knew that she was to be called by the other side, and had made a certain amount of preparation for cross-examining her. As she advanced to the bar of the House, she was scrutinised by every eye; but she bore herself with the most perfect composure; and even sustained without a blush or a wince the penetrating glance of Brougham, who did his best to disconcert her by eyeing her from top to toe several times. But Demont was not to be stared out of countenance. Her appearance was not altogether prepossessing. Apparently, she was about thirty-six years of age; of dark complexion, and with glittering eyes, with a sort of haggard appearance. Her cheeks were sunk and somewhat shrivelled. But what the waiting-maid had lost in personal charms, she made up in raiment; for she was dressed in the height of fashion. The solicitor-general took in hand to examine her in chief, and her evidence occupied the best part of four days. I will summarise it as well as I can, only giving *verbatim* those questions and answers which are most important:—

"I am a Swiss of the *pays de Vaud*, and a Protestant. I entered the service of the Princess of Wales at Lausanne, and afterwards accompanied her royal highness to Italy and on her tour to the Holy Land. My situation was that of chambermaid. I remember Pergami being engaged as courier. I recollect that at Milan, and on the journey to Naples, William Austin was in the habit of sleeping in her royal highness's room; but at Naples the princess told me the boy was now too big to sleep in her room, and must have one for himself. I do not know where Pergami slept on the first night of his arrival at Naples, but I remember that on the second night he slept in a room near that occupied by the Princess of Wales. There was internal communication between

the two rooms by way of a small cabinet and a passage. On the evening after her arrival at Naples her royal highness went to the opera. She returned early, and rang for me. She told me to forbid William Austin's entry into her room, because she wished to be quiet. I did not remain with her royal highness long that night, because she sent me away immediately, contrary to her usual practice. I thought she was extremely agitated. I did not see her royal highness again until eleven o'clock the next morning.

"In her bedroom were two beds, one a small travelling bed, and the other a large bed. Her royal highness usually slept in the small one, and on the night in question sheets were put on the small one and it was made up for use. The large bed was not made up. The next morning I observed that the small bed had not been occupied, but the large one had."

"State at length or more particularly what was its condition?" —"I cannot do that."

"Was it much disarranged?"—"Not much."

"While at Naples I often saw Pergami in the bedroom. I assisted her royal highness in making her toilette, and I often saw William Austin and Pergami present. Austin was then about thirteen years of age. On these occasions when Pergami was present her royal highness was sometimes dressed and sometimes not." [The next piece of evidence was very important and relevant.] "I remember seeing Pergami in the passage (this does not refer to the private passage between the two rooms) at night. The princess was then in her bedroom, undressed, and I was standing near her royal highness's bed. I saw Pergami come out of his room in a state almost of nudity, and come along the passage as if towards the princess's room. When I saw him, I ran away."

"The witness has stated the state of the small travelling bed the first night of the princess's arrival. What was its state on the subsequent night?"—"I made no observation with regard to it."

"Will the witness tell the condition of the large bed; whether two or one appeared to have slept in it?"—"More than one person appeared to have slept in it."

"I remember the masked ball given by Murat to her royal highness. She dressed herself for the ball in a small room of the house where the ball was. The princess first appeared in the character of a country girl, afterwards in that of the 'Genius of History'. I assisted to dress her in the first dress; I did not assist

her in changing into the second costume. Pergami did, while I stood in the anteroom. They were alone together while she was changing her dress for about three-quarters of an hour. The dress in which she appeared as the 'Genius of History' was one which exhibited her arms bare and her breast bare. Later in the evening the princess assumed the costume of a Turkish peasant. She went down to the ball room with Pergami in that dress.

"I remember going with Pergami and the Princess of Wales to the theatre of St. Carlos in Naples, when the queen was hissed because she wore a very ugly monstrous dress.

"I observed the conduct of the princess and Pergami while at Naples. They began to be very familiar one towards the other, from the moment we reached that city. Pergami entered her room without knocking; the other servants always' knocked unless they were sent for. At Genoa when the only English persons in the suite were Dr. Holland and Mr. Hownam, the princess and Pergami used to breakfast together in a cabinet at the end of the saloon. Pergami was courier at that time. At Genoa the two bedrooms were near each other, being only separated by her highness's dressing-room. I slept in a room on the other side of the princess. More often than not her royal highness's bed was never slept in. I have sometimes heard a noise of a door opening towards the side of the princess, but I do not know whether it was the door of her room. While at Genoa, Louis Pergami, Faustina, and Pergami's mother came to stay at the house, as well as the little Vittorina. The princess at one time purposed taking a house in the neighbourhood of Genoa. She said she would like it because it was distant from the town and from the English. I remember the Countess Oldi coming into the service."

"Did you make any observation of the language of Countess Oldi, so to be able to know whether she was a woman of distinction?"—"I always observed that she spoke very vulgar Italian."

BROUGHAM. "This is the first time a woman has been asked to criticise the style of another woman in a language which is not her own."

THE SOLICITOR-GENERAL. "Did you make any observation on the manners of the Countess Oldi? In your judgment were they the manners of a lady of distinction or not?"

BROUGHAM. "We make no objection to the question. We beg that the opinion of this Swiss chambermaid on the manners of ladies of distinction may be put down and registered."

After some trouble, the solicitor-general was allowed to ask the question: "Did you make any observation on the manners of the Countess Oldi?" It must have been rather heartbreaking to him to receive the answer "No".

"I remember when Mr. Burrell left her royal highness's service, there was more freedom in the house. The princess and the servants played at games in the saloon every evening—such games as 'blind man's buff'. From that time she and Pergami lived very free towards each other. Pergami dined with the Princess for the first time while on a journey to Belenzono. At that time he was a courier. He rode in the same carriage on that journey, but not the same as her highness's.

"I now come to the Villa d'Este. When we first arrived there, the bedrooms of the princess and Pergami were only separated by a small but very narrow cabinet, into which the two rooms open. The princess usually went to bed between ten and eleven o'clock. I accompanied her to her room, and Pergami came sometimes. I always undressed the princess; and very often after I had undressed her she accompanied me to the door, which she locked after I had gone out.

"As to the journey to the Holy Land—at Messina, where we lodged, the Countess of Oldi's bedroom was next the princess's, and Pergami's next to that of the countess. My own was next to Pergami's. All these rooms opened into each other. The princess very often came to call me early in the morning. To do so she had to come into Pergami's bedroom. As a rule she had on only a dressing-gown, and her night attire. At Messina I heard her address him as 'Chevalier, mon coeur,' and on one occasion, when Pergami went away for a short time, I saw them kiss each other—that is, I did not see them, but I heard them behind me. One morning, I saw the princess coming out of Countess Oldi's room in her nightdress, and carrying under her arm the cushion or pillow which she always used. At that time Pergami was sleeping in the countess's room, he being ill; and the countess had a bed made up for her in the princess's room. I remember the princess having her portrait painted as the penitent Magdalene; and I afterwards saw the picture in the possession of Pergami, who told me that it was his. Pergami also had a portrait painted, as a Turk; the princess arranged a turban for him. At Carthagena, Pergami was made a Knight of Malta, and at Augusta he was made Baron Francina. At Augusta a change was made in the position of the bedrooms so

that Pergami might occupy a room immediately next to that of the princess, and opening into it. The door between them was shut at night, and I have heard Pergami try it if it was locked. After I had retired to my room, having assisted the princess to undress, I have often heard whispering in Pergami's chamber, but who the whisperers were I do not know. When the Turkish picture was painted I remember that the princess arranged the neck of Pergami's shirt. She opened it *so* (witness made a gesticulation). She said 'Je l'aime mieux comme ça' (there was some doubt whether this meant 'I like *him*,' or 'I like *it* better so'.)

"I was on the polacre on the voyage to Tunis and the Holy Land. I corroborate what has been said as to the position of the princess's bedroom, and as to Pergami sleeping in the dining-room on the voyage out. I have been in the dining-room when Pergami was in bed there, and have seen the princess in bed in her room at the same time. On two occasions I saw them speaking together when both were in bed. At Tunis where the princess and her suite resided in a palace belonging to the Bey, her room was only separated from Pergami's room by a small cabin or passage, which no one occupied. My sister and I slept in a room opening into the unoccupied room. The Countess Oldi's room also opened into that room. I also remember that at Utica, before the princess had left her bedroom, I saw Pergami enter it. He had to go through my room to do so. The princess asked me for something and I went to the door; and I could see that the princess was in bed. At Zavonau I cannot say whether two persons had slept in the princess's bed, but the bed seemed to me to be in great disorder. On the land journey from St. Jean d'Acre to Jerusalem, I remember we halted one morning at a place called Ann, where the princess slept in a tent. There were two beds to that tent. I attended her royal highness to undress her, and when I left her undressed and in bed, Pergami was lying in another bed in the same tent: he was dressed but without a coat. The tent was let down, shut on all sides. At Jerusalem the princess resided in a house that belonged to a convent. Her bedroom there opened into a gallery, as also did those of Pergami and the countess. No other members of the suite had their rooms on that gallery. As to the return voyage, I recollect her royal highness bathing; and that Pergami went down below with her. They were together nearly three-quarters of an hour; after which time I was called down by Pergami to dress her royal

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FROM AN ENGRAVING

highness. I have often seen the princess under the deck-tent in the day time with Pergami.

"I recollect the Princess of Wales instituting the 'Order of St. Caroline'. Pergami was appointed Grand Master.

"After our return to the Villa d'Este, a change was made in the bedroom of her royal highness in such a way that it had a communication with the room of Pergami. His room communicated with the rest of the house by a corridor. I saw masons at work forming an opening for a door through which it was possible to pass from Pergami's room to her royal highness's. There was a theatre at the Villa d'Este, and in that theatre I have seen Louis Pergami (the brother) play the part of Harlequin with her royal highness dressed like Columbine. I have seen Pergami's cravat and slippers in her royal highness's bedroom. The princess sometimes called him 'Pergami' and sometimes 'Tu,' and Pergami said 'Princess' to her. The rest of the servants addressed their mistress as 'Your Royal Highness'.

"Pergami had a house called the Barona, where the Princess of Wales visited him with her suite. Balls were given at the Barona, attended by people of low condition. I remember Pergami telling a story of something that happened in the house with reference to the people who were at one of the balls. He told the story in the presence of her royal highness; but it was so indecent that I dare not repeat it. (Here the witness who had given so much suggestive evidence, modestly cast down her eyes. But the peers ordered the whole of that part of the evidence to be struck out, since the witness would not relate what it was, except by hints.) I remember the journey to Germany to the Tyrol. We stopped at Scharnitz. Pergami went forward to Innsbruck for passports, and had not returned at ten o'clock at night. At that time we all went to bed; and a small bed was made up for me in her royal highness's bedroom. In the middle of the night Pergami returned, and came into the room; and I was told to take my bed and go. I also remember that at Carlsruhe, I went into her royal highness's room, and saw her sitting on the sofa with Pergami's arm round her waist, and her head leaning on his shoulder. Returning from Baden, on the journey from Vienna by Trieste, Pergami travelled alone with her highness in a small open carriage. The same applies to the journey from Trieste to Milan. I have also seen Pergami in the princess's room when she was at her toilette, when she had no skirts on. Pergami turned round and said, 'Oh! how pretty you are. I like you much better so.'"

The rest of the witness's evidence may be summarised thus :—That at all times the ex-courier's room was near that of the princess, though not actually next to it.

The cross-examination of the chambermaid was undertaken by Williams; and it was quite as smashing as Brougham's celebrated cross-examination of Majocchi. Indeed, for my part, I think it even better, for Demont was much cleverer than the Italian; and had the advantage of having plenty of time to think over her replies, as will presently appear. The cross-examination proceeded: "I have been thirteen months in England without intermission. I understand English a little, but cannot speak it with ease, though I have been taking lessons for about four or five months. I have sometimes tried to speak English."

"Did you understand the questions put to you yesterday before the interpreter translated them?"—"Yes. I can understand better than I can speak, because I cannot speak to make myself understood easily."

. . . . . .

"Since you have been in England have you always gone by the name of Louise Demont?"—"No, I had another name."

"If it be not giving you too much trouble, will you be so good as tell what your other name was?"—"I took the name of the place I came from, Colombia."

"Did you also take a title, that of countess?"—"No."

"Were you never called countess?"—"I was once so called."

"By once do you mean one time?"—"I mean one time."

"By once do you also mean by only one person?"—"I only recollect one person to have called me countess."

"Where were you living when that person so addressed you?"—"In Frith Street."

"Before that time had you lived in Oxford Street?"—"Yes."

"While you lived there did nobody call you countess?"—"I do not recollect that anybody called me so there."

"Will you swear that you did not pass in the house by the title of countess?"—"I cannot tell what Mr. Cross, who placed me in the house called me; I do not know by what title he announced me."

. . . . . .

"How long have you been called Colombia?"—"Since I arrived at Dover in England."

"I wish to ask you whether when you lived in Oxford Street, you did not answer to the title of countess?"—"I do not recollect."

