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# THE IMMIGRANT IN THE NEW YORK COUNTY CRIMINAL COURTS.

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The immigrant who gets into the toils of the criminal law is, indeed, in a plight. From the moment the policeman arrests him till the moment he goes to the electric chair, or comes out of prison—for the two natural and almost necessary consequences of being arrested are death or imprisonment—he is a football. He is kicked hither and thither by individuals, by institutions, by society. Not once does he assert his personality, not once can he protest the inviolability of his liberty and his life. The wind bloweth where it listeth. Do you see yon mass, a vague conglomerate object, now rising, now falling, now veering to the right, now violently moving to the left? That mass—would you believe it?—is a man—a man, endowed with will power, and possessed of intelligence.

"But how can that be? The movements of the body seem to be involuntary movements. They do not seem to be caused from within, but appear to be conditioned from without." "Nevertheless, it is a man. The man is not in his accustomed environment. He is a stranger in a strange land. He is within our gates, has come recently, or some time ago, but not yet enough acquainted with us to be capable of making use of his intelligence, or of putting forth will. He is a straw blown by the lightest wind and to immeasurable distances. Nevertheless, he is a man."

The immigrant is at the prisoner's bar before the Police Court Justice. He is bewildered, lost. He has no friends, no one to aid him. He is not represented by counsel. With lightning-like rapidity the complainant gives his testimony, which the defendant does not understand. A prima facie case has been made out. "Does the prisoner wish to say anything? He is warned that, if he does, it may be used against him, but that he is not compelled to say anything." This in formal, ponderous, legal phraseology, is shot at the mute and deaf defendant with the rapidity of a cannon ball. Things have to be done fast. One hundred cases like this must be tried today. "Held for the Grand Jury." "Get off—Come on. This way," cry two or three attendants, and straightway they whizz the prisoner off to the jail.

He has been here one day, or maybe two or three or four. Now he is taken to the county jail to await indictment by the Grand Jury. He is put in a cell, fed miserably, and kept there long.

Some days after the prisoner's arrival at the county jail he is arraigned for pleading. He has no lawyer. Professional criminals are well provided for, but these strangers rarely have means, and, when they have, they do not know where to turn for a defender. The Court ascertains whether the defendant "has means," and whether he has a lawyer. "No means" shouts the attendant who is standing by the prisoner.

The Judge looks around and pounces upon some one present. In another place I have given a full description of the kind of lawyers who practise in the Criminal Courts of New York County. It is enough here to say that they are, as a rule, incompetent to the last degree. The unfortunate situation of the client is enhanced to extremely perilous proportions when, as often happens, an Irishman is called upon to defend a Russian, an Austrian, a Bohemian, a Jew, or a Jew is called upon to defend an Italian. There can be no rapport between attorney and client. The means of communication is denied them. If, perchance, as once in a blue moon it occurs, the attorney gets the story in the counsel room from a fellow prisoner, or outside of prison from a relative, it is a distorted story, which could be of little use to even a competent defender. Defenders are not paid by the County except for assignments in murder trials, and these plums do not go to the rank and file. To be sure, they are not given to more competent men—but the men who do the humdrum workaday labor in defending on assignments, men charged with burglary, with assault, with robbery, with arson, are not the men who taste the fruits of a two hundred and fifty dollar murder case assignment. The cheap man must make what he can out of the robbers, the burglars, the incendiaries, the assaulters, and out of the relatives of these. For these prisoners sometimes have ten or twenty or more dollars, and the lawyers have runners and intermediaries. It happens frequently that the foreigners are grateful to counsel who come into prison to see them and talk over the case with them—grateful for the visit and the interest—and proud of their self-respect. It is no rare thing to be treated to the sight of one of these immigrants offering what he has as a retainer, without the slightest suggestion on the part of counsel.

"I haven't very much. Some money was coming to me, from the employer I worked for last before I was arrested. My sister is going to go for it. It's only ten dollars, and that's all I have. My parents are old, and feeble. They

can't support themselves in their native town, so I must send them half of what I make. The other half disappears. So it is that I have been in this country six years and have now only my two strong arms. My sister is going to bring the money to me Monday. When you come then, I shall give it to you. Please take care of my case. I struck that man. Yes, I don't deny it. But who could stand the teasing and nagging and worrying, the scolding, the barking and the biting, 'Dago, Dago, get out of here. I'm going to get rid of you yet'—And then when I was going about my business getting the soiled towels in the room, again he called me names, again he said he would kill me. Why? He said the boss liked me because I was good, and did everything he told me to do. *He* didn't want to be disturbed. To go into the same room where he worked was a crime. That made him so mad. I was a foreigner and that was enough. But when I went about doing my work with good will and walked into his room—*his* room—where the boss had told me to go—it was more than he could stand. Then I was 'Dago' one hundred times over. Then I was all sorts of bad things. Oh! what he said about my mother and my father, and my sister? I kept quiet. I didn't want to have any trouble. I knew how hard it would be for me to get out of prison once I had got in, and it is so easy to get here! I was quiet. I spoke nothing. I went about my business, picking up the dirty towels. Then he yelled out loud, 'You dirty Guinea, get out of here. I'll do you up yet. Get out!' And then I looked up and saw a big table knife in his hand. He was holding it up and coming toward me. 'I'll kill you. You must not work here any more.' He was near me now, very near, and he was still clutching the knife. He made a lunge. He missed me. I was in the army in the old country. I'm not afraid. I don't lose my head so easily, and I know how to get out of the way of danger. Bullets have howled around me, and I have not moved a muscle. Ask Lieutenant Bruno. He knows. Oh! I wish he were here. Lunges have been made at me with flaming swords and I have not been afraid. But, per bacco, that man had me in a very close place and I had no means to defend myself, not even to ward off his blows. The sharp point of that table knife was coming down upon me. I had to do something. Isn't it the law here that a man may preserve his own life when anybody unlawfully wants to take it away? I had an ice-pick hanging from the belt around my waist. I pulled it out and I hit him before he could strike me. I struck him once on the thigh, only once, to make him stop. I could have punctured his head. I could have struck him in the face. I didn't. I wanted him to stay after the blow. And after the blow the coward collapsed. He howled, ran out of the room, and said I had tried to knll him—stabbed him with a long knife. The policeman came, and brought me to court. I've now been here a month and a half."

