



***ARTHUR  
TRAIN***

***TUTT  
AND  
MR. TUTT***

**Arthur Train**

# **Tutt and Mr. Tutt**

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# The Human Element

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Although men flatter themselves with their great actions, they are not so often the result of great design as of chance. —LA ROCHEFOUCAULD.

“He says he killed him, and that’s all there is about it!” said Tutt to Mr. Tutt. “What are you going to do with a fellow like that?” The junior partner of the celebrated firm of Tutt & Tutt, attorneys and counselors at law, thrust his hands deep into the pockets of his yellow checked breeches and, balancing himself upon the heels of his patent-leather boots, gazed in a distressed, respectfully inquiring manner at his distinguished associate.

“Yes,” he repeated plaintively. “He don’t make any bones about it at all. ‘Sure, I killed him!’ says he. ‘And I’d kill him again, the ——!’ I prefer not to quote his exact language. I’ve just come from the Tombs and had quite a talk with Serafino in the counsel room, with a gum-chewing keeper 2 sitting in the corner watching me for fear I’d slip his prisoner a saw file or a shotgun or a barrel of poison. I’m all in! These murder cases drive me to drink, Mr. Tutt. I don’t mind grand larceny, forgery, assault or even manslaughter—but murder gets my goat! And when you have a crazy Italian for a client who says he’s glad he did it and would like to do it again—please excuse me! It isn’t law; it’s suicide!”

He drew out a silk handkerchief ornamented with the colors of the Allies, and wiped his forehead despairingly.

“Oh,” remarked Mr. Tutt with entire good nature. “He’s glad he did it and he’s quite willing to be hanged!”

“That’s it in a nutshell!” replied Tutt.

The senior partner of Tutt & Tutt ran his bony fingers through the lank gray locks over his left eye and tilted ceilingward the stogy between his thin lips. Then he leaned back in his antique swivel chair, locked his hands behind his head, elevated his long legs luxuriously, and crossed his feet upon the fourth volume of the American and English Encyclopedia of Law, which lay open upon the desk at Champerty and Maintenance. Even in this inelegant and relaxed posture he somehow managed to maintain the air of picturesque dignity which always made his tall, ungainly figure 3 noticeable in any courtroom. Indubitably Mr. Ephraim Tutt suggested a past generation, the suggestion being accentuated by a slight pedantry of diction a trifle out of character with the rushing age in which he saw fit to practise his time-honored profession. “Cheer up, Tutt,” said he, pushing a box of stogies toward his partner with the toe of his congress boot. “Have a weed?”

Since in the office of Tutt & Tutt such an invitation, like those of royalty, was equivalent to a command, Tutt acquiesced.

“Thank you, Mr. Tutt,” said Tutt, looking about vaguely for a match.

“That conscienceless brat of a Willie steals ‘em all,” growled Mr. Tutt. “