"Was it a matter of no singularity to you to be called countess?"—(Here some of the peers cried "Order! Order!") Williams observed that he had a perfect right to put the question in any court of justice; and the lord chancellor upheld his contention. The cross-examination continued:—

"In the first part of the evidence, I said that on the morning after the night that the princess went to the opera at Naples the large bed was not much tumbled and I had made no observation on it except that it had been occupied. In a subsequent part of my evidence I said that I had observed that more than one person had slept in it. I explain this by saying that I did not know in the first instance that I was being asked how many persons had slept in the bed.

"I cannot recollect where Hieronimus slept at Naples, nor where the servants of Sir William Gell or Mr. Keppel Craven slept. I do not know where Mr. Keppel Craven slept during any one night during my residence at Naples. I myself slept in a little room above that of her royal highness's. I slept in that room alone every night and the whole of the night. (The reader will see when he comes to the evidence of Mr. Keppel Craven's servant why these questions were asked.)

"As to the night when I saw Pergami coming out of his rooms in a state of undress at Naples, I cannot say how long that was after our arrival. I cannot say even within a week; nor whether it was in the first, second or third month. When I saw him I was standing at the door of the princess's room which opened on the corridor; Pergami had a candle in his hand at the time, but I had no light. I was about to withdraw to my own room without a light. When I made my escape, as I have previously sworn, I had to go near to Pergami before reaching the door through which I escaped. As to the incident of the masked ball at Naples, there were present a number of the Neapolitan nobility and gentry. Hieronimus and Sicard were also at the ball."

With reference to the journey to Jerusalem, and the incident of leaving the princess undressed in the tent:—

"Do you mean to say that the princess was undressed at Ann?"—"She had pulled off her upper habiliment."

"Meaning the upper dress she had been travelling in?"—"Yes, a gown which is open."

"Then the dress remained as it had done all night while she was travelling, except the exterior dress of whatever description?"—"The princess was in a white petticoat."

"When the princess came to start, had she more to do to her dress than to put on the habiliment of which you have just now spoken?"—"I do not think she had anything else to put on."

With regard to the Charwitz incident, "When Pergami went to Innsbruck to get a passport, I was on a bed in the chamber of the princess; but I had not taken off my clothes. The princess was in bed; but I do not recollect if she was undressed. The princess had got into bed with her dress on in the middle of the preceding day, and I do not recollect that she took the dress off at all at night time."

The witness's evidence was considerably whittled down; but Williams was now to begin an attack upon her which would leave her without a vestige of credibility. He began it with a question put quite suddenly.

"Did you quit the princess's service of your own accord or were you discharged?"—"I was discharged."

"Were you not discharged through saying something which you afterwards admitted to be false?"—"Yes, in fact it was not true."

"Did you go into any other service after you were discharged from that of the princess before you came to England?"—"No."

"Did not your money fail you before you came to England?"—"No."

"Do you mean to say that you were not in want of money before you came to England?"—"No, because I have money in Switzerland, and I might have got it if I had been in want of it."

"Did you never say that you were getting short of money?"—"I do not recollect having said that; I had funds in Switzerland and could get the interest."

. . . . . .

"I believe you were applied to for evidence by some person or other very soon after you were discharged from the service of the princess?"—"Not very soon . . . one year after I had left her service."

"Now do you mean to represent that an application was not made to you much earlier than a year after you were discharged from the Princess's service?"—"No."

"Is it or is it not true that application was made to you within half a year after your quitting that service?"—"No application was made to me earlier than one year after I quitted the service."

"Will you swear it?"—"Yes."

"Neither by means of a letter, by personal application, or

otherwise in any manner?"—"No. As I know what it is about, may I be allowed to explain the matter?" (After some discussion she was allowed to explain as follows:) "Six months after I left the princess I wrote to my sister to say that application had been made to me, but the communication was a *double entendre* between my sister and me."

"Have you never said that the princess was surrounded with spies when she was in Italy?"—"I do not recollect having said it."

"Did you ever say or represent it in any manner?"—"I do not recollect."

"Will you swear that you have not?"—"I will not swear, but I do not recollect."

"Have you a short memory—a treacherous memory?"—"Not very short, but it was too long since the thing happened."

"Have you ever stated it at any conversation?"—"I cannot recollect what I have said in conversation. It is impossible."

"Either by your conversation or in any other manner have you represented what I have stated?"—"I recollect nothing at all about it."

"Do you know Baron Ompteda?"—"Yes, I have known him."

"You have seen him?"—"I have seen him."

"Have you spoken with him?"—"Not often."

"When he was on a visit with the princess I daresay?"—"When he was staying at the Villa Villani with the princess, I believe."

"Was he often there?"—"I recollect only having seen him there once for some days."

"I ask whether or not he has been on a visit to the princess while you were in her service more than once?"—"Yes."

"How many times have you known him on a visit to the princess while you were in her service?"—"I have seen him in three different places."

"Was there no complaint made by the princess relative to the conduct of Baron Ompteda on one of these occasions?"—"Yes, there was."

"On which of these occasions was it?"—"As far as I can recollect it was when Baron Ompteda was at Villa Villani."

"Was the complaint about keys or locks?"—"I remember that the princess made a complaint, but I do not recollect respecting what."

"Why, you yourself took a considerable share in the business of the complaint?"—"I took none."

"Why, did you not write a challenge?" (The answer, if there was one, was drowned in laughter.)

"Did you or did you not write a letter for Mr. Hownam or anybody?"—"I do not recollect."

"Did he not desire you to write a letter for him to Baron Ompteda?"—"I recollect nothing about it."

"Is that (exhibiting a letter) your writing? Did you write it?"—"It is not exactly like my writing."

"Do you believe it to be your writing or not?"—"It is not exactly like my handwriting."

For about ten minutes the same question was asked, and the same answer repeated; and it became evident that the witness would not answer definitely because she was not sure what was in the letter; for all that was shown to her was about a couple of lines, and the rest of the letter was folded back. Seeing the witness in rather a tight place, one or two of the less scrupulous peers on the Government benches began to protest that the witness was not being fairly treated. One noble lord said that "The counsel were prompted," an observation which drew upon him a terrific snub from Brougham. The queen's attorney-general, in fact, used to lurk about watching for an opportunity to administer castigation to somebody—no doubt with an eye on the Press.

Mademoiselle Demont, however, despite all pressure, absolutely declined to say whether the writing was hers or not, so Williams attacked her on another point:—

"Was it not in the month of November, 1817, that you quitted the service of the princess?"—"Yes."

"Of course at that time you knew all respecting the queen which you have deposed to for two days back?" No answer.

"Did you not at that time know all that you have been deposing to here?"—"Yes."

"Since the time you were discharged from the service of the princess have you never described the character of the princess as very excellent?"—"I do not recollect."

"Will you swear that you never said to your sister that you would give half your life for her, if she could read your heart?"—"I may have said that, but I do not recollect."

So the questions ran on, until Demont's "Je ne me rapelle pas" became almost as monotonous as the "Non mi recordo" of her friend Majocchi. Then the young woman began to fence. She had written to her sister, and in the letters had spoken of her royal highness, but had not the slightest recollection of what she

had said, or the tenor of it. At last, however, Williams's persistence drew the admission that the witness had written to her sister to the effect that she (witness) had great respect and affection for the princess. Then Williams began to ply her with expressions culled from her letters to her sister (which letters the witness still declined to admit were hers, though she would not deny them), all expressive of sincere attachment to the princess, and expressing a wish that some day her royal highness would have justice done her.

But the tit-bit of the cross-examination came when Williams produced a letter wherein the facile ex-chambermaid detailed how she had received, at the hand of an unknown person, an unsigned letter, asking her to go to London, offering her a brilliant fortune and high protection, and saying that if she accepted the offer she might draw on a banker for as much money as she wished. "You see, my dear," the letter continued, "with what promptitude the enemies of our generous benefactress always act. There must be spies all about her; for no sooner had I left Pesaro than it was known in the capital of Europe. They thought to find in me a person revengeful and ambitious, but, thank God, I am exempt from both those failings; and money acquired at the expense of repose and duty will never tempt me. . . . A good reputation is better than a golden girdle."

There was a good deal of high-flown language, and not a little amusing matter in the letter—a frank discussion of an *amourette;* and some details of a faithful lover who, for seven long years, had pestered her to marry—"But recent events have created in me a sort of antipathy to men . . . . I love and cherish sweet liberty alone." "I conjure you to imitate my example, and never think of marrying."

The next letter was one addressed to the queen, beginning, "It is on my knees that I write to my benefactress," and going on to implore Caroline to pardon the writer, and to burn two "fatal letters" which "constantly bear testimony against my past conduct". Demont, in this letter, also asked her old mistress to take into her service another sister, Henriette, a girl of eighteen.

Williams immediately began to cross-examine on these effusions; but Mademoiselle Demont was ready of wit; and was not long in concocting an explanation. Her story was that she wrote the letter to the princess because she had been advised to do so by Pergami, so as to save her sister Mariette from dismissal. The letter to Mariette was written with the same object, and was

couched in the same strain because witness knew it would be intercepted.

Williams politely inquired if that was all. After a pause, Demont added that the reference to the banker was a *double entendre*, intended to convey that if she had some money then in the hands of her guardian, she could invest it to better advantage. "Any more explanations?" asked counsel. "No more." "Don't hurry; take your time—now, any further explanation to give?" There was a long pause, and then: "I wished to convince the princess that money would not tempt me." With icy contempt but, withal, an air of great civility, Williams again asked, "Have you now any other explanation?" Again the witness stood silent for a long time, and finally admitted: "I felt at that time a great degree of attachment to her royal highness" . . . .

"In the first letter, what place do you mean by the capital of Europe?"

The question was a simple one, but the witness hesitated to answer. At first she said she did not recollect, because she was in the habit of writing with a double meaning. Then she said it was either Lausanne or Colombia. The House began to laugh; but rather angrily. Then Williams put a few questions the drift of which the reader will at once perceive:—

"You mention a sister besides Mariette?"—"Yes."

"I hardly need ask if you are much attached to her?"—"I was always much attached to that sister."

"And you wished to place her in the service of her royal highness?"—"I wished to place her in the service of the princess."

"What age was she?"—"Near nineteen. I cannot recollect exactly."

After this cross-examination, not all the king's horses nor even the best exertions of Mr. Solicitor could pick Louise Demont up again; and, so far as the case depended on her, it had fallen to pieces of its own rottenness.

The Swiss not having answered expectations, the prosecution returned to their Italian witnesses; and introduced one Galdini, a mason, who said that once, when engaged in working at the Villa d'Este, he suddenly opened a door, and saw Pergami and the princess embracing on a sofa. Pergami had said, "What want you here, son of a dog!" and he (Galdini) had retired in a hurry. Another man Finnettis who had been employed as a painter at the Villa d'Este, said he had seen the pair embracing. Yet a third gentleman in the building trade, Bruzo, had seen the

princess stroking her servant's cheek. A fourth deposed that he had seen them—Pergami in a dressing-gown—looking out of the same window. For the most part, these witnesses were not even cross-examined.

The reader is now invited to look at Giuseppe Rastelli, whose testimony appeared not, perhaps, very important in itself; but, as the sequel proved, turned out to be of the greatest moment. His evidence in chief may be dismissed in a word—he had seen the princess and Pergami sitting in a carriage, in a situation which left no doubt of their relations. Denman cross-examined him with great care. First, Rastelli admitted that he had been dismissed from the princess's service. It was not, as suggested on an accusation of theft, nor had he ever told any one so. "I never told a lie." "Do you mean," sneered Denman, "without being well paid for it?" After that, the evidence of importance really comes: Denman dragged out of the fellow, a bit at a time, that he had been to Milan, before the Commission; that he was first asked to go by one Riganti, a tobacconist; that he was passed on to Vilmarcati, the advocate; that afterwards he saw the same advocate, three English gentlemen and two clerks. Observe, please, the next question and answer:—

Q. "Did you not become a very active agent of the Milan Commission?"

A. "I was not an active agent. They gave me orders only as a courier, which is my profession; and as a courier I have done."

From this point Denman followed the witness in his travels. He had been to Westphalia, with a letter to one Credi (see pp. 383-385), and had offered Credi his expenses to go to Milan. After that, Rastelli had gone to Frankfort, and tried to get hold of a former maid of the princess's, but without success.

"Have you even offered anybody money for coming here as a witness?"—"I have not."

After Rastelli, came a man who had seen kissing in a boat on Lake Como; and then another old servant of the queen's was put in the box. This was Sacchi, who became somewhat notorious. He, too, was a courier. He deposed that the queen habitually addressed her chamberlain as "*mon ange*," "*mon cœur*," and "*mon amour*". "On one journey, at Turin [the witness continued], after I had arranged the rooms in advance, the princess altered the arrangement, so that Pergami's room was only divided from her own by that of the Countess Oldi. I was at the Barona

with the suite. After a while, none came to visit there except low people; because low freedoms were allowed there. I myself once had a conversation with the princess [here witness repeated an unpublishable conversation] in the presence of Pergami, who laughed all the time. I have seen the pair in compromising situations."

This witness was by far the most deadly, if his evidence was true, of any who had been called. The question was, if it was true; and Brougham speedily settled any doubt there might be on that score. He soon had the witness involved in a labyrinth of self-contradictions; and overwhelmed by a mass of damaging admissions. He admitted having lied about his name, having tried to pass himself off as a count, having said that he had a lawsuit against her royal highness when he had not; and, finally, he admitted that he had been employed by the Milan Commission. It was he who fetched Louise Demont from Lausanne to Milan. His ruin was complete when he was compelled to say that he had begged to be taken back into the princess's service, and had been refused.