It is sheer folly to act as a man's defender when you don't know his customs, the institutions under which he has lived, the laws he has obeyed, the environments that have moulded him, the language he speaks. Not only can you not find out his defense—his complete defense, not a mangled thing—but, there are innumerable matters that come up or may come up if you are alive to the situations which call for intimate knowledge such as has become a part of yourself. The

veracity of a witness is that quality which is most often attacked by cross-examiners. They attribute wonders to the showing up of discrepancies in testimony which indicate that the witness is not truthful. If he is not veracious in these things, they argue, he is not veracious in others. Whether or not the efficacy with which they endow their efforts is justified by results as seen in the verdicts of juries, long experience has taught the extreme importance of exhibiting the inaccuracies and the blunders, wilful or innocent, of witnesses.

Now, it is sometimes very easy, if you are impregnated with the subject matter which is under discussion, or only secondarily involved, to see at a glance that the witness is uttering falsehood upon falsehood. But this vision cannot be had by the defender who knows not even superficially the language of the prisoner. For instance, an Italian is on trial for the burglary of two valises from a basement in Mulberry Street. The complainant, a banker, takes the stand, and on direct examination recounts a conversation between himself and the defendant, in which, the complainant alleges the defendant admitted the burglary, and told him where the property previously stolen was hidden. The theory of the defense is that the complainant was mistaken and that for two reasons: first, because he had not understood the defendant, since he came from a part of Italy where the dialect was difficult to understand by the uninitiated, and second, because the defendant was naturally stolid, stodgy, and ignorant, and had difficulty in expressing his ideas in his own dialect, and so the complainant had unconsciously misinterpreted the words of the defendant. What the defendant had said was that he had seen two men a few minutes before walking away from the basement with the valises in their hands and had recognized one of the men as being a person who had been arrested and convicted upon the charge of burglary some six months before. Everyone knew him. A little knowledge of the way in which people in that neighborhood lived where honest and dishonest persons were thrown constantly together, and where no choice of associates was possible, made it clear that the defendant may have been perfectly innocent of all connection with the real burglar. On cross-examination the banker is positive that he could not have misunderstood the prisoner. Upon further questioning he testifies that he knows all the dialects of Italy:

"How many are there?" "Oh! seven or eight," he replies. "Do you speak all these seven or eight?" "Of course."

Suppose this cross-examination was being conducted by a stranger

to the facts. He would be stumped, non-plussed. But notice the method of the man who knows.

"You say there are seven or eight dialects in all Italy?" "Yes." "What part of Italy do you come from?" "Basilicata." "What town?" "Charomonte." "Mention another town within a radius of ten miles." "Roccanova." "Another." "Sinisi." "Do you understand the word 'Cola'?" "No." "Do you understand this sentence?" (A sentence is given.) "No." "Don't you know that the word and the sentence are parts of the Roccanovan dialect?" "I do not."

Now this is not evidence, of course. No one knows whether or not the lawyer has made up the word and the sentence. But it has done this great good: it has put the witness in fear of deviating from truth. He knows there are more than several hundred dialects in Italy. He knows he cannot understand the dialects of villages only a few miles away from his native village, let alone dialects of villages and out of the way places great distances from it, which are conglomerates not only of degenerate Latin but of corrupt words and phrases of the Romance languages, especially French. The next question, therefore, floors him.

"Isn't it true there are over a hundred dialects in Italy?" "Yes. But I understood that man very well." "Where does he come from? Not from your town or your province? He is a Catanian. Where is Catania?" "Very far away. But I know what he says. People from all over Italy come to my bank."

Now, ninety-nine chances out of a hundred this is not true. He is exaggerating mightily. Bankers notoriously deal only with people from their Province. It is these who go to his bank because he is their "paesano," their fellow-townsman, or their near paesano, their fellow-Provinceman, and so have faith, trust and confidence in him. It means a great struggle and a great risk to put your savings into the hands of one whom you do not know, or have no sentimental connection with. The banker in the Italian Colony has usually been a little better off, and a little better educated in the old country than those who now come to him with their hard-earned savings. And because of the regional compactness and fraternity that exists in Italy, which is, by the way, now happily disappearing, the laborers troop to the banker who is a "paesano." The word "paesano" has been extended in meaning to cover also one of the same Province, a Province corresponding to one of our states. So it happens that the vast majority of the Italian banker's patrons come from the same Province. A Salernian banker has Salernian patrons, a Neapolitan banker, Neapolitan patrons, a Calabrian banker, Calabrian patrons, a Sicilian banker, Sicilian patrons.

The bank of which this witness is the head is a small thing. How farfetched to suppose that the man is right in his statement that people from all over Italy come to his bank. Three questions are enough to expose the fact that again the witness is inaccurate and reckless, if, indeed, he is not knowingly swearing falsely to make a strong case against the defendant. Now all this has not taken up a great deal of time. In three minutes the witness has been shown to be unreliable. Could this have been done if the cross-examiner had been a German, a Jew, an Irishman?

Let me briefly illustrate again. The defendant is suspected of having committed the crime of robbery. He is searched for during weeks. Detectives at last arrest him in an Italian cafe and "pasticceria"—a cake bakery and confectionery place. Evidence is brought out, during the course of the trial, concerning the kind of place this "Cafe" is, the purpose of the prosecution being to insinuate that "cafes" are disreputable places. "What is it but a gambling dive? What do people do there? They drink, they gamble, they concoct horrible plans. Saloon! A great deal worse than a saloon. A hangout for criminals. An abomination and a snare for the unwary. That's what it is. All in all, a most infernal den."

The character of "cafes" in general and of the cafe in question is brought out during the trial, and in the summing up the jurymen are asked whether they have ever gone into the Italian quarter and seen how the people there live. The cafe corresponds to the English coffee-house of the 18th century. The coffee-house was the resort of the most respectable and reputable people. There Lord Chancelors held forth, there embryonic Lord Thurlow met all comers in debate. There Dr. Johnson roared, there scientists, and members of Parliament, and judges and barristers and solicitors, and doctors and literary men congregated and clashed wits. There was a real feast of reason and a flow of soul. The inclination of the Italian, fostered by his marvelous climate, to the sensations of the *dolce far niente* spirit, to the enjoyment of life, in all its highways and byways, and the pleasure he finds in talking himself and hearing others talk make him go to the coffee-house, and live a full, round life. Infernal den! Isn't it?

For the purpose of illustrating a previous point in my plan I have gone to a subsequent stage of the proceedings in the progress of the immigrant from liberty to imprisonment. Let us return. Let us assume that a lawyer has been assigned, and that the case has been put upon the calendar. The defendant may have witnesses to prove

his innocence, or, at least, to help him a little. How is he going to get them? Who is going after them? Suppose, as is often the case, the immigrant has no relatives, and no friends, who will take a deep, and to them financially costly interest in him, how is he to manage? The lawyer is not getting paid. The assignment has been forced upon him. He doesn't want it. Surely he has enough to do to scrape together a living, of whatever kind it be, to pay no attention to the "free case." He knows how much trouble the case is going to give him. He knows how many times he will have to answer "ready" before the case actually comes to trial. He knows very well how many hours he will have to throw away waiting in Court for the pleasure of the Assistant District Attorney. Well, but he may have been paid something; he is a constant practitioner in the Criminal Courts; he is there every day, and every moment of the day, anyhow, and, what is more, he has agents who know how to draw blood from what appears to be a stone. Say, then, he has obtained $50, $100. Can't he send his emissaries, his steerers to look up the evidence and bring down the witnesses?

Perfectly logical and perfectly natural this reasoning. But also perfectly naive. There is more in Heaven and Earth than is dreamt of in your philosophy, Horatio. If witnesses come one day they won't come the next. And if the runner goes for them once he won't go twice or thrice, or four times or five or ten.

Yes, it is not so easy to get to trial. You are dependent upon the whim of the District Attorney in charge of the case. There are, say, ten cases on the calendar for one day. In seven of them the prosecution and the defense answer "ready." Those seven must be ready, although only one or, at most, two will be tried. But which will come first and which second and which third, and fourth, and seventh? No man knows. You may be first on the calendar but the seventh case may be called. How is that done, and why?

Ask the District Attorney. He juggles the calendar as he pleases. He can keep you there till the crack of doom. He suits his own convenience. Very rarely is remonstrance made to the judge. You get little help from him, and little sympathy. What does any one care for you? Have you been paid? Well? If you have been given $50 you can surely devote ten days to Court waiting for your case to come on for trial. What are you to Hecuba, or what is Hecuba to you? And if you haven't been paid, why, then it's your business to be in Court just the same—your business to be there morning, noon and afternoon, to be there at the call of the calendar to say "ready,"

though you have already said it six times, to be there while a case is going on, and when the next one is put on. While the case is going on? Yes, unless you want to take your chances. A trial may halt at any moment—a plea of guilty, the withdrawal of a juror, the failure of an important witness to appear—anything may happen to end the trial abruptly and the next case may be yours.

"Mr. Snodgrass. the attorney for the defendant, John Stem." No answer. He has gone out for a few moments for a breath of fresh air. "Next case," calls out the Judge. Or worse, "Mr. Farmer, defend the prisoner." Mr. Farmer enters upon his duties with all the dense ignorance of an inhabitant of Jupiter, and straightway the ball is flying afast. "One strike, two strikes. Foul ball—three strikes—and out!"

Theoretically, any defendant may have compulsory process served in his behalf. The Code provides that any peace officer may serve the subpoena. That looks perfectly simple and perfectly feasible. But what are the actual hard facts? The peace officer will serve the subpoena if you pay him—but if you don't he will not. Go to the Station House and say you would like to have a subpoena served upon John Doe who lives in that district. You'll be lucky if your request is heeded by the Lieutenant behind the desk. If by chance, or by fear, it is heeded, then the policeman will go out and come back—without having served the summons. He will do that, if you don't give him a little tip of a dollar or so to wet his parched lips with. You know, or ought to know that peace officers are there to walk the streets and lock up whom they dislike, or whomever commits a crime, real or alleged. They are not there to help in the protection of the innocent without means.

### THE ASSISTANT DISTRICT ATTORNEYS AND PLEAS OF GUILTY.

"Bargains, bargains! Who wants a bargain?" Is this a vendor of merchandise? No. An Assistant District Attorney. "What are his bargains?" Plead guilty and get off with a lighter sentence. "How many times has the District Attorney asked this man or his lawyer for him, if he wants to plead guilty?" "A dozen times." "Why is he so insistent? Why is he so interested in that poor man?" "He isn't interested. He doesn't care a straw for that man. He wants to get rid of business. He wants to be able to say, 'I had twenty cases this month. I got fifteen pleas of guilty and four convictions. That's good, isn't it? I've lost only one case.'" "Does he care to know if the defendant whom he importunes to plead guilty is actually guilty?"

Of course not. How are you going to impress him with the idea that your client is innocent. He laughs and sneers at all defenses. Isn't your client at the prisoner's bar? Well, that's enough to prejudge his case. He insists upon your client's pleading guilty,

but if you should ask him to recommend the discharge of the prisoner for insufficient evidence you would be a traitor to law and order, and a disrupter of society. He makes no distinctions. All horses are of the same color. You reveal to him your case in the hope that he will be moved to bestir himself the way you want him to, but your reward is a renewal the following day of the never-ending question: "Why doesn't your man plead guilty?"

Now, there are many occasions upon which it would be cruel and criminal on the part of the lawyer not to advise his client to plead guilty. And this irrespective of whether the client is guilty or not. There is here a delicate question is casuistry. But I usually get out of it in this wise. I present the situation as best I can to my client. I tell him how slim, under the given circumstances, his chances are. He may be innocent. But if he goes to trial, ninety-nine chances out of a hundred he will be convicted. The reasons are various and multitudinous. But the practised mind can at a glance see the utter hopelessness of going to trial with the expectation of obtaining an acquittal. If he is convicted he will as sure as he lives go to prison for ten years. This judge is severe, and he will have no mercy. If he pleads guilty to the charge in the indictment or to a lighter crime or a lesser degree of the same crime, the judge will give him a light term. Now, after this outline of conditions, I leave the matter for the solitary consideration of the client.

There are, therefore, strong cases against a client, which will almost inevitably lead to catastrophic results for him, and there are weak cases against him which in spite of their intrinsic weakness will, notwithstanding, conduce to the same unfortunate termination. In these cases it is the part of mercy for the District Attorney to ask for a plea of guilty. But there are also many other cases in which it is the part of the inquisitor to ask for pleas of guilty and the part of an inhuman wretch to press the matter for days. The District Attorney ought to know in these cases that he has not a strong case, that the testimony upon which he bases the prosecution is slim and untrustworthy. And, above all, he should not make misleading statements, concerning his side of the case. Upon hearing that the prosecutor has four witnesses to a burglary or an assault the defendant's counsel pauses. Upon seeing the case through in Court and beholding only one witness who testifies to the assault or the burglary and three or four other witnesses who testify not to what the prosecutor said they were going to testify to, but to other matters and in circum-

stantial corroboration only, the counsel for the prisoner has his faith a little shaken.