The case for the prosecution was now at an end; and at first Brougham, being put to the election whether he would go on at once or take an adjournment, said he would open his case at once, and ask for an adjournment if he wanted time to procure witnesses from abroad. But the House would not hear of this course being adopted; and ultimately the queen's advisers were forced to consent to adjourn for about a month.

My own opinion about the case at this stage is, that had Brougham cared to risk it, he could have submitted with some confidence to the House that there was no reliable evidence before them on which they could act. Every single witness had broken down; and had been proved to be either a liar or a bought witness—or both. The really dangerous ones, Majocchi, Demont, Sacchi and Rastelli had quitted the bar without a rag of character left. The captain and mate of the polacre were proved to have a grudge against Pergami; and the tale they told was absurdly improbable. And the rest of the evidence was obviously not worth a snap of the fingers.

But the queen's advisers, though they might have taken the risk in a court of law, dare not speculate before such a tribunal as the full House of Lords. And they deemed it their duty to call evidence to rebut the allegations of the other side. In these circumstances the House adjourned until 3rd October; and the

press and the public settled down to a month of rumours and counter-rumours, threats and abuse—"Adulteress" on the one side, "Perjurer" on the other, were the epithets most in use. But without doubt the great mass of the people were now, more than ever, heartily on Caroline's side. *Non mi recordo* and *Je ne me rapelle pas* had made the king's case to stink in the nostrils of a people whose one great virtue is their sense of fair-play.

CHAPTER III

THE DEFENCE

IT was on the 3rd of October (1820) that Henry Brougham began the wonderful speech in the queen's defence that was to stamp him as one of the greatest orators of all time.

Brougham's advocacy was by no means so successful as has been the advocacy of many men much inferior to him in powers of mind. In particular, he lacked the persuasiveness of manner and utterance which predisposes the tribunal in favour of the advocate and his cause—such persuasiveness as made Sir James Scarlett, Brougham's great rival on the Northern Circuit, almost invincible. Neither had he the tact that is to some advocates almost an instinct; which tells them exactly the line to take. Every successful advocate must have this faculty in some degree; but there are those who have it intuitively. Nor, again, had Brougham's oratory the same compelling power as the eloquence of Erskine. It lacked that quality of absolute sincerity by which Erskine was wont to reach the hearts of his hearers.

Brougham excelled in sarcasm: in invective: in merciless analysis: in the kind of stupendous rhetoric that makes the blood run cold. And in a case like the present, where the object was not so much to convince the judges as to appeal to the public outside, the great Whig orator was in his element. A great speech was expected of him; and he did not disappoint his noble auditory.

He began by expressing "the greatest alarm"—not because of the august nature of his tribunal, nor because of any doubt as to his client's innocence, but because "my feeble exertions may have the effect of casting, for the first time, this great cause into doubt, and turning against me the reproaches of those millions of my countrymen now jealously watching the result of these proceedings." "Public opinion has already decided on this case; and I have nothing to fear but the consequences of perjury."

Ere long, the orator flung at the king and the Tory peers a

HENRY BROUGHAM

QUEEN CAROLINE'S ATTORNEY-GENERAL, AFTERWARDS LORD HIGH CHANCELLOR OF GREAT BRITAIN

From the painting by James Lonsdale in the National Portrait Gallery

threat: "The cause of the queen does not require recrimination (*a pause*) at present. . . . If, however, I shall hereafter think it advisable to exercise that right—if I shall think it necessary to avail myself of means which at present I decline using—let it not be vainly supposed that I, or even the youngest member in the profession, would hesitate to resort to such a course, and fearlessly perform my duty. I have before stated to your lordships—but surely of that it is scarcely necessary to remind you—that an advocate in the discharge of his duty knows but one person in all the world, and that person is his client. To save that client by all means and expedients, and at all hazards and costs to other persons, and among them to himself, is his first and only duty; and in performing this duty he must not regard the alarm, the torments, the destruction which he may bring upon others. (Here Brougham paused once more, drew himself up; and in a voice of intensest earnestness proceeded.) Separating the duty of a patriot from that of an advocate, he must go on reckless of consequences, though it should be his unhappy fate to involve his country in confusion."

No member of the bar could be found to gainsay this statement of the duties of an advocate; but Brougham meant it to be something more than a mere definition of the functions of counsel. He meant it as a threat. He meant to tell the Government, and the majority peers, and the king to boot that if all else failed he would present to the country such a case against the king as would probably cause a rebellion.[1] The lords understood the intimation; and there arose from the Government benches a curious murmur—half anger, half apprehension.

The orator then turned to the charges in the bill. He made, he said, one admission. He admitted that her majesty had left this country for Italy; that she had ceased to associate with the English nobility; and that she had taken to her society only foreigners—sometimes the commonalty of Italy. But by whom was the charge made? "You, my lords," he cried, "are the last persons who can fling this charge at the queen; for you who now presume to sit as her judges are the very witnesses she must call to acquit her of the charge!"

Rarely has any tribunal been lectured by an advocate as the lords were lectured by Henry Brougham that day. In scornful sentences he related how the bride of the heir-apparent came to

[1] If the Lords passed the bill, an opportunity would be afforded to contest it in a committee of the House of Commons.

England; how she threw open her doors and courted the society of the British nobility; and "as long as it suited certain purposes which were not hers—as long as it served interests in which she had no concern—as long as she could be made subservient to the ambitious views of others, she did not court in vain. But when a change took place—when those interests were to be retained which she had been made the instrument of grasping—when that lust of power and place to which she was doomed to fall a victim had been satisfied—then in vain did she open her doors to your lordships and your families. . . . It is not here," he thundered, glancing with stern aspect round the assembly, "that I had thought any one dared lift up his voice, and make it a topic of censure that the Princess of Wales has associated with foreigners."

Having worked their lordships into a state of suitable humility, Brougham sketched with rapid pencil the separation of Caroline from her daughter: the marriage of that daughter in the mother's absence: the melancholy death of Charlotte, and how . . . "the death of the daughter was soon conveyed to the agonised mother by the establishment of the Milan Commission, and the commencement of that process against her honour, station and character". In striking phrase he alluded to the effect on the queen's fortunes of the death of George III.: "The same sun which shone upon the monarch's tomb ushered into the palace of his illustrious successor one of the perjured witnesses who was brought over to depose against her majesty's life".

After this preamble, Brougham proceeded to the substance of his speech; that is, to a destructive analysis and criticism of the evidence for the prosecution. The speech deserves to be read in its entirety; for I venture to assert that it is the finest specimen of its kind of which we have any record. Not for nothing had Brougham been a *reviewer*. I must, however, content myself with extracts and summaries.

First, the critic turned to the attorney-general's speech, in which he had asserted, as to the beginning of the alleged intimacy, (1) that on 8th November, at Naples, Pergami slept in the domestics' quarter; (2) that next morning his room was changed so as to be near the queen's; (3) that on 9th November, the queen returned early from the opera, and hastily dismissed the maid whose duty it was to attend her to her room; (4) that on the night of 9th November the queen's bed was never slept in, while Pergami's had been occupied by two persons; and (5) that on the morning of 10th November the queen rose very late. Brougham pointed

out that Demont had denied all knowledge of where the queen was on 9th November; had sworn she did not know where the queen went after she (Demont) had left her room; and had asserted that her majesty rose at the usual time next morning. Clearly, Brougham urged, Demont must have told one story to the Milan Commission, and another in court; because the Attorney's speech was made on information supplied by Demont.

Again, the Attorney had alleged that on the 12th April the princess remained a long time in Pergami's room, and had been heard to kiss him. Majocchi, called to prove this tale, said no word of kissing; but only swore to whispering. Another instance, Brougham suggested, of a man having concocted a lie and then forgotten part of it.

With bitter irony the great Advocate fell upon Majocchi and Demont, the two chief witnesses for the king. The prosecution, said he, had the great advantage of seeking evidence against two people who laid themselves open to discovery, who, "knowing they were watched, discarded all schemes of secrecy—showed an utter carelessness of the persons who were watching them—threw off all ordinary trammels—banished from their practice every suggestion of prudence and decorum. . . . There was no caution or circumspection here, but . . . every thing which the most malignant accuser could require to fortify his case was left open by the parties who were to suffer by the proof. . . . Just in proportion as the conduct became criminal and of the most atrocious nature and character, exactly in the same proportion will the parties be found to have taken especial care that during the commission of the act they had present, and seeing it, good witnesses to detect and expose them for their conduct. . . . When it is necessary to exhibit the parties in such an attitude as to leave no room for explanation or equivocation, the act is done, not in a corner, apart from any scrutinising eye, but in a villa filled by servants, and where hundreds of workmen are at the very time employed. All this too is done, all this saluting is performed in open day, and exposed to the general gaze. . . . It would not do that Pergami, upon his departure on a journey from the queen while in Sicily, should salute her majesty before the servant entered the room. No! The exhibition of that act was reserved for the presence of a servant to tell it. The same was the case in the story about Terracina. All the parties were on deck; they should not take the salute in their own cabin; it must be delayed until Majocchi enters to witness it. Even the act of sitting on

Pergami's knee upon the deck is adjusted in the presence of the crew and the passengers. Care is taken that it shall be directly seen by at least eleven persons. . . . They are described as habitually sleeping together in all their journeys by land and sea. She could not even retire to change her dress but Pergami must attend in the dressing-room—first, of course, the parties taking care to have a witness present to speak to the fact."

Having thus poured the vials of his contempt upon the evidence in general, Brougham proceeded to attack the conduct of the prosecution in the preparation of their case. Far was it from him to charge a conspiracy against the queen! He would call it "a grave and serious design accidentally formed". This phrase seems to me a masterpiece of sarcasm. Supposing such a design should be so formed, would not the designers naturally select menial servants, and those if possible of a degraded nation, as the people to be approached. Was it not a curious thing that these people, all of them poor, should be brought over to England to live in luxury and idleness and should be in receipt of great rewards?

The Milan Commission was described as "that great receipt of perjury—that store house of false swearing and all iniquity"; and with splendid invective the orator drew his famous parallel between the proceedings in this case and another royal divorce. When Henry VIII. sought the opinion of the universities of Europe on the lawfulness of his first marriage, the doctors of the Italian universities signed an opinion in Henry's favour with edifying unanimity. The accounts rendered by the bluff king's envoy were still extant; and they proved that every opinion was bought. So in this case. Sacchi had been living in England at the rate of £500 a year. The pay of the master and mate of the polacca "had astonished all mankind".

Brougham then turned to Majocchi—"who would long be known in this country, and throughout the world—whose favourite expression would be handed down, much after the same manner as the sayings of some of the ancient sages had reached our days—their names, indeed, were lost, but they still existed in the celebrity of their brief and pithy sentences. That witness had distinguished himself in this trial by an expression equally brief, and to him more useful; that one sentence appeared to comprise the entire practical result of all the wisdom and all the experience which he had accumulated in the study of his art; and, as long as the words 'I don't remember,' which he used in the practice of that art, in which he evinced great skill—so long as those words

remained in the English language, the image of Majocchi, without the man being named, would forthwith rise to the imagination."

The analysis of Majocchi's evidence was bitter and complete. Admitting that a man might honestly forget—"Memories differ as well as honesty"—there was a kind of want of recollection which could not be innocent. Of this "guilty forgetfulness" Majocchi was a unique example. For instance, the witness had stated with great accuracy in answer to the solicitor-general every detail as to the situation of the bedroom of the queen and her suite at Naples. But when he was asked in cross-examination where the suite slept he replied that he did not recollect. Again, the witness had given an exhaustive description of the apartments in the Villa d'Este, with particulars where everybody slept and the changes that were made from time to time, but when he was asked in cross-examination whether a new wing was added to the house, he said he did not recollect. Yet again, Majocchi had given in his direct examination many particulars as to time—in one case a quarter of an hour, in another eighteen minutes, in another three minutes. But when he had been asked about time in cross-examination, when an exact answer would have been useful to the queen, he invariably could not recollect. Such instances of forgetfulness were incredible in a man whose memory was so prodigiously accurate in other respects.

The part of the amiable Teodoro's evidence which had made the greatest impression on the House, was that in which he deposed that he had actually seen the princess steal from her own room to Pergami's in the small hours. Brougham tore the whole tale to tatters. Imagine he said, the princess walking through Majocchi's bedroom and actually going to his bedside to see if he were asleep. The story was one invented by a man accustomed to a country where robbers abounded. It was a natural thing for a robber to steal to the bedside and look at the eyes of the person in the bed to see if he were asleep. But for the princess to do such a thing was absurd, when the mere fact that she did it would be evidence of guilt. Besides, it was clear that there was access to Pergami's room through other rooms where no people slept. Was it likely that her royal highness should elect to walk through Majocchi's chamber and gratuitously risk detection?

One part of Majocchi's evidence was gross and palpable perjury. He denied that he had been dismissed by her royal highness; but said he had left her service because of the bad

people that were about her. This he said with the double purpose of raising his own character and debasing the queen's. Brougham's method of dealing with this piece of evidence was an excellent example of skilful analysis: "I will show this to be false from his own mouth. When asked whether he had not made application to get back, his answer was 'I don't recollect'. 'Did you apply to Count Schiavini to be taken back?' 'I did.' The moment he mentioned that, his assertion that he did not recollect failed; therefore, to save himself he told us all—'Yes, yes, I did apply to Schiavini but it was in joke'. Now your lordships will mark that. The former answers were probable if this was in joke; if not they were positive perjury. If, then, this was in joke, what followed he would have at once answered by 'No'. 'Did you apply to several persons? Did you apply to Hieronymus?'—'Non mi recordo'! This last answer was gross and wilful perjury, or the first answer was gross and wilful perjury. I care not which. The joke, in fact, was an invention to protect the other invention, or the story was perfectly incredible—that he applied in joke to Schiavini, and that he did not recollect whether he applied to others. Your lordships recollect the manner, too, of this witness. He showed some flourishing and figure—'I would rather eat grass than go again into the service of the princess'. Was it true, and was it the language of an honest man, that he would rather eat grass than go back; that he applied in joke to be taken back; and that he could not afterwards swear that he had not applied to others to be taken back? Here, then, is the mystery unravelled of Majocchi's *Non mi recordo!*"

The orator now turned the artillery of his invective on the other witnesses—"those well-paid swearers". He pointed out how the master and his mate differed in their account of the incident of the queen embracing Pergami on the deck. The master said she was stooping on the bed with her arm round Pergami and from time to time kissing him. This was not a very ordinary sight, nor one likely to be forgotten. Yet the mate said it was not on a gun that the queen sat on Pergami's knees. The master said it was on a gun. Again, the captain saw kissing, the mate said nothing about it. And when the captain's attention was called to the discrepancy, he embellished his tale by saying that he sent the mate away for fear he might witness the impropriety. "These pure, fastidious, and good, scrupulous witnesses, from places chaste and sacred as the garden

of Eden before the Fall—from Messina and Naples—displayed a nicety of moral caution that was exceedingly exemplary!" In such sort did Brougham scarify the wretched Italians.

But perhaps the worst onslaught was reserved for Demont, "the most perfect specimen, the most finished model of a waiting-maid the world had ever seen". "I do not mean that all her qualifications were developed at once. Some of them had gradually made their appearance under the cross-examination of Mr. Williams, when she showed that her education had done honour to her natural abilities; she had shown that she was gifted with great circumspection; that she possessed much readiness in adjusting one part of her evidence with another. . . . I have heard her applauded for her candour in admitting some of her statements to be false. . . . I need hardly remind your lordships, or indeed any man whose capacity is above that of the brute animals he abuses by using, what utter nonsense those talk who applaud the evidence of this witness for its candour. Demont asserted that she was insincere—she allowed that she had told numerous falsehoods. . . . Certainly the strangest of all reasons for giving credit to a witness was to cite her candour in admitting that in no respect she deserved it." The letters in her handwriting were quite plain, he continued; and only became doubtful when she tried to get rid of the evidence of her own handwriting. It was utterly incredible that if she had believed the queen's palace to be the sort of place she had sworn to, she should have tried to introduce two of her sisters, one aged about eighteen and the other only fifteen into the queen's service.

Having demolished "the gentle, romantic, and sympathetic Demont," Brougham turned on Sacchi and rent him. The witness's contradictions were exposed without mercy; his prevarications pitilessly run to earth. Brougham showed how he had sworn he had changed his name four days before coming to England in July, 1819, and had given as his reason the tumults at Dover. And after all, the Dover affair did not happen until 1820!

As to the incident of the travelling carriage (see p. 361), sworn to by Sacchi, was it likely that "the most miserable prostitute discharged from Bridewell" would commit, in the face of open day, what had been charged against the queen? If any evidence of the lying nature of the testimony was needed, it came from Sacchi himself, who, on being asked if any other person was in the carriage when the queen and Pergami were lying thus exposed, "borrowed

the language of the celebrated Majocchi—*Non mi ricordo.*" And Sacchi had never told anybody of his discovery! Not even to Demont! "He had long enjoyed a soft intercourse with her both here and abroad! and if he never whispered it to her, it no doubt arose from that extreme delicacy which prevailed between them, to a degree unknown in regions less pure and refined."

Brougham's next victim was Barbara Kress; and before dealing with her he paused to reflect that, with two exceptions, all the witnesses came from Italy. "On this side of the Alps I find a lamentable scarcity. From all the cantons of Switzerland only one deputy appears—only one nymph of the whole Helvetic federation! In like manner, I find that the whole circles of Germany are represented by but one person, and that person—a German chambermaid . . . the amiable Mistress Barbara Kress, of Carlsruhe." Followed a scathing sketch of the amiable Barbara—"whether she is to be called a chambermaid, a kitchen-maid, a cellar-maid or a maid of all work, it is not easy to determine, for there is great doubt of her capacity; but" (and here he paused a moment) "of her CHARACTER there can be no doubt whatever". Ten minutes after this prologue, Barbara Kress had been torn to shreds and tatters; and her evidence made of none effect.

Ruthlessly, rapidly, with invective that struck like a thunderbolt, the orator attacked witness after witness: "Do your lordships recollect the waiter from Trieste, Puchi? You could not forget his aspect, if you could his name. Do you not recollect that physiognomy—the never-to-be-forgotten expression of that face—those eyes—that nose—that lecherous mouth, with which the wretch stood there to repeat the falsehoods, the wicked suggestions of his own filthy imagination?" "Will you ever forget that hoary pander from Trieste—the manner in which he told his story—the haggard look which gave him the appearance of an inhabitant of the infernal regions, and which must have reminded your lordships of the great Italian poet's description of a broad-faced tailor in hell peeping and grinning through the eye of a needle."

After this outburst Brougham again applied his acute mind to the discovery of differences between the statements of various witnesses, and to self-contradictions of witnesses for the prosecution. He admitted that very often he had damaged those witnesses on some point not very material to the case. Nevertheless, he contended, he had discredited them.

" . . . A perjured witness or a witness speaking falsely—if

that witness's testimony is false in the least particular, that falsehood destroys the whole credit of the testimony. Can it be said that you ought to believe part, and to disbelieve part, of a witness's testimony? I will admit, indeed, that there may be parts which a witness of truth may be ignorant of, or which he may have forgotten; and that by separating mere mistakes of ignorance or forgetfulness, and culling the parts that are sworn to from knowledge or recollection, you may obtain evidence to be relied on. But if a witness swears not only what is not true and not correct, but has falsely sworn what cannot be true—if a witness swears to his own invention—if he swears, to use plain language, a lie, in any particular, however unimportant—good God! what character is safe? What escape remains for the purest innocence from the toils of an enemy, or the fabrications of a conspirator, if you believe one word of such a witness's testimony, and separate the lie from the other part which rests on the credit of him who fabricates the lie?"

The advocate then passed in rapid review the evidence of Pergami's promotion in the queen's household; and asserted that Pergami was a gentleman, though a poor one; and that he had been promoted rather in a gradual than a sudden mode.

Followed the reading of the letter of 30th April, 1796, from the king (then Prince of Wales) to his consort—the so-called "letter of licence" (see p. 305). "It could not fail to be a source of wonder to those who read this letter that her majesty had been watched with so much rigour."

The great speech was now nearing its end, and the orator summed up his case as twofold—first, the neglect by the prosecution to call witnesses, for neglecting to call whom there was no pretence whatever; and, secondly, that every witness for the prosecution had been injured in credit. In a striking passage he drove home his second point: "Your lordships will recollect an illustration of this which is to be found in a great passage in the sacred volume. I call it a great passage, because it is full of instruction, because it is just, because it is eloquent. The two judges were prepared with evidence fitted to their object, and well arranged. They hardened their hearts, that the look of their innocent victim towards heaven could not divert them from doing the purposes of unjust judgment, or from giving a clear, consistent story. But their falsehood was detected, and their victim saved, by the little circumstance of a mastic-tree. This is a case applicable to all conspiracies and plots. This little cir-

cumstance was of the unessential but decisive kind, which the providence of heaven makes use of to detect perjury."

The effect of this passage was marvellous. The House was hushed to stillness. And the speaker gathered his forces together for his sublime peroration. The trumpet tones rang out clear and fresh: "Such, my lords, is the case now before you; and such is the evidence by which it is attempted to be upheld. It is evidence—inadequate, to prove any proposition; impotent, to deprive the lowest subject of any civil right; ridiculous, to establish the least offence; scandalous, to support a charge of the highest nature; MONSTROUS, to ruin the honour of the Queen of England. . . . My lords, I call upon you to pause. You stand on the brink of a precipice. If your judgment shall go out against your queen it will be the only act that ever went out without effecting its purpose; it will return to you upon your own heads.

"Save the country! Save yourselves!

"Rescue the country! Save the people, of whom you are the ornaments, but, severed from whom, you can no more live than the blossom that is severed from the root and tree on which it grows. Save the country, therefore, that you may continue to adorn it—save the crown, which is threatened with irreparable injury—save the aristocracy, which is surrounded with danger—save the altar, which is no longer safe when its kindred throne is shaken.

"You see that when the Church and the Throne would allow of no Church solemnity on behalf of the queen, the heartfelt prayers of the people rose to heaven for her protection.

"I pray heaven for her! And here I pour forth my fervent supplication at the throne of mercy, that mercies may descend on the people of this country richer than its rulers have deserved; and that your hearts may be turned to justice!"

Exhausted, the orator sank to his seat; and a great sigh was expired from the august assembly, as men sigh when the tension of a great strain is relaxed. So magical was the effect of that great peroration, that had a vote been possible then and there, the queen would have been acquitted by a vast majority. As it was, the House sat silent for several minutes—stunned—overwhelmed by the magnificence of the oration. And little wonder. For not Demosthenes when he thundered against Philip; not the silvery-tongued Cicero when he spake in the senate against Catiline; not Paul when he faced the silversmiths at Ephesus; not Mirabeau in the Assembly; nor Burke in the trial of Warren Hastings had

ever uttered words more apt to melt the heart of man. And the effect of the concluding passage was heightened by the orator raising his arms above his head and opening his hands as in the act of invoking a benediction. The whole scene was indescribably solemn. After a short pause, to give the peers time to recover from their tumultuous emotions, Williams also spoke for the queen. It was a speech of an entirely different order from that of Brougham —a return from the realm of passion to the calmer, more rational atmosphere of a British court of law. Not that the speech was either weak or ineffective. Williams was an advocate of great skill and acuteness; and he dealt in detail with the evidence of most of the prosecution's witnesses in such fashion as to reduce it to the merest tissue of incredible and contradictory statements. Apart from this minute analysis, Williams' best point was this: After all, it is no new thing in a court of justice to find a number of people combining to concoct a story. And look at the motive —"Is it an unheard-of circumstance that low-bred persons should have a disposition to insult and trample upon their superiors who have fallen from power, or who, at least, are in obloquy with those that are in power? Was it only in ancient Rome that a disposition existed to triumph over the prostrate fortunes of illustrious individuals? Was it only in ancient Rome that the rejected favourite of Cæsar was liable to the taunts and ignominies of the vulgar? Was it only there that the cry was raised:—

> ". . . Cunamus præcipites, et
> Dum jacet in ripa, calcemus Cæsaris hostem."

He also made great play with the point that the prosecution had spent three years and unlimited funds in preparing their case and ransacking Europe for evidence. Moreover, they had received assistance from the several Governments of the countries whence evidence was procured. The queen, on the other hand, was unable to get up her case until after she had heard that of the prosecution; for she had not received particulars of the charges to be made against her. And, besides, the Governments of various countries had placed every obstacle in the way of those agents of hers who had set about collecting evidence on her behalf. Particularly, he instanced the case of the chamberlain of the Grand Duke of Baden.

It would be remembered how Barbara Kress had sworn to an incident at Carlsruhe. Now the queen's advisers had deemed it necessary to obtain evidence from that place; and had tried to secure as a witness the chamberlain of the Grand Duke, to show

the kind of life her majesty had led while in his master's town. A message "more than ordinarily respectable,"[1] had been sent to the chamberlain, bearing an autograph letter from the queen. The chamberlain informed the messenger that he was willing and anxious to give his testimony—"but he added, with tears in his eyes, that he had orders from the grand duke not to do so". Consequently, he had not come. "It is worth while reminding your lordships that this refusal to allow a witness to come over in favour of the queen came from the same quarter which employed the agency of two ministers and two ambassadors to compel the woman Kress to come to England."

A similar difficulty had occurred in the case of General Pino, in whose service Pergami had been before entering that of the queen.

But, said Williams, sufficient evidence would be called to disprove entirely the "bedroom topography and apocryphal keyholes" of the Italian gang whom their lordships had heard.

As soon as the counsel had finished, Earl Grey, the Whig leader, was on his legs. He challenged the Government on the question of the chamberlain of Baden-Baden. The Government ought to employ its influence to bring over foreign witnesses; but not on one side only. He moved that the queen's counsel be asked to substantiate the statement as to the chamberlain and General Pino before anything else was done. Lord Grey's observations were much to the taste of the House. British peers, no less than other men of British blood, hate unfairness; and the House had no intention of permitting it, could it be avoided. Lord Liverpool jumped to his feet; and offered, on behalf of the Government, to despatch a special messenger to Baden forthwith. Earl Grey accepted the explanation; and eventually a king's messenger set out for Germany, ostensibly to request the Grand Duke of Baden to send his chamberlain over.