What would you say if you were confronted with this situation? You are the attorney for a man who, so far as your investigation goes, seems to be innocent of the crime with which he stands charged. You have interviewed the complainant and the other witnesses against the defendant and you are sure there is nothing at all in what they say which inculpates your client. You have, moreover, the minutes before the magistrate. These do not show anything inculpatory. The magistrate has held the defendant as a matter of course. You see the District Attorney come to you five, six, seven, ten times—every morning when you appear to answer ready—and he keeps on pestering you. Your client is charged with assault in the first and second degrees. "Take a plea of assault in the third degree," says the Prosecutor. "Let us get rid of this case. The punishment is small and the sentence will be light." If you are green, you really begin to feel embarrassed; you begin to believe you are the culprit yourself, even though you have told your client that if he had committed the robbery, or the assault, or the burglary he had better say so and be done with it. You feel that you are looked upon askance. It is your fault that the case is coming to trial. The camel labors with the heaviest load, and even the wolf dies in silence. You have patience and you wait, trembling for the result and quivering because of the nefarious part you are playing to bring it about. The poet-philosopher says that to bear is to conquer our fate. You bear, and you go once more to your client and try to get from him the truth about the whole affair. You have a stirring experience. Your client is aroused, vigorously protests his innocence, and tells you that, come what may, he will not say what is not so. You are aroused yourself. You feel now, if you had not felt before, that the gravest responsibility rests upon you to get out of the prosecutor's clutches, this man who is manifestly in every tone of his voice, in every movement of his body revealing his innocence. You go back determined to fight the fight to the bitter end. Your case has been on now twelve times. That means that you have come to Court twelve days, and have spent almost every hour of the Court day waiting for your case to be tried—unless you have been one of the favored few whose cases are put on when these please to have them put on. It means that your client has been in prison these six or eight weeks, that he has lost his job, and that it will be hard, as things go in New York, to find another, that he and his relatives and friends have been on the rack, and that you have

been worried to death. But now, at last, you think the case is going to be tried, and lo, and behold! the District Attorney says to the Court he recommends the discharge of the prisoner because he believes he cannot get sufficient evidence to convict. He has had the same evidence all along. He has been expecting more, more. But he has just the same asked, and asked and asked counsel to plead his client guilty.

### THE ATTITUDE OF THE BENCH.

Even the Judges are hungry for convictions. The most flagrant instances are thrust upon your notice. Some of the judges at General Sessions are veritable pursuers of prisoners. The very fact that men come to the prisoner's bar is proof of their guilt, or at least, of their disreputable characters. The judges keep up telling the Juries that an indictment is only a charge, but their bearing, their words, their general attitude, every tone of the voice, every movement of the body indicates in the strongest fashion their bias against the poor man at the bar. Everything is rushed in pell-mell fashion. You have not time to breathe. Your direct examination is lengthy and dwells on immaterial matters, your cross-examination does not stick to the direct examination, you repeat questions, you ask the witness to repeat answers, your summing up has taken up ten minutes, you have already exceeded your time limit by five minutes. Your remarks are out of order, your inferences are gratuitous. After the charge the juryman's crucial question, which the Judge had not touched because the evidence was in favor of the defendant is turned aside and the juryman reproved for asking and arguing questions in Court. Your recollection of the evidence is at fault. In short, what is the use of defending a man? The opinion of a Judge usually has great weight with a raw jury, and also with a hardened one: bias from his lips prevails with double sway. The displeasure of the Emperor caused by the bringing in of a verdict contrary to his implied wishes is to be feared. I have often heard Jurymen say: "What could we do? The Judge wanted us to convict. We didn't want to get a calling down."

Barbarous treatment this—and cowardly. Why don't you stand forth and say: "I take this case from the consideration of the jury. What of it that I have no authority to convict but only to dismiss disreputable characters. The judges keep on telling Juries that an the indictment, or to direct a verdict, what of it that the exclusive province of the jury lies in finding out the facts and, if they decide

them unfavorably to the defendant, in convicting the prisoner. I shall take authority I have not. I shall be Judge and defender and jury all rolled in one.'' This proceeding would be at least frank. We could more easily see where some people stand. But insinuations, and sarcastic remarks, which on the record appear perfectly harmless, nods and sneers which cannot appear on the record, movements of all sorts derogatory to the defendant—these cannot be so easily proved to an appellate court. True, one of these Judges has been severely reprimanded for acting the part of an outrageous and tempestuous prosecutor, instead of a quiet, dignified, impartial judge. What I say is not at all comparable in strength of language to what an Appellate Court of five Judges has said of him. But some people will still consider my picture overdrawn. I have witnessed outrageous proceedings over and over again. And it would have been useless to protest. At least, none of us has ever been brave enough to stand up as Richard Henry Dana did in the abolition days when a negro was taken to a Massachusetts Court in chains and proceedings were going on which made law sink and die, and demand fair treatment for a prisoner. The bar has sunk low. We have no backbone, we have no independence. We cringe and fawn and crook the knee. We, too, do not like to incur the displeasure of the Court. Oh! shades of Erskine, and of John Scott. There is no one big enough to raise his voice. We are all striplings without name and without prestige. And those of us who are older have by constant submission become hardened slaves.

Let me give you my notes taken on one occasion when the prisoner was taken to the bar and asked if he wanted to plead guilty. That same man had been before the same judge that very morning at eleven, and now at half past twelve he is once more hailed before His Honor and asked whether he wants to plead guilty.

"Do you know what you're charged with?" says His Honor. "I have a faint idea." "Well, don't you know you have committed forgery?" "I do not. I never did." "What! Be careful now. You can't bluff me. I'm no spring chicken. You may get the jury to believe that, but you can't fool me. Didn't you put your employer's name on that letter?" "Yes, Sir." "Well, isn't that enough?" "Your Honor, I didnt know I ought not to have done it. I had done it before in this place, and at the place where I worked first." "Now, tell the truth," says His Distinguished Honor, menacingly, "tell the truth. If you go to trial and cause the County a great deal of expense I'll give you the limit. Do you know how much that is?" "No, sir." "Well, that's fifteen years. If you plead guilty, though, I shall be very lenient with you. You'll get off with a light sentence. You can go and get drunk sooner. You know there isn't any booze in State's Prison. The District Attorney tells me that five bottles of whiskey were found near your drawer. Is that right?" "No, sir. I didn't have

any whiskey. I drink sometimes, but not during business hours." "Oh! then, if you didn't have any whiskey, you were going to get some with the money you got?" "No, sir. I didn't use any money I got. I gave it to my employer—every cent of it. He's got it, and he knows it." "Now don't be stupid; don't be foolish. You can't fool me, and 90,000,000 of people besides. Did you sign your employer's name, Yes or No."

The prisoner hesitates. He is aware he can not answer that question yes or no. There are necessary amplifications that would modify and transform the answer. Finally, he says:

"Yes, sir." "Did you know you were doing wrong?" "No, sir. I had signed before with my employer's consent. I thought I had a perfect right to do it. He told me once. He gave me his consent when I signed before. I didn't know it was necessary to get it then after I had signed at least ten times before and my employer had not objected and known of my act." "Did you sign without your employer's consent?" This spoken in a loud, raucous, over-mastering manner.

Once more a little hesitation. Then in a helpless resignation: "Yes, sir." "Well, that's forgery. You did it without your employer's consent. That's all there is to it. I ask you again. What do you plead?" "Well, I plead guilty." "I don't want you to plead guilty. You know whether you are guilty or not. Are you guilty?" In heartrending exhaustion and despair: "Yes, sir."

The Third Degree in open Court—the inquisition with subtle instruments of torture. A confession drawn out by hope of reward and by fear of punishment. Is this man guilty? Does he plead guilty to unburden his soul, or to escape the judicial rack? The Star Chamber in public!

The defendant here was a shabby, insignificant looking young man of about twenty-seven, and he spoke very broken English. He had no collar, a dirty shirt, baggy trousers, old and worn, soiled jacket, unkempt hair and listless bearing.

This very Judge is always crying out at the top of his voice, when a defending attorney does not happen to be present at the call of his case: "Why don't you bring this to the attention of the Bar Association?"

A little sympathy at least for the defending attorney is aroused when the Judge asks the prisoner if he has paid anything to his lawyer and he answers, "No," and when on further questioning it is discov-

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*While these sheets are going to press an investigation into the Judges of General Sessions is in progress. Charges have been made by the Commissioners of Police and of accounts that the Judges have, for political reasons, suspended sentences upon notorious criminals, and that they have been arbitrary in their methods. The Grievance Committee of the Bar Association of New York City is investigating, it is reported in the newspapers, fifty cases of favoritism and ill-treatment on the part of Judges to prisoners. All the five Judges, without exception, it is said, are under a shadow.

cred that the case has been on the calendar ten times, ten days, and the defending attorney had always before that day been ready and prompt.

This is an extreme case. But without doubt a more moderate procedure detrimental to the defendant is carried on generally. If your client is a banker, if he has good clothes on, if he has the appearance of what for a better term we may call external respectability, you can stretch out your trial to interminable lengths. You can argue with the judge, and he will listen, you can examine and re-examine and recall, and re-recall and cross-examine to your heart's content upon any matter you please, in any way you please, taking up as much "precious time of the County," as the judicial phrase is, as you have a mind to take up. The clothes of the man behind the bar, and his rank in life are determinants of long or short trials.

Now, there is no need for long trials. Most trials can be through and done with in a few days. Dean Wigmore is perfectly right when he says that one of the three great principles of enlightened trial procedure is control of the course of the trial by the judge and wide discretion reposed in him. With this I heartily concur. It is the abuse of discretion that I denonuce. Judges should have more power to direct and control the course of trials. The slow-moving cases are snail-paced just because the judges haven't backbone enough to take an active hand in the proceedings. They have become figureheads, or, at most, colorless forms. They rule on the admissibility of evidence, but at that point their sacred precincts terminate. Over facts they have neither control, nor power of guidance. According to a very bad custom they must not review the evidence in the case, in their charge for fear they may express some opinion on the weight and the credibility of certain of it, and thus run the risk of reversal on appeal. I do not condemn discretionary power to guide the way of the trial and to limit the evidence to the issue, to sum up the evidence fairly and fully, and to express opinions concerning the weight and the credibility of evidence, but riot-running whim and caprice. The situation today is one of extremes. There are whimsical, capricious judges, and there are colorless, invertebrate judges. Furthermore, what I denounce is the unequal treatment these same invertebrates give to different defendants. Change the environment of the prisoner and his atmosphere changes; change his atmosphere and the attitude of the Bench toward him and everything directly or indirectly connected with him changes.

Judges want others to be on time. Are they? Often do they

keep lawyers and witnesses waiting. Why haven't they consideration for others who once in a while are late?

And their hours! Half past ten till one in the afternoon, and from two o'clock till four. The first part of the day hurries away in the sentencing of prisoners who have on a previous day been convicted or have pleaded guilty. Sentence is almost universally not passed on the same day as the pleading of guilty by a defendant or the giving of an adverse verdict by the jury. Three days to a week are given during which the defendant may present for the consideration of the Court any matters in his favor tending to the lightening of the prospective sentence, and during which the probation officer may investigate and report upon mitigating or aggravating circumstances. One to two hours, then, are devoted to dispatching prisoners to the several jails and reformatories. What can be done in the remaining two and a half hours?

The reasons one Judge of General Sessions recently gave for the short hours of Court are truly enlightening. He said: "The hours are as they are for three reasons: first, the Court attendants are old and feeble; and, since they are required to stand during the whole session, they cannot bear the burden; second, lawyers have other business to do, and this they may transact before half past ten and after four; and third, Court work is very straining upon the Court and especially upon the lawyers." Now, as for the first reason it may be said that no rule except an arbitrary and brutal rule of the Judges themselves, requires the attendants to stand during the whole time the Court is in session. As for the second reason it may be answered that this tender consideration for the welfare of lawyers is truly revelatory and startling in its kindness. Furthermore, the lawyers themselves would prefer a million times to go to court at half past nine and leave at five in the afternoon. This would give six and one-half hours of Court work instead of four and a half, and in this way they might get rid of their cases sooner, with the saving of an immense amount of time. As it is now, because of the little work that is done, they have to come to Court over and over again. As for the third reason, the strain is an imaginary one. Any one who cannot stand five or six hours of Court work ought not to do any trial work at all. The cases that are really straining and nerve-exhausting are very few and far between. The vast majority of them proceed in humdrum, even, fashion. You don't in these instances feel any tug at your heart strings—any tug, I mean, that anyone whose business it is to defend ought properly to feel in order to do his work in the right way.

### THE ATTITUDE OF THE ASSISTANT DISTRICT ATTORNEY.

The District Attorney's attitude toward the prisoner is that of a prosecutor. He does not for one moment before or during the trial consider his functions to be quasi-judicial. He believes he is in duty bound to present all the evidence that is damaging to the defendant. and to withhold all the evidence that is favorable to him. He is always skeptical, always sneering at the defense of the prisoner. He is firmly convinced that whoever comes to the bar is a wild animal that has been caught in a trap and is now only waiting and planning to make itself free. Of course, you may expect a little hardening of the heart. Of course, a man can't prosecute so many people and see so many convictions and pleas of guilty without taking lots of things that happen in Court with indifference. But the nonchalance, the cold bloodedness, of the prosecutor, the noncurancy for the prisoner, the looking upon him as a bud to be crushed, rather than as a potential flower to be fostered and nurtured—these qualities you do not expect in a District Attorney no matter how long he has been acting as prosecutor.