Followed the evidence for the queen. First, Colonel St. Leger, who had been her chamberlain, explained that he had left his mistress at Brunswick in 1814, simply because his health had broken down. Next, the Earl of Guilford. His lordship had been travelling in Italy in 1815, and had met the Princess of Wales there, both in Naples, Rome and Civita Vecchia; and he testified that at that time Caroline had a very respectable Court, and was visited by respectable people. He also saw her at the Villa d'Este. He had seen Pergami; but never, he thought, at

[1] The "more than ordinarily respectable" messenger was Brougham's brother.

her majesty's table, except at the Villa d'Este. In cross-examination, the earl said he had met and conversed with the Countess Oldi. That lady spoke good Italian, he thought, but with the accent of Lombardy. On the subject of the countess's Lombardy accent, there was an excellent jest at the expense of the Earl of Lauderdale, a North Briton whose nationality was unmistakable from his speech; and a staunch upholder of the prosecution. He asked the Earl of Guilford whether the countess spoke like a lady of education or spoke *patois*. A brother peer promptly intervened: "Tell me," said he, in his most offensive English drawl—"did the countess speak Italian with a worse accent than a well-educated Scotsman sometimes speaks English?" The Whigs roared with delight; and for a whole day Lauderdale abated somewhat of his vehemence. Lord Glenbervie, a Scotch peer, whose wife was for a few weeks lady-in-waiting to the queen at Genoa, spoke to Pergami's respectful behaviour, and also to the fact that the best people in Genoa visited the Princess of Wales.

The evidence of these three gentlemen did not amount to much; but it gave an air of respectability to the queen's case that was lacking in the case for the prosecution, to find a colonel and two peers of the realm as her first three witnesses.

Lady Charlotte Lindsay, the Earl of Guilford's sister, was more important; for she had been lady-in-waiting at Naples in March, 1815. Her relevant evidence in examination in chief was confined to about three answers:—

"How did Pergami conduct himself?"—"In the common way in which a servant would."

"How did her royal highness conduct herself?"—"In the manner that a mistress would conduct herself."

"Did you ever observe any impropriety of conduct between the princess and Pergami?"—"Never."

Cross-examined, Lady Charlotte Lindsay could not recollect whether or no Pergami and the princess had ever walked arm-in-arm. She thought not; because had she seen it she must have been struck with it. Her royal highness might have taken his arm on some particular occasion. She was frequently in and out of the princess's bedroom; but had never seen Pergami there except when he waited at table; for frequently they dined in the bedroom. The solicitor-general, however, scored a point when he made Lady Charlotte admit that she "might have said, when she left the princess's service, that it was a vast relief to her mind".

She did not recollect saying "no woman, with any regard to her character, would wish to continue with her royal highness"; but would not swear she had never used those words.

In re-examination, the witness said she resigned because of the deaths of two near relatives; and certainly not on account of any impropriety she had observed.

There was an amusing dialogue between the ex-lady-in-waiting and Lord Calthorpe: "Was the Princess of Wales familiar with her menial servants?" "Particularly affable and familiar to all her servants." "What—more than is usual in the higher classes in England?" Witness thought the higher classes more condescending to servants than the class below them. "Was her Majesty's condescension peculiar even in foreign society?" "I am no judge," her ladyship observed frigidly, "of foreign manners. Her royal highness had the familiarity which I have observed in foreigners towards their servants." . . . "Then circumstances might have occurred which, in a person of more habitual caution and circumspection, might have appeared extraordinary and er—er—perhaps even—er—unbecoming?" Lady Charlotte annihilated her interlocutor with a haughty: "I do not know that anything appeared 'extraordinary' or 'unbecoming' in the conduct of her royal highness!"

The Earl of Llandaff testified that he had visited the Princess of Wales at Naples in 1814 (November) with his countess; and had observed no impropriety with Pergami. He also added, that, in Italy, ladies received morning calls in bed, very frequently from visitors of both sexes.

Mr. Keppel Craven, Caroline's former chamberlain, deposed: "I engaged Pergami on the recommendation of the Marquis Gizilieghiri, Grand Chamberlain of Austria. . . . I remember well the night of the opera at Naples.[1] I remember the performance was very long and very tedious, and that we (including the queen) stayed until the very end. . . . I left her highness's service at Milan; and up to that time had observed no signs of impropriety or degrading familiarity with Pergami. . . . The Countess Oldi is certainly NOT a person of vulgar manners. . . .[2] Once when I saw the princess walking in the garden with Pergami I warned her.

[1] This was the night when guilty intimacy was alleged to have begun—the Queen and Pergami hurrying home early from the opera.

[2] Brougham, who saw the countess, and refused to call her as a witness, says that she was of very vulgar manners.

THE SOLICITOR-GENERAL. "How did you come to do that?"—"Because I knew there was a spy about; and I knew her royal highness's most innocent actions would be falsified."

[This, by the way, is the sort of answer that damages a cross-examining counsel badly; and one is surprised at Copley putting the question.]

The dresses worn by the princess at the masquerade at Naples were not the least indecent. When Pergami was walking with the princess in the garden he was a little to the rear of her highness, as the manner of servants is.

Sir William Gell was equally emphatic. Pergami, he averred, was a gentlemanly, well-behaved man. The Countess Oldi was a "good-looking, modest lady," and not a bit vulgar. Pergami was most respectful in his manners. He had never observed any impropriety between the princess and Pergami. In this, Sir William Gell was most emphatic. He turned the tables once rather neatly.

"Did you observe anything in the conduct of Pergami towards the princess that would have differed from that of an English gentleman?" he was asked. "Nothing, but that he was more attentive!"

The queen's counsel tried to slip in, as part of Gell's evidence, a grievance against the king. Gell was asked whether he saw the passports signed by the Papal Secretary of State in favour of Caroline after the death of George III. Yes, he had seen them. In what style were they made out? Here the attorney-general objected that the witness could not be asked to state the contents of a document—a very proper, and usual, objection. But Denman meant the public to know all about it; and under the pretence of arguing the point of law, he told the whole story. This was the sort of thing: "Suppose I am able to prove that the passport was made out in favour of Princess Caroline of Brunswick, when the Pope knew she was Queen Consort of England? Suppose I am able to show that he did this at the instigation of Ompteda, the Hanoverian ambassador?" But the Lord Chancellor ruled the questions out; and, Denman having dragged the whole story well to the front, let the legal point go with great cheerfulness.

The evidence of these witnesses was, after all, not of very great importance; but indirectly their presence in the box was worth something to the queen's case. It enabled the defence to say: "We do not rely on Italian witnesses, nor on the testimony of discarded menial servants. We called two peers of the realm, and a lady

of quality, as well as two other gentlemen of good social status, to give evidence for us; and you (the prosecution) could not shake them."

Now, however, evidence began to be tendered to contradict the evidence of Majocchi, Demont and Co., as to the specific acts charged. William Carrington, Sir W. Gell's servant, swore that the reason Pergami's room was changed after the first night at Naples was that the room first allotted to him was so low he could not stand upright in it. The room he was moved to was not adjacent to her highness's; but sixty feet distant, at least. Between the two were three other rooms and a passage. The three rooms were occupied by William Austin, Hieronymus, and Dr. Holland.

Now occurred one of the incidents which gave Brougham an opportunity. Lushington was asking the witness Carrington if he had ever talked with Majocchi about Ompteda, when it was objected that this was not evidence, because Majocchi had not been asked about it. The objection was upheld; but Lushington and Brougham spoke at length, charging Ompteda with machinations against the queen—which even extended to picking the locks of her drawers; and raised such a storm of suspicion that at last Majocchi was recalled. Examined by Brougham whether he knew Carrington, or had ever met him, the worthy Teodoro promptly relapsed into *Non mi recordo.* He had certainly never spoken to such a person about Baron Ompteda. He had never heard of Baron Ompteda. He did not remember any German baron; nor about false keys. He had never said he should like to kill Ompteda like a dog.

Carrington, recalled, contradicted Majocchi flatly. Majocchi had talked to him a great deal about Baron Ompteda and the false keys; and had said he would like to kill him like a dog. This sort of conversation had taken place at many times and many places.

Cross-examined, Carrington stuck to his tale. He gave a perfectly natural account of the way in which Majocchi introduced the subject of Ompteda and the keys. Challenged as to the exact words used by Majocchi, Carrington somewhat surprised his examiner by replying, in Italian, "Lui hanno detto a me voudrez che luilasciar mi faire il mio dovere che lui vorebbe *bastonare e mazzare come un cane* in mazzo a la strada".[1] One of the peers asked

[1] He said to me, he wished he had it in his power to do his duty and his pleasure, that he would thrash and kill him like a dog in the open street.

for the Italian words in which Majocchi began the conversation, and Carrington promptly supplied them, "Avete intigo coja ha detto la gente di servizio dell' affaire di Ompteda". A very accomplished gentleman's gentleman, was William Carrington. He turned out to have been in the navy; and said he had been a midshipman, but had obtained his discharge. Inquiry revealed, however, that Carrington had never been a midshipman at all, but had been promised to be made a midshipman.

Mr. Keppel Craven's valet, one John Whitcomb, appeared next. Ostensibly he was called to corroborate Carrington as to the situation of the bedrooms at Naples; but really to discredit Demont. He admitted, without scruple, that he had occupied towards the virtuous Louise the same position that she said Pergami had occupied towards the princess. The waiting-maid was, in fact, the frailest of her sex.

The evidence of Sicard, the *maître d'hotel*, who had been in the queen's service twenty-one years, went to explain some of the suspicious circumstances relating to the placing of the bedrooms. He also affirmed that her majesty was "generally uncommon kind, almost to a fault," with all her servants, high and low. He, too, had walked alone with her majesty in a garden; and had noticed that his gracious mistress had a curious habit of catching hold of the arm of any one with whom she was conversing, and saying, "Do you understand what I mean?—Do you agree with me?" In cross-examination the ancient servitor was bound to admit that although at Naples the princess's room did not open into that of Pergami, it was possible for her to reach the courier's room by merely passing through the passage and the cabinet where Majocchi had slept. So far, he corroborated Majocchi. He further deposed that the queen was passionately fond of young children; and this accounted for her partiality for little Vittorina.

Dr. Holland, one of Caroline's suite in the early Italian days, swore that he left her service not because of his mistress's impropriety of behaviour; but in cross-examination had to make the damaging admission that the Countess Oldi's kinship with Pergami had been concealed from him. He stoutly asserted, however, that her majesty's behaviour had never been indecent, immodest or improper. In this assertion he was corroborated by a gentleman of the English colony at Rome.

Much more important was the evidence of Carlo Forti, one of Queen Caroline's couriers—a gentlemanly man who could boast of being the nephew of a duchess. He flatly contradicted the

courier Sacchi as to the disgusting incident on the journey from Milan to Rome. He remembered well that Sacchi had not even been present. Moreover, that witness was wrong both as to the carriage the queen travelled in, and as to the occupants of the carriage. In truth, said Forti, the queen travelled first with the Countess Oldi, Pergami, and Vittorina; and afterwards with Demont in place of the countess. Never did she journey alone with Bartolomeo. Cross-examining, the solicitor-general suggested that the witness had been in trouble with the police. Forti admitted it; and explained that it occurred once when he was travelling in charge of a large sum of money, on which occasion he had been set upon, and had wounded somebody in self-defence.

The witnesses who did the queen's case the most harm were the two who might have been expected to do good—the two naval officers, Lieutenant Flynn and Lieutenant Hownam. Flynn explained that the alleged kissing at Terracina was a kissing of the hand. All the suite, he said, kissed the princess's hand at parting. Coming to the question of the tent on board the polacca, Flynn said that he, as the officer in charge of the ship, was on deck most nights. The queen had often called to him from the tent; and he was sure nothing wrong took place. He was equally certain that in her majesty's behaviour towards Pergami there was nothing improper. But—and this was a damaging admission—he did not know where Pergami slept on the voyage home. Poor Flynn fell an easy victim to the solicitor-general. In the first place, he began to refer to some notes he held in his hand. Being asked what they were, he said they were "memoranda," not originals, but a copy. Then he had to admit that they were extracts; and not a full copy. Finally it was extorted from him that they were not his, but a clerk's. He did not know whether the clerk was English or Italian. Being pressed he said he was an Italian. Then he said he believed Pergami did not sleep in the deck-tent. Why? Because once he (Flynn) had looked in, and did not see Pergami. "Was it light or dark?" asked the solicitor. "Dark," replied the witness; and their lordships laughed. Still louder did they laugh when the gallant officer admitted that he was "partly an Irishman". In a little while, however, Mr. Flynn did some good to the case by swearing that he had often been called by the princess at night to be asked questions about the weather; and on these occasions he had opened the flap of the tent. He could see inside by aid of the binnacle light; and not once was Pergami there. This faint assistance, however, was whittled down by an

admission that there was a passage from within the tent to below deck; so that Pergami might have retired for a while.

Lieutenant Hownam was much worse. He, too, had been on the voyage; and although he "saw nothing degrading or indecent in the queen's conduct," was cross-examined into admitting that Pergami must have slept under the deck-tent. Witness had never seen Pergami there; but he knew the man did not sleep anywhere else. Asked if he thought that degrading or indecent, Hownam said "No". Asked if he would have allowed Mrs. Hownam to sleep under a tent with a man, he could only answer that Mrs. Hownam was younger than her majesty. He defended his opinion on two grounds: (1) that it was necessary for the queen's protection that some one should sleep near her on deck; and (2) that other people slept in the tent also, and that neither the queen nor any one else undressed. "She simply threw herself, dressed, on the sofa." As to the first reason, he was unable to say why Pergami, the ex-courier, had been selected for the post of night attendant in preference to (say) himself. Much other testimony gave Hownam, especially as to the Ompteda affair. Witness, on learning that Baron Ompteda had bribed a servant to break into the queen's secretaire with false keys, had challenged the baron to a duel; and would have fought him had not the queen forbidden the meeting. Since that time, however, which was before the Mediterranean voyage, Caroline had declared that she would always have a male person in close attendance.

So Hownam left the House, having done the cause of his beloved mistress more harm than any other witness on either side. Luckily for the queen, there soon followed an incident which strongly affected the course of the trial, and operated powerfully to pull public opinion round in her favour again. Evidence was being led to prove that the Adam and Eve incident was an invention of Ragazzoni, and the second witness called to prove that Ragazzoni could not possibly have seen what he said he saw was a person of the name of Garolini, a master mason. Mr. Williams was examining; and he suddenly turned off sharp with, "Do you know a person of the name of Rastelli?"—"I do," replied the witness. Further questions elicited the fact that Rastelli had been to see Garolini and had talked to him about the case.

At this point the solicitor-general began to grow uneasy. He objected to conversations with Rastelli, who was not a party to the proceedings. But the defence had thought this thing out; and Williams was ready. Turning to the shorthand note, he read

passages showing admissions by Rastelli that he had been employed to bring up witnesses for the Milan Commission. "I propose to prove how Rastelli went about his work; and to ask the witness if he has been offered money or money's worth by Rastelli to come and swear against the queen." As to Rastelli not being a party—nobody knew who was the party on the other side—it was a mystery; but it would not be denied that the Milan Commission were agents for him, or them, or it. Eventually the questions were allowed to be put; and so the House was led up to the dramatic situation which Brougham had planned. Slowly it trickled out (I summarise it in the first person) "Rastelli called on me and asked if the princess owed me anything, I said, 45,500 livres. He told me, if the princess did not pay me, to give my account to him and he would contrive to get me paid. He said 'There are Englishmen in Milan, and I will see you paid'. He told me that as I had worked long for her royal highness, to tell him all I had to say against her, and he would see me paid. Several times I saw Rastelli, at intervals. He talked to me about the witnesses. He told me he had given them money—forty francs a day each, except to Ragazzoni, and to Ragazzoni fifty francs—this was over and above hotel expenses."

Mr. Solicitor made a fierce attack on this witness; but failed to shake him. Asked how much he was to have for coming to England, the mason said, "2,100 francs"; but that represented a whole year's earnings, as if he did not take work now, he could not get any for the whole year.

As soon as Garolini was away from the bar of the House, Brougham rose, and inquired, "I wish to know of my learned friend whether we can have access to Rastelli. Is he here? Is he in this country?"

The attorney-general made no answer.

Brougham now put on his sternest aspect, and exclaimed, with great distinctness, "My lords, I wish Rastelli to be called".

ATTORNEY-GENERAL. "If my learned friend wishes to call Rastelli, he certainly can call him."

BROUGHAM. "I wish to know whether Rastelli is in the country; and if in the country where he is."

ATTORNEY-GENERAL. "Whether Rastelli is in the country or not, Mr. Brougham can take the usual means to procure his attendance."—A polite way of saying, "Find out".

But the House was growing restive. The evidence of "the corrupt and profligate agency" (a term of Lord Erskine's) hit the

Government peers hard; and caused corresponding joy on the Opposition benches. Eldon saw this, and broke in on the advocate's fencing—"Mr. Attorney-General! Is Rastelli here?"

"No, my lord. He has been sent out to Milan!"

Then Brougham arose in his majesty. He had known all the time that Rastelli had been sent away; but he acted as though the attorney's statement came upon him as a complete surprise. His voice rang out in indignant trumpet-tones—"I wish to know, my lords, whether, under these circumstances, after it is made known to you that this individual, whose conduct has been so strangely implicated, has been sent out to Milan—I say, my lords, I wish to know whether I am obliged to go on with this bill!"

The tone, the voice, the manner, no less than the matter of this sudden appeal created a sensation almost impossible to be described. For a moment the House sat perfectly silent, as the great orator and advocate stood, with arm outstretched and eyes flashing, dominating the assembly. Then arose a great outcry. The queen's peers shouted fiercely, "Withdraw! Withdraw!" Dignified noblemen—and noblemen were dignified in those days—yelled threats and insults across the floor of the Chamber. In two minutes the stateliest assembly in the world had become a shouting, yelling, frantic mob, wild with passion and surging with tumult.

After a while the attorney-general was permitted to offer an explanation. Rastelli, he said, had been sent to Milan with despatches, under the impression that he would not be wanted again. It was necessary to send some one with letters to the relatives of other witnesses, to reassure them of the safety of those persons; and Rastelli had been selected. But a courier had been sent after him to bring him back.

Brougham retorted that if false witnesses were to be sent away before there had been a chance of discovering their perfidy, then farewell to all sense of impunity against perjury, and to all reliable evidence. "Again I ask," he demanded fiercely, "am I obliged to go on with this case?"

Amid great uproar, all counsel were ordered to withdraw, and their lordships entered on a long and acrimonious debate. Lord Holland began it with an impassioned speech in which he besought the House to "get rid of this infamous proceeding". Amid fierce cheers from the Whigs he asserted that "subornation had been practised to an extent absolutely monstrous"—that if

the House went on with the bill its reputation was ruined. "You will taint, not merely your present proceedings, but all your future measures. Your proceedings will be a mockery and a burlesque." In fine, the orator of the Whigs did not mince his words; and his impassioned periods left his friends hot with anger and his opponents cold with shame. But a cool and clever speech by the prime minister (Lord Liverpool) put a little heart into the supporters of the measure. If, said he, there was an infamous conspiracy to defeat the ends of justice, all the more reason for going on. Eventually the House adjourned for the day without coming to a decision. Next day, the solicitor for the prosecution (Mr. Powell) was called and examined by the peers, to explain why he had sent Rastelli abroad. His explanation was rather lame; and was to the same effect as that previously offered by the attorney-general. On this counsel were called in, and Brougham was asked what course he suggested. After an hour's consultation with his juniors, the queen's advocate said he would prefer to continue on the same lines; and accordingly called one Filippo Pomi, who had lived at the Barona (Pergami's house) for about fourteen years.

Pomi swore that Rastelli had been to see him, had given him forty francs, and had offered him a great present ("un grande regalo") if he would say something against her royal highness. Rastelli told witness that Demont had "made a good day's work," and had received a large sum. Rastelli had suggested to him to say that the house (the Barona) was a "bad house". The cross-examination of Pomi rather strengthened then weakened his evidence. He swore solemnly that he had not been sought out by the queen's advisers; but had gone voluntarily to them, and told what he had related to the House. And he stoutly denied that he had ever seen Pergami in the princess's bedroom, or had even told any one that he had seen him.

The next witness was one Pomarti, a clerk in the office of the Italian lawyer employed by the queen. After many objections, and a whole day's discussion, and the opinion, solemnly delivered, of the judges, the witness was allowed to tell his story. And an astounding story it was. "One day I was sent for to go to Vilmarcati, the Italian advocate employed by the Milan Commission. Vilmarcati told me that if I could bring him the papers relating to the queen's case, he would procure me a good appointment. I took him papers six times; and each time he gave me money. I once complained to Colonel Browne that Vilmarcati

was not paying me enough; and Colonel Browne told me Vilmarcati would perform what he had promised. Vilmarcati sent a man named Reganti to me for papers sometimes. Subsequently, I told my employer what I had done; and he instantly dismissed me."

The cross-examination was directed to show that Pomarti had offered papers to Colonel Browne; and that Browne had refused to buy them!

Pomi (see above) was now called again; and asked if he knew anything of Reganti. "Oh, yes!" said he. "Reganti used to bother me to give evidence against her royal highness. He tried to get me to say I had seen Pergami use a certain indecent familiarity towards the princess; and I refused."

The trial had now ceased to be a trial of the queen for misconduct; and had become an inquiry into the procedure of the Milan Commission—a change of subject by no means unwelcome to the queen's advisers. As it progressed, public excitement increased in volume. The conduct of the prosecution formed the topics of a warm debate in the House of Commons; and the Government received a damaging blow from the great lawyer, Scarlett (afterwards Lord Abinger). "I can only say," said Scarlett, "that had I been counsel for the prosecution against the meanest subject in the realm, and had been told that the defendant possessed the power of proving that some of the testimony against him had been obtained by corrupt practices, though he could not bring it home to the prosecutor, I should think I did no honour to my client if I interposed an objection to its production." Scarlett was, perhaps, the most eminent lawyer in the country, simply as a lawyer. He was a man of moderate opinions, who rarely expressed himself with warmth; and consequently his pronouncement had the greater weight.

Brougham continued to pile up evidence of subornation. An ex-officer of the Venetian police swore that the witness Zangli had received no less than eighty double Napoleons from Vilmarcati. Another witness was called to prove that Sacchi had offered a bribe; but was stopped on the ground that Sacchi had never been asked about it in cross-examination. Brougham asked for Sacchi to be called in; but the witness was not at hand; and when, the next day, Sacchi was offered for cross-examination, Brougham refused the offer. The refusal was made in such a way as to suggest that during the interval since the preceding day Sacchi had probably been coached in what he was to say. "If

I am to be treated thus," said the queen's advocate, "I do not intend to offer any more evidence of subornation of perjury."

So hard did Brougham hit, and so damaging was the punishment inflicted on the prosecution, that at last a secret committee of eleven peers was appointed to inquire into the way the case for the prosecution had been got up. Meanwhile Brougham called certain witnesses to prove that the conduct of the queen and Pergami had never created a public scandal, as had been alleged.

The last witness called was the Chevalier Vassali, the queen's equerry. Vassali had formerly been a captain of dragoons; and was not only a personable man, but one of sharp wit and clear intelligence. His evidence created a most favourable impression. This was it: "I knew General Pino, at whose house I was dining when I met her majesty. I met Pergami at the general's. I have seen him dine with General Pino. I accompanied the princess into Germany. Pergami was then chamberlain. He dined at the table with the King of Bavaria, by whom he was treated with great consideration. I remember the balls at the Barona. They were attended by the tenants, their wives and daughters—country festivals, quite respectable."

The next evidence was to show that Barbara Kress's evidence was false. "I remember exactly where her highness was every day during her visit to Carlsruhe. There was no opportunity for her to be in Pergami's room as described by the German chambermaid. One day Pergami was ill; and he and the Countess Oldi went back to the hotel, but her royal highness was then at the grand-ducal Court." The object was to prove that the woman seen in Pergami's bedroom was his sister.

Cross-examination failed to shake Vassali's story; so the solicitor-general trained his guns on another spot. The chevalier had been the queen's agent to go to Italy and bring over her witnesses; and Copley tried hard to serve him with the same sauce that Brougham and his coadjutors had tried so successfully upon Rastelli, Sacchi and the others. But Vassali was too wary; and Mr. Solicitor could make nothing of him. He admitted that he had given to the poor people ten livres a day for their support and expenses, and a franc a day for each of their wives, and half a franc for each child. The master mason he had paid 3,000 livres of Milan. This he was directed to do by Mr. Henry (the queen's foreign agent) as an indemnification against actual proved losses.

THOMAS DENMAN

QUEEN CAROLINE'S SOLICITOR-GENERAL, AFTERWARDS LORD CHIEF JUSTICE OF ENGLAND

From the painting by John James Halls in the National Portrait Gallery

Vassali was the last real witness; but Brougham wished to close his case a little more dramatically. So he asked for an adjournment to enable him to bring over the Baron d'Ende, chamberlain to the Grand Duke of Baden. Asked why the baron was not there, Brougham produced one Leman, an attorney, who had been over to fetch the baron, but had been unable to persuade him to come. He was afraid, this chivalrous baron, of getting into trouble if he appeared to testify to the queen's innocence—he might lose his post at the grand-ducal Court.

The peers refused to help the queen's advisers in the matter—indeed, it is difficult to see what they could do; whereupon Brougham suddenly closed his case. The attorney-general then sought an adjournment, to enable him to bring Colonel Browne from Milan, to deny the stories of subornation. "Good God!" cried Brougham, springing to his feet, "am I to regard your lordships as a court of justice?" and the attorney went empty away. After a few more unimportant matters, the final speeches.

Denman summed up for the queen. If Brougham's was a great oration, Denman's was little behind it. The future chief justice had a commanding presence and a fine voice. His command of language was great, his analytical ability considerable, and his eloquence was of that direct, manly order calculated to impress a tribunal such as the peers were. His first care was to attack with tremendous force the way the prosecution had conducted their case. Turning on the attorney-general, Denman exclaimed: "To have to conduct a case in such a spirit, I conceive to be a misfortune for which no rewards, no honours can afford an equivalent—a misfortune to which I declare before God that nothing within the scope of human ambition could have tempted me to submit for a single moment".