### THE ATTITUDE OF THE JURY.

The attitude of the jury! It remains an attitude of open mindedness and sympathy for about a day. And then is presented to you a wide unbounded prospect of the opposite conditions of mind. What produces this immediate revolutionary change? The first day several defendants have pleaded guilty and maybe several others have been sentenced. The next day, perhaps the same day, a jury brings in a verdict of guilty. This is a cue to action. The jurors suddenly swell up with courage, and sink in sympathy. A long line of poorly dressed, underfed, undersized, half-human individuals files past. The jurymen catch the idea that only guilty men are here and that only people who dress like them and look and act like them are felons. All others belong in the court, the camp, the grove. So they get the feeling when they enter the jury box that no debt immense of endless responsibility do they owe to these creatures who are gray and ghastly, withering ere their time. They are carcasses, brought into the Court Room to be sped on to their burying grounds after the necessary formalities of the funeral have been attended to. No sparkles flash from their eyes, no sighs come from their breasts, no secret dread and inward horror gnaw their vitals, no feeling of shame stirs their being, no knife can pierce their hearts, no dagger can cause them pain, no catapult can shatter their lives! What are these objects, these specks, of still life?

Have they reason, organs, dimensions, passions? Are they warmed and cooled by the same winter and summer as we are? If you prick them do they feel, and if you wrong them do they resent?

To this pale and anemic condition of mind must be added the further facts that jurymen are usually stupid, smug, conventional and uninformed, narrow as the English Channel, without capacity to grasp crucial ideas, lacking in ability to follow an argument, or to understand part of it, appallingly incompetent to remember evidence that is vital, and exceedingly capacious in remembering immaterial matters; untrained to sift the weighty matter from the light; obstinate, and, paradoxical as it may seem, fond of compromise, even though in the compromise they are branding a man with the mark of felon, when if they were not so weak-kneed and dumb driven and held firm to their opinion, they would bring in a disagreement and save the defendant from a life of open or veiled persecution by organized society—they are sworn to uphold the law as it is. The law requires twelve contrary votes to convict. Whether we or they believe that this ought to be or ought not to be, and whether a verdict might not be brought in by a majority, or three quarters has nothing to do with the question. All must, under our present law, find the defendant guilty beyond a reasonable doubt. What would your feeling be in this situation: one of the highly material matters in the case of the prosecution is the proving that the defendant was left-handed, since the blow in this robbery was struck with the left hand. The vast majority of people are right-handed. The prosecution does not introduce any evidence upon the point. The jury are up a tree; the fact disturbs them a great deal. The other evidence is not so strong, and if you take out of the case the fact that the defendant was left-handed, as you must do, since there is not evidence as to that, and the probabilities are many times to one against the existence of it, has the prosecution proved its case beyond a reasonable doubt? Yet a jury will come in with a verdict of guilty, and will look with satisfaction upon their handiwork.

Some of the weakness that defenders find in the jury box is due not to the general ignorance of the jurymen, but, indeed, to the particular ignorance of facts about the case which cannot be brought out on the trial, but which, if they were known, would color the circumstances and suffuse them with a much stronger hue. But almost universally the case is decided as it is because of the crass darkness of their minds. To talk to jurymen before whom you have just tried a case is an education. You lose your case. The foreman has just

opened his mouth and said "guilty." You feel bent and broken in spirit. You walk out of the Court Room with grief unmedicinable. You cannot see how intelligent, rational beings could come to the conclusion these bipeds have come to. You are in the Hall. You find yourself amid a croaking choir of voices. The jury are speaking to you.

"You did very well. We gave you a square deal. We looked at all sides of the case. We gave you a good run for your money." And then, horrors, upon horror's head accumulate. Two minutes' discussion betrays the absolute disregard of your cross-examination which your fellows in the law have complimented you upon as having being damaging to the prosecution to the last degree, betrays the complacent lingering upon the unsubstantiated testimony of the complainant, the complete forgetfulness of vital matters for your side, the utter and plenary misconception of the theory of your defense.

Here is a man, evidently a hard working foreigner. There is little about him that to a sane eye appears dangerous. He is before a jury and is accused of robbery. There is only one witness for the prosecution, a boy of ten. If this child is not sworn the prosecution will fail. A statement not under oath, uncorroborated by testimony sworn to, cannot under our law, convict. The child is examined by the Judge. He is asked a few simple questions which the child answers lamely. The defendant's lawyer takes him in hand and soon reveals to the listeners the incompetence of the child. Nevertheless, the child is sworn and his testimony taken. On cross-examination, the boy is handled with velvet gloves. The cross-examination is kind and gentle, wooing and sympathetic. There is no bull-dozing, no brow beating, no raw head and bloody bones. The child tells another story and supplies circumstantial proof that he could not have seen the crime committed, as he had said he did. The defense is an alibi. Three witnesses are brought forward to prove that at the time of the alleged crime the defendant was at another place. In addition, two character witnesses are called, one of whom has employed the defendant continuously for the past two years. The defendant has taken the stand and denied his connection with the alleged crime. The witnesses for the defense have remained unshaken. The jury come in with a verdict of guilty. By what process they have come to that it is interesting to know.

"Just as soon as we went in we took the first ballot. It was six to six. Then we talked it over and talked it over. You got a square deal. We looked at all sides. I was for you. I stuck out till the end. But we believed that boy."

"But how could you? You saw how lacking in power of observation he was, and how wanting in intelligence. It was dark. The boy was, according to his own statement, not on cross-examination, because you might then say that a cross-examiner can get a witness to utter what the former pleases, but on direct examination, sixty feet away and it was proved there were no lights. Isn't that so?" "Yes." "And the boy had never seen the defendant before? Is that so?" "Yes." "Well, how could you have believed the boy, no matter how honest and well meaning you may have thought him? And why did you consider unreliable the testimony of those witnesses called to prove an alibi? Their testimony was unshaken." "Yes, but we didn't think of the defense, we came to the verdict by way of the prosecution—we believed the boy. You can get a witness, and especially a boy, to say what you please. But he seemed to be telling the truth on direct examination."

Further argument with the entertainers of such unsound, overweening phantasies, possessors of crooked reasoning powers and inhabitants of the waters of Lethe is, of course, useless.

Change the prisoner. An American is before a jury of his peers charged with having shot and killed and robbed a jeweler of $50,000 worth of diamonds. The whole cumbersome machinery of the law is put in motion. The man is out on bail for a long time. He has been in a good position to prepare his case. At last the case comes on for trial. The prosecution puts on three witnesses, grown up men, of substantial rank in life, who testify that they saw the defendant shoot the jeweler, jump into a taxicab and run away. Other witnesses are brought to say that a little while before the murder the defendant was seen in the neighborhood. The defense is an alibi. A saloonkeeper, and his brother, who acted as bartender, and one or two more rowdies, who, according to their own testimony, hang about the saloon every night of the year, are shown forward to say that at about a certain time the defendant was in that saloon. On cross-examination these witnesses cannot recollect the time within two hours, of the alleged killing, do not know whether the defendant was in the saloon all evening, or there only part of the time, do not know whether he was there before the time of the shooting, or after that time. The defendant does not take the stand. This in itself would, if he were an immigrant, be deadly evidence that he was guilty. The judge may repeat till his lungs ache that the jury are not to infer anything against the defendant, if he has not taken the stand, and that the prosecution has the burden of proving beyond a reasonable doubt the guilt of the defendant, but the jury will always want the stranger-prisoner to prove his innocence by taking the stand and subjecting himself to cross-examination.

In this case, though, the jury does not hesitate. "Not guilty." Now, some one may say: "They do this because the crime is punishable with death. No wonder they pause before an adverse verdict. But if the man at the prisoner's bar were a foreigner the jury would not consider that at all. His life and his liberty are cheap. Who cares for him. And, moreover, if the jury found the native guilty they would have it in their power also to find him guilty of a lower degree of crime, but they do not do it."

Change the prisoner again. Two men, owners of a factory which, from the evidence advanced at the trial, no less but more than the facts which had been current for months, in the newspapers, was a death trap—badly managed and run in violation of the Factory Law, are on trial for manslaughter in that a fire had occurred in their factory, and, the indictment ran, a certain Mamie Mass had been burnt, through the negligence of the defendants. The trial drags on for weeks. The prosecution brings witness upon witness to testify to the fact of negligence on the part of the defendants. The defense denies and adduces testimnoy. The Judge is particular in his charge to point out the importance of unerringly bringing home to the defendants the fact of knowledge of the flagrant, and inhuman violation of law wtih which the defendants are charged. However beastly these men may have been shown to be, they have money. Everything is made smooth and solemn for them, and rough for the people. The jury convict? Oh, no! The evidence has been contradictory. One cannot be sure the defendants knew. How do we, the jurymen, know they knew? Are we going to take such a grave responsibility upon our shoulders as to send these men to prison? Are we going to stamp these men with the mark of infamy? Better that one hundred guilty people escape than that one innocent man suffer.

If the defendant had been an immigrant the jury would have had no compunctions in sending him to prison or to the electric chair. They would have had no pangs in branding him with the sign of felon. Who is he? Just a "wop." They would have discoursed loudly and eloquently—after their fashion—on the importance of maintaining law and order, the necessity of giving the defendant and those likewise inclined a well-merited lesson. You often hear jurymen say: "Well, we thought he was justified in striking. It was a clear case of self-defense. But we wanted to give that class a lesson." How about giving as much needed lessons to immigrant baiters, naggers, and worryers, or to wealthy breakers of the plain law—natives of this country, or powerful naturalized or unnaturalized Croesuses.

Jurymen themselves, moreover, are unacquainted with our laws, our customs, our institutions. They themselves have only recently come or if they have been here for some time they have lived apart from American life in their colonies, or among people like them in race, in traditions. It may seem curious to a man bred in a small town or in the country to learn that a person may come from abroad and remain in the City of New York for twenty, for thirty years, and at the end of that time be almost as foreign in thought and in habits as he was the day he came to us. How does he get on the Jury? How does it come about that he is chosen by the Commissioner of Jurors? Money is the pole star of the Commissioner. Small shop keepers, business men are called. It is so easy to become a flourishing business man, or a blooming store-keeper in New York City. But what do these same men know of our American life? Are they imbued with American ideals or ideas? Have they even a glimmering of what our democracy is?

Now, by a most curious, though perfectly well known, psychologic fact these men who, to all intents and purposes are themselves foreigners, immigrants, lay a most heavy hand upon their more unsuccessful brothers who come before them to be judged by them. And, on the contrary, when one who has apparently come to be American—the jury judging him superficially by his looks—appears before this box of immigrants who are for the moment acting as judges of facts, and as arbiters of the lives, the fortunes and the honor of their racial and mental kin—and of others their infinite superiors—the men of iron hands suddenly put on robes of appreciation, of sympathy, of nauseating mushiness. O jurymen of New York County, verily are you, in the words of Byron, a marvel and a show.

What can you expect of a jury when it is made up of the kind of people we select? The provisions of the Code exempt many people who ought to be made to serve. A glance at the New York Code, for instance, will show that everybody who has any sense at all and any education may, if he chooses, escape service. Is not this a fine situation? Now, add to this the fact that the people who are, under the Code, exempt, take advantage of the privilege. Do you find any lawyers, either in active practise or retired, on the jury? Do you find any doctors upon the jury, any engineers, or any teachers, architects, contractors, reporters, editors? The people who serve on the jury are on a dead level of mental inferiority. As I have already said, they are small shop keepers, and clerks, with very little intelligence, very little education, very little learning, and very little experience of life. It is

from the people who are not exempt that the prosecuting and the defending lawyers have to choose their juries. Now, a penchant of defending attorneys, especially those of the meaner sort, is to get upon the jury the stupidest men possible, and this is most true when the attorneys have a bad case. The more ignorant the jury is, the more easily it is imposed upon. Imagine the situation then: the defending attorney picking out the dullest of all; the prosecuting attorney indifferent, for the most part, as to who is selected. For him the first twelve men would do. He tries so many cases, and they come clattering upon the heels of one another so fast that trials come to be routine things. Furthermore, time is an essential, and it is very necessary to try many cases in a very short while. So that except in murder trials and in trials the newspapers are interested in, the first twelve men called are satisfactory to the district attorney, even though the district attorney has not looked at them.

The coming of the public defender would prevent the sorting out of the least capable jurors, and would facilitate getting at least a random jury, which would be made up of people, some less intelligent, and some more intelligent.

### INTERPRETERS.

Sound the trumpet, beat the drums. He comes. He comes! Behold the interpreter. He is the bane of the immigrant. It is bad enough not to be able to make yourself understood, but, verily, in many cases it is much better not to be understood at all than to be misunderstood. In a large experience covering every Court in Manhattan, and almost every Court outside of that Borough and within the Greater City of New York, I have met just two—in Manhattan—who were a delight to listen to. Their translation was faithful and their language was admirable. These men had marvelous memories so that they could allow a man to talk for two and three and five minutes, as circumstances in the lower courts where work is done rapidly demanded, and then would retell almost to the letter everything that was said. The interpreter in the New York Courts "speaks" four or five languages. No wonder he does not know any language. He very rarely speaks English well enough to make you understand what he says, and he seldom understands enough of the language he is attempting to translate to be able, even though he were capable of expressing himself, to be properly impressed. In the case of an Italian defendant, such an interpreter who is not himself Italian, is, to

use the words of Lord Denman in regard to another matter, a delusion, a mockery, and a snare.

The harm that these interpreters do is incalculable. Their words ought to be for a poor defendant an eternal April making all one emerald. Instead, their distortions are an eternal January, making all one white, and bringing gloom and sorrow to many a heart. Let me give you an example of the kind of thing that happens daily in the Courts. A man is on trial for assault. The defense is self defense. On direct examination the defendant has said that he struck the complaining witness twice—once on the hand, and once on the thigh. He is in agreement with the complainant. On cross-examination by the District Attorney this question is asked: "Where did you jab him?" The witness replies and illustrates by vivid gesticulation and by actually pointing to the parts affected—that he struck the complainant in the hand and in the thigh. The interpreter reports that the witness has said he struck once in the hand.

The Judge: "Why did you say to your lawyer that you had struck the complainant twice?" The attorney for the defense objects: the translation is not a true one.

The Judge: "Do you wish to say that the interpreter is incompetent?" There is no talking any more. You take your exception and you keep it—you can never go up on appeal with it. Your client hasn't the money.

What is it you see about the head of such a judge? A gilded halo hovering round decay.

The jury is impressed unfavorably with the defendant. Of course, the interpreter knows his business. He is a sworn officer of the Court, and he is disinterested. If he were not competent he would not be there. It never enters the benighted mind of a jury that possibly the "interpreter" got his job through pull. The defendant, of course, said "once" to the cross-examiner and "twice" to the direct examiner. Now, during all this while the witness has not understood a word of the wrangling. What it is all about he can only wonder. When the cross-examination is finished the defendant is re-examined by his lawyer. Just one question is put: "Will you tell us where you struck the complainant?" Without the slightest hesitation the witness answers as before. Again, he is berated by the Judge. And the jury mark.

The man is convicted. Conversation with the jurymen discloses that the cause was the unreliability of the defendant's testimony. "He swore falsely on a material fact. How could we believe him?"

There are a great many steerers who hang about the criminal courts. These men are so called because they direct cases into the offices with which they are connected. The lawyers for whom they work are men of loose character and limited intelligence, but of great practical ability for business and for handling men. Some of them are skilled in technical matters of the law, and then the client, although he has been squeezed dry, gets at least the benefit of valuable technical knowledge. But as a rule the lawyers are incompetent in every way, and money is given up by the poor client without any adequate return. The steerers hang about the Magistrate's Court, the Court of Special Sessions, the Court of General Sessions and the prison. It is now more difficult than it formerly was for these steerers to pick up cases, but they still ply their trade and make a good deal of money by it. Just as soon as they spy a man who seems to be ignorant of our ways, and who has nobody to defend him, these steerers get into conversation with him and convince him or his friends that the best thing he can do is to get the lawyer to whom the steerers will recommend him. These men are very clever in picking up trade, and they would, if they saved their money, accumulate thousands of dollars in a very short time. But they spend their money just as fast as they make it and so every day they are just as poor as they were the day before, and just as determined as ever to make more money and to spend it in dissipation and in high life. This fact increases the difficult problem. These men are very tenacious of their job and they find all sorts of means by which to retain it. Usually the lawyer sees nothing at all of the client until the money has been passed over. The steerer arranges the amount of money that is to be paid by the client, convinces the client or persuades him, or both, that the sum of money is small, that the lawyer will take care of his business, and that he is the greatest lawyer in the universe. He has done wonders. Only the other day he freed a murderer against whom there was a strong case. Another day he let slip out of the coils of the law a man who commited extortion, and another who had committed burglary, and another who had committed robbery. This lawyer is invariably successful in everything he undertakes to do. What he has done in the past he will do in this particular case. The ways of the steerer are very ingratiating, and he influences the client or his friends to part with more money than he or they can afford. Then the money is given through the steerer to the lawyer. Some lawyers do not trust their steerers; they take the money direct from their clients. Others allow their steerers to do it all and so have no

relations with their clients. They do not even know what the case of the client is from his own mouth; they get it from the steerer who is usually a person who, by birth, speaks the language of the client, and not the language of the lawyer. I have known of cases where the lawyer has come into court without knowing anything at all about the case of his client, either through direct conversation with him, or through conversation by means of an interpreter. And yet these lawyers are very common and they keep on piling up money for themselves, and misfortune for their clients.

Sometimes steerers are not connected with any particular office. They pick up their own cases and now go to this lawyer to try the case for them, and now to that. There are lots of hangers-on who are willing to try a robbery case for $10 and others who are willing to try a murder case for $15. The steerers get from one hundred to four hundred and five hundred dollars. I have been told of instances where steerers have got $1,000 for murder cases. The lawyers they employed were the ordinary run of lawyers who were glad to receive twenty-five to fifty dollars.

The steerers used to be admitted into the prison, and there they used to carry on their operations to their hearts' content; but the halcyon days are almost entirely over, and now very few people are allowed to go in to pick up cases there.

The coming of the Public Defender would abolish these steerers.

It is a most interesting and instructive fact that in the Police Courts you will find representatives of the District Attorney. Isn't this a sad commentary upon our civilization? Money enough is found to send a District Attorney to the lowest criminal court, where thousands upon thousands of strangers are brought, to prosecute, and not a penny can be found for a defender to offer a word of comfort and a hand of assistance to the swarms that more than any others in our big community need it.

We do not in New York keep up with the extraordinarily rapid increase in population. Our courts are old—forty and fifty years behind the times, and the number of judges has remained almost the same for years. When an increase in the number has taken place, that increase has been slight—always inadequate to cope with the situation it was intended to meet. New York is a large town, and the larger the place, the more snail-paced the movement.

You wish to hear my panacea? I have none. My suggestions? First, Public Defenders, who will much better represent defendants, both because they would be more competent than defenders now are,

and because of their capacity as public officers to be of invaluable service in setting the power of the County in motion to aid defendants in the collection of evidence, and with witnesses. Second: Larger staffs of District Attorneys and of Public Defenders. Third: Public Prosecutors and Public Defenders who understand the languages of the people who are brought before the courts. Fourth: Interpreters. Fifth: More and better Judges.