In a dozen sentences he smashed the case—the general case—for the bill; I mean that part of it which charged that Pergami had been advanced to honours and titles by or through the influence of the queen. "All we know is, that at one time Pergami had no titles, and that now he has them. As to how he obtained them there is not a tittle of evidence." As to the order founded by the princess,—her royal highness was the first European princess who had, for 600 years, visited the Holy Sepulchre. Was it not natural that she should wish to commemorate the event?

[The reader observes that Mr. Denman judiciously passed over the fact that Pergami was created Grand-Master of the new

order, a higher rank than that accorded to Hownam and the others.]

Denman then proceeded to analyse the evidence. The first overt act charged was at Naples; and it had been charged thus: The paramour that night was removed so as to sleep near her royal highness; William Austin taken from her room; return alone at an early hour from the opera; hasty dismissal of the maid; condition of the larger bed the next morning; princess not visible next day till a late hour; Pergami not at servants' breakfast table. It had been proved (1) that the re-arrangement of the rooms was made by Sicard on his own authority; (2) that William Austin had been removed long before, because he was too old (thirteen to fourteen); (3) that she returned at her usual late hour, and was escorted home by Sir William Gell; (4) that the maid was not hastily dismissed; (5) that she did not lie a-bed late the next day, but that she received distinguished callers the next morning; and (6) that Pergami breakfasted with the other servants as usual. As to the condition of the bed—that depended entirely on Demont's evidence; and how could any one believe her, after her cross-examination?

One of the most skilful passages in the speech was that dealing with the Swiss chambermaid. "We have," said Denman, "contradicted her by evidence on every point where contradiction was possible. But in some points it is impossible to contradict a witness. I recollect an anecdote of a particular friend, who, on relating a circumstance, was informed that it was not true, and told by the person who made the observation, that he knew it upon as good authority as the other did. 'Well you may,' the other replied, 'for I myself invented the circumstance and told it to you.' Demont is like my friend, the sole inventor. She is the historian. There is no going higher than the source—no use in ascending above the fountain."

The same sort of observation applied to Majocchi. He was contradicted on every point when he spoke of things taking place in the presence of a third person. Again, he spoke to minute circumstances extending over a series of years; but his memory was all on one side. When he was asked anything on the other side his memory failed him. Majocchi was, therefore, utterly incredible.

"I will now show that her royal highness has been the victim of perjury and conspiracy by the Italian witnesses." [The Tory peers moved uneasily at this.] "Perjury, and conspiracies to

commit perjury were not unknown, even in England. There was the historic case of Titus Oates. There were two cases quite recent, one where a Miss Glenn had accused a young man and his relations of forcible abduction, and had secured their conviction. But the friends of the prisoner had, in their turn, prosecuted Miss Glen and her witnesses for perjury; and had clearly proved a conspiracy to give false evidence. In another case, within the last fortnight, ten people had been convicted of conspiring to set up a false commission in bankruptcy, and had been proved to be in the habit, for years, of false swearing. Then there was the case of Queen Anne Boleyn.

"But without dwelling on events in the reign of Henry VIII., however similar some of them may be to the transactions of the present day"—a shrewd blow this—"let us look at what passed in the year 1806." Denman then took the House through the Delicate Investigation; and urged that it had been conclusively proved then, how there were people who would lend themselves to the passions of princes.

In a fine passage, the orator of the Midland Circuit spoke of Italy as the historic home of false witness—"there a price is set upon an oath". In one of Shakespeare's plays it was represented that a thousand ducats was given at Messina for the evidence of a person who was to swear away the honour of a woman. This was the passage: "Which be the malefactors?" "Marry that am I and my partner." "Now write you down that he says he has received a thousand ducats for accusing the Lady Hero wrongfully." "Marry, sir, they have committed false report; moreover they have spoken untruths; secondarily, they are slanderers; thirdly, they have verified unjust things; and, to conclude, they are lying knaves."

The House, hanging on Denman's words, chuckled with appreciation when he slyly hoped they would find the last quotation "not altogether inapplicable, taken as it was from the last act of a celebrated comedy, called *Much Ado about Nothing*".

Proceeding with his criticism of the Italian witnesses, Denman asked how much reliance was to be placed on the testimony of the master and mate of the polacca, who were receiving the enormous allowance of 1,000 and 800 dollars a month as witnesses.

Now came a test of Denman's quality as an advocate. He had to deal with the one damning fact against his client—namely, the fact, admitted by Hownam and hardly deniable, that Pergami

and the princess did repose at nights under the deck-tent on board the polacca. Let us see how he treated it.

First of all, if her majesty had been "the blind victim of a guilty passion," would she have ever removed to the deck? Below she might have gratified her passion in secrecy. On deck she was subject to the observation of the captain, close to the steersman, and open to the observation of every one on deck.

In the next place, this was not really a closed tent—it was only the awning of the deck, hanging loosely around. Moreover, the hatchway was always open. In fact, the parties were sleeping as if in a camp on land. It appeared that they merely rested on the bed and sofa; that the bed was never made; and that the queen never undressed. Pergami also was fully clothed.

The next question was—Why should Pergami be there at all? Boldly adopting Hownam's explanation, Denman asserted that some male attendant was necessary; and who so proper as the chamberlain of her household to wait on the princess?

Denman must have felt, however, that his explanation was not very satisfactory; for he tried to insinuate a doubt whether Pergami ever did sleep under the tent; and here I take leave to think he made a mistake. True, the witnesses on the other side were the perjured Demont and Signor Non-mi-recordo, supported by the hired testimony of the master and the mate, whose evidence was obviously untrue in other particulars. But, on the other hand, Flynn had not been able to say where Pergami slept, if not under the tent; and Hownam had expressed a belief that the chamberlain did sleep there. Besides, Pergami must have slept somewhere; and the queen's advisers had called no evidence to show that he slept elsewhere than under the tent. In addition, Hownam had positively sworn that the princess had stated her intention of having a male attendant near her at night time. If Hownam had not made his unlucky admission, it might have been possible for the defence to ride off on the obvious improbability of the tale and the character of the evidence called to support it.

From this dangerous topic the advocate passed to a scathing denunciation of Rastelli and Sacchi, who had given evidence of so disgusting a character, "which I should have thought no husband of the slightest feeling would have permitted to be given in evidence against his wife if she had deserted his fond and affectionate embraces, much less if he had driven her into guilt by thrusting her from his dwelling".

Having started on the topic of the king's behaviour to his wife

Denman was soon in the full flood of vituperative oratory; and working himself up into a great heat, he thundered forth a fierce and dreadful indictment of the king. The passage is worth reading: "I know of no example in any history of a Christian king who has thought himself at liberty to divorce his wife for any misconduct, when his own misconduct in the first instance was the occasion of her fall. I have, however, found in some degree a parallel in the history of imperial Rome, and it is the only case in the annals of any nation which appears to bear a close resemblance to the present proceeding. Scarcely had Octavia become the wife of Nero, when almost on the day of her marriage she became also the object of his disgust and aversion. She was repudiated and dismissed on a false and frivolous pretext. A mistress was received into her place; and before long she was even banished from the dwelling of her husband. A conspiracy was set on foot against her honour, to impute to her a licentious amour with a slave; and it was stated by the great historian of corrupted Rome, that on that occasion some of her servants were induced, not by bribes but by tortures, to depose to facts injurious to her reputation; but the greater number persisted in maintaining her innocence. It seemed that though the people were convinced of her purity, the prosecutor persevered in asserting her guilt, and finally banished her from Rome. Her return was like a flood. The generous people received her with those feelings which ought to have existed in the heart of her husband. But a second conspiracy was afterwards attempted; and in the course of that inquiry she was convicted and condemned. She was banished to an island in the Mediterranean, where the only act of mercy shown to her was in putting an end to her sufferings by poison or the dagger."

To say that the terrific invective conveyed by this apt parallel created a sensation is to do Denman less than justice. The House was stirred to its depths; and the concluding passage was listened to in deathly silence.

Taking immediate advantage of the effect of his eloquence the orator proceeded with a forcible dissertation on the danger of relying on evidence given by discarded servants. "Discarded servants have it in their power at all times to depose to facts on which they cannot be contradicted. If any man should dare to swear that the noble consort of one of your lordships had got out of her bed in the middle of the night, and crept to the bed of a domestic, unseen but through the keyhole or the crevice of a door, how is it possible to contradict such a witness, but by the

general purity of the character of the accused, or by the malice of the accuser betraying itself in the very foulness of his charge?"

For two days Denman spoke, pointing out where the evidence for the defence had destroyed that for the prosecution in place after place. But although the speech was maintained at the highest level of rhetorical eloquence, there was only one other passage I wish to draw attention to—a passage which created as much sensation as the famous Nero parallel. The Duke of Clarence, though the king's brother and the cousin of the accused, had the atrociously bad taste to sit in the House all through the case, and even to ask questions of the witnesses, and to vote on all occasions against the queen. It was even rumoured that he had gone round to many of the peers, and button-holed them—canvassed them to vote for the bill, and told them tales against the accused. Denman was not the man to allow such conduct to pass unnoticed; and at the end of his speech he turned on the royal prince and tore him to pieces. The duke was sitting in the gallery, opposite to Denman. I know not how he felt when he heard this:—

"We have heard, and hear daily, with alarm, that there are persons, and these not of the lowest condition, and not confined to individuals connected with the public press—not even excluded from your august assembly, who are industriously circulating the most odious and atrocious calumnies against her majesty. . . . To any man who could even be suspected of so base a practice as whispering calumnies to judges, distilling leprous venom into the ears of jurors, the queen might well exclaim [*Denman here looked up at the gallery and pointed a finger at the duke*]: 'Come forth, thou slanderer; and let me see thy face! If thou wouldst equal the respectability even of an Italian witness, come forth, and depose in open court! As thou art, thou art worse than an Italian assassin! Because, while I am boldly and manfully meeting my accusers, thou art planting a dagger unseen in my bosom, and converting thy poisoned stiletto into the semblance of the sword of justice!' . . . I would have held it impossible that any one with heart of a man, or with the honour of a peer, should so debase his heart and degrade his honour. I would charge him as a judge—I would impeach him as a judge; and if it were possible for the blood royal of England to descend to a course so disgraceful, I should fearlessly assert that it was far more just that such conduct should deprive him of his rights of succession, than that all the facts alleged against her majesty

even if true to the last letter of the charge, should warrant your lordships in passing this bill of degradation and divorce."

It is not difficult to believe that it took the sailor prince many months to recover from this broadside; and that it was years before he forgave Denman.

After the vehement eloquence of Denman, the cool, analytical speech of the ecclesiastical lawyer, Dr. Lushington, must have come somewhat in the nature of an anti-climax, yet even this usually prosy person managed once or twice to stir the pulses of the House. Once he made a point by asking what could be thought of a husband who said, not "Go and sin no more," but "Go, and indulge your appetites, continue your adulterous intercourse, and you shall be furnished with ample means for living in splendour with your paramour"—a rather striking summary of the offer made to Caroline to give her a handsome allowance if she would remain away from England and not call herself queen. From ten o'clock to four of an October day Lushington subjected the evidence to a painstaking scrutiny. Not a detail escaped him. With reference to the sleeping arrangements in the deck-tent, the learned doctor took the line that it was absurd to suppose that the princess misconducted herself there, within the hearing of a dozen people, when she might have obtained secrecy and seclusion in a cabin below.

The speeches of the attorney- and solicitor-generals were tame by contrast with the brilliant and scathing oratory of Brougham and the terrible invective of Denman. The attorney-general rested the case for the bill on what he called the "leading fact" that the queen had undoubtedly taken Pergami under her protection, had loaded him with such honours as she could, and presented him with an estate. What could be the tie between a person of such exalted rank and a courier of Milan? "Pergami was the favourite selected on all occasions. If she walked, Pergami was taken with her, instead of Lady Charlotte Lindsay. He was selected on all occasions as her favourite attendant." What could be the reason for introducing four of his relatives into the household? Why should the Countess Oldi become maid of honour? What were her qualifications? Had she any except that she was Pergami's sister? And how extraordinary that while Pergami and the countess sat at her royal highness's table, his mother, his sister Faustina, and his brother Louis dined with the servants! What title had Pergami to be at the table any more than her old servant, Hieronymus? Naturally, also

Mr. Attorney made the most of the deck-tent scene on the polacca.

His task became very difficult, however, when he tried to rehabilitate Demont and Majocchi. He took the line that on one or two points they ought to be believed, because they had not been contradicted, nor would he admit that either of the precious pair had told lies. This was a little too much; and Mr. Attorney was interrupted by angry murmurs from the Opposition benches.

There was another incident of a more serious nature. At the time of the mid-day adjournment Brougham hurried into the House; and once again threw the Government forces into confusion by a sudden and dramatic interruption.

"I have in my hands," said he, flourishing a bundle of papers, "letters in the handwriting of Ompteda, and signed, 'Ompteda, Ministre d'Hanover,' proving that he was in correspondence with the household of her majesty, and attempting to seduce her majesty's servants; letting out, too, that he was endeavouring to seduce Mariette Demont. I am ready to prove the handwriting."

A bomb thrown on the floor of the House could not have caused greater consternation. The peers refused to receive the evidence at that juncture; but the Whig lords cast at each other triumphant glances. For here was a fine whip for the back of the Government.

When the attorney-general resumed, it was to rally the queen's counsel with not having called the Countess Oldi, or Schiavini, or Hieronymus.[1] Why were they not called? Was it because Hownam had failed, and Flynn had broken down in cross-examination? For two days and a half the attorney-general plodded through the evidence; and the peers were pleased enough when he had made an end.

The solicitor-general, who concluded the speeches, was a speaker of quite another order. He might be ferocious; but he was never dull. He answered Denman and Brougham sarcasm for sarcasm, quotation for quotation, gibe for gibe. Disclaiming all intention of examining the evidence minutely, he addressed himself to one aspect of the case. It is good advocacy to press your strong point; and the solicitor-general was a fine advocate.

The theme was Pergami. "Pergami was hired as a courier,

[1] Brougham afterwards said he did not call Hieronymus because he had been "got at". The countess was not called because Brougham found out that she was a born liar; and so unskilful a one that she was bound to be caught.

a courier only, on the journey from Milan to Naples. In a few months afterwards your lordships will find him elevated to the rank of chamberlain or equerry—made a Knight of Malta (a very high and great distinction); a Sicilian baron; a Knight of the Holy Sepulchre; and in possession of a very considerable estate in the neighbourhood of Milan." It had been alleged that Pergami had the manners of a gentleman; but the Earl of Guilford had said it did not strike him that Pergami was superior to the situation in which he had formerly lived. Sir William Gell had said the courier would not sit down in his presence. No special service to her royal highness had been proved—nothing but his "respectful attention" to his mistress. Did this form his claim to the honour of being made a Knight of Malta, a Sicilian baron, and Grand Master of the Order of the Holy Sepulchre?

"My learned friends, whose copious power of classical illustration was so elegantly shown throughout their speeches, must remember the lines put by a dramatic author into the mouth of a Roman empress:—'Threadbare Chastity is poor in the advancement of her creatures—Wantonness magnificent'."

Taking Pergami's advancement, and the favour shown to his family—not taking any of these facts singly, but coupling each with the other, "they formed a commentary which confirmed beyond all doubt every part of the charge". The "contiguity of bedrooms" again, had not been denied; and it is said that her royal highness must have some one near to protect her. "Just so was the protection given by *Sir Henry Hornby* to the lady in one of Foote's farces, in the dialogue between O'Donovan, the Irish chairman, and Mrs. Minikin:—

"'O'DONOVAN. My lord was obliged to go about his affairs into the north for a moment, and left his disconsolate lady behind him in London.

"'MRS. MINIKIN. Poor gentlewoman!

"'O'DONOVAN. Upon which his friend, Sir Henry, used to go and stay there all the day to amuse and divert her. Nay, he carried his friendship much further than that; for my lady, as there were many highwaymen and footpads about, was afraid some of them might break into the house, and so desired Sir Henry to lie there every night.

"'MRS. MINIKINS. Good soul! and he did, I dare say.'"

This was a stoke of great force. It was not only ridicule but argument. And the solicitor-general followed it up by char-

acterising Brougham's interruption [with the Ompteda letters] as "one of those slippery manœuvres for which my learned friend was so distinguished throughout these proceedings"; and hinted that Brougham had held back the letters for the purpose.

Passing on the learned counsel commented on the other side's theory that all Italian evidence was to be knocked up immediately it was contradicted by English witnesses. Flynn and Hownam were to set the matter right! But Flynn and Hownam did not help the queen on the deck-tent question. Nay, they both admitted that if Pergami did not sleep in the tent they knew not where he did sleep. And added that there was "the negative testimony" of the Countess Oldi. The queen's case "received its death-blow the moment it was decided not to call the countess to give evidence".

On the feeble defence set up by the defence as to the deck-tent, Mr. Solicitor waxed sarcastic. The queen did not take off her clothes! "Formerly, it had been said that a hooped and whale-boned petticoat was insufficient:—

> "Oft have we known that sevenfold fence to fail
> Though stiff with hoops and armed with ribs of whale,"

he quoted, amidst the laughter of the peers, "Here was a sergeant of dragoons, a courier, an elevated menial, lying side by side for months with the Princess of Wales! . . . Yet she was now held up as a woman of exalted purity!" Mr. Solicitor was advocate enough to see that if he could win at all, it must be on this part of the case; and with pitiless insistence he drove home his point. I have no hesitation in saying that he made mince-meat of the defence on this head—the glaring indecency and impropriety of Pergami's presence in the deck-tent.

For the rest, the speech consisted chiefly of a series of assertions on the part of the solicitor-general that the queen's advisers ought to have called more evidence—they ought to have called, not only Oldi, but Schiavini, more of the servants, Demont's sister, and others; and the House was asked to infer that these people had not been called because they would only have confirmed the story told by the prosecution. But Mr. Solicitor did not forget to attack the queen's witnesses when he could—by way of counterpoise to the all-round onslaughts made on the prosecution's witnesses. Carrington was denounced as a pretender to gentility; Flynn as a liar; Vassali as a soldier of fortune. The Nero parallel of Brougham was countered by a quotation from Tacitus from the

CAROLINE OF BRUNSWICK

AFTER A CONTEMPORANEOUS PORTRAIT

address of Silius to the wife of Claudius: "*Insantibus innoxia consilia; flagitiis manifestis, subsidium ab audacia petendum*". And by way of peroration the lords were invited to ignore the threats of Brougham and Denman; and "to pronounce their decision with that firmness which became their exalted station and upright and dignified character".

Scarcely had the solicitor-general ceased [he spoke from the afternoon of the 28th to the afternoon of the 30th of October] than Brougham advanced to the bar and made a solemn appeal to the House to enter upon the recently discovered Ompteda letters. The nature of the letters was indicated. They were to a police-agent of Milan, instigating him to "get at" Louise Demont, her sister, Hieronymus and others, and showing that money was supplied for the purpose.

The attorney-general raised a strong objection. In the course of his speech he said, rather maladroitly, "my learned friend has not said one word of the date of the letters or to whom they are addressed". Brougham was up in a moment: "Oh! I have not the least objection to read them to my learned friend!" Needless to say, the learned friend did not embrace the offer.

The lord chancellor, a stickler for forms, advised the House not to receive the letters; but a few of the queen's friends moved "that the letters be received". Lord Carnavon and the Duke of Hamilton made hot speeches; but the Whig leaders frowned on the motion, and only sixteen peers voted for it.

It was on the 2nd of November that Lord Eldon rose from the woolsack to sum up. It was a hanging speech. Practically it was confined to two points,—the admitted fact that Pergami reposed under the deck-tent; and the further admitted fact that Pergami and all his relations were, in the most unaccountable way, preferred by her royal highness. This left no doubt in the lord chancellor's mind that adultery had been committed. "I would say to your lordships, 'Be just; and fear not'."

To answer the chancellor, Lord Erskine rose. Many a time and oft had those two, as John Scott and Thomas Erskine, crossed swords. This was to be their last battle. He pointed out that the original charge of a long, licentious intercourse had been abandoned; and the case was now presented solely on the ground of what took place on the polacca on the voyage home from Jaffa. He boldly asserted that even if the princess and her chamberlain

did repose under the tent together, that did not prove misconduct. But the old forensic hand was too cunning to rest his argument on that alone. He took a better line. Here, he said, in effect you have a case presented of the highest penal consequences. And you find that every single one of the principal witnesses is incredible—some because they have broken down completely in cross-examination, like Majocchi and Demont; and the others because they are proved to be bought. Furthermore, it is proved to the hilt that the agents for the prosecution have gone about suborning perjured testimony. The House had just settled down to enjoy a speech by the foremost advocate of a previous generation, when the venerable peer suddenly stopped, fumbled with his notes, and then pitched head foremost on the table. Nor was it until two days afterwards that the speech was resumed. Apart from the question of the conspiracy against the queen, Lord Erskine showed that the case depended entirely on Demont; and Demont's evidence was worth very little after the ancient warrior had dealt with it. To wind up with, he adjured the peers to throw out a bill supported by perjury and subornation.

The debate proceeded almost entirely on party lines after this. Lord Grey, the Whig leader, attacked the bill with great force; and Lord Liverpool, for the Government, defended the measure in a speech of great acumen. But it is worthy of note that the prime minister was compelled to throw overboard most of the testimony of Demont and Majocchi. "It was," he said, "no doubt coloured."

Perhaps the most noteworthy, because the most judicial pronouncement was that of Lord Ellenborough, a law lord. This noble peer did not hesitate to say that he could not declare the queen innocent; but was unwilling to pronounce her guilty. This cryptic utterance he rested on the ground that to his mind, on the admitted facts, certain allegations were proved; but, on the other hand, he was "unwilling to give a vote for the bill if it rested on suspicious testimony"—a way of saying that the defence had broken down, but the prosecution was founded in lies and corruption. Again, said he, suppose we pass this measure! Will it not be generally regarded as a triumph of falsehood over truth? So, although "the queen was the last woman any one would wish his own wife to resemble," my Lord Ellenborough felt constrained to vote against the second reading.

Another noteworthy utterance, though for a different reason, proceeded from the Duke of Newcastle. The noble duke frankly

admitted that he had been absent during the greater part of the trial; yet he was of opinion that adultery of the most disgraceful character had been committed; and he should vote for the bill. His grace well deserved the tremendous castigation he received from the Marquis of Lansdowne, who pointed out that the duke had heard the evidence for the prosecution, and absented himself during the progress of the defence. "Does such conduct," exclaimed Lord Lansdowne, "become one of the judges on this great and solemn trial?" And all parties chorused their disapproval of his grace of Newcastle.

Perhaps the best speech of all, for the queen, may be given *verbatim*. It was from the Earl of Enniskillen: "My lords, I supported the noble earl in bringing in this bill; but in deciding upon it I think a man ought to be guided only by himself. I have listened to the whole of the evidence. It is so extraordinary, and so full of contradictions and falsehoods, that I cannot convict any person upon it. I shall, therefore, vote against the second reading."

Eventually, on the 6th of November, after one of the longest debates ever held in the Upper House, the division was taken: and it was found that 123 had voted for the bill; and 95 against it—a majority of 28.

Thus Caroline of Brunswick was found guilty of a licentious and disgraceful amour with a menial servant.

Next day Lord Dacre rose and read a protest from the queen, couched in Broughamese language, and really intended for the public consumption. In it, Caroline protested against the decision on the ground that her triers were not impartial; and emphatically declined to attend before the House in committee to discuss the details of the measure.

The lords immediately went into committee on the bill; and here it was that the measure met its fate. The bench of bishops had supported the Government so far; but now there was a split. The Archbishop of York and the Bishop of Chester protested against the divorce clause. They were willing to degrade Caroline from the throne; but not to dissolve her marriage. Worcester supported them; but the Primate of all England, and the Bishops of London and Llandaff were content to retain the clause.

The Whigs now performed one of their skilful manœuvres. They wished to defeat the bill on the third reading; or, at any rate, to reduce the majority to the least possible. So a few of them

helped the Government to resist the bishops, on the ground that if the bill passed at all it ought to retain the divorce clause. Accordingly, the divorce clause stood by 129 to 62. George refused to give way; and used horrible language about the right reverend prelates. The consequence was that the bill came on for its third reading with the divorce clause intact. Then the whole phalanx of the Whigs, supported by the Archbishops of York and Tuam and the Bishop of Gloucester, voted against it. Eight bishops only supported the Government. Thus the Opposition had gone up to 99; and when the supporters of the bill were counted it was found they had dwindled to 108—a majority of 9 only.

Not often has there been a scene of so much excitement in the Upper House. The Government had evidently foreseen the event; for Lord Liverpool rose, and, amid a tremendous display of feeling, withdrew the bill. Cheers loud and long rose from the Opposition benches. Earl Grey rose and "rubbed it in," reproaching the Government, in the best leader of the Opposition style, for disquieting the country for nothing. But the House hushed to silence when the venerable Erskine rose, with eyes aflame. "My lords," he said, and his voice rang out with the clear tone that had entranced the tribunals of thirty years before, "I am an old man; and my life, for good or evil, has been passed under the sacred rule of the law. In this moment I feel my strength renovated and repaired by that rule being restored—the accursed charge wherewithal we have been menaced has passed over our heads—there is an end of that horrid and portentous excrescence of a new law, retrospective, iniquitous and oppressive; and the constitution and scheme of our polity is once more safe. My heart is too full of the escape we have just had to let me do more than praise the blessings of the system we have regained; but I cannot praise them adequately myself, and I prefer expressing my sentiments in the fine language of one of the most eloquent authors of any age, Hooker, who thus speaks in his great work on *Ecclesiastical Polity:* 'Of law there can be no less acknowledged than that her seat is the bosom of God: her voice the harmony of the world: all things in heaven and on earth do her homage, the very least as feeling her care, and the greatest as not exempting her power. Both angels and men, and creatures of what condition soever, though each in different sort and manner, yet all with uniform consent, admiring her as the mother of their peace and joy'."

There was a silence as the silvery voice ceased. It was as if men wished to hear the last echo of those wondrous accents. Then broke out a cheer such as was never before heard in that august assembly; and with that cheer ended the trial of Caroline of Brunswick.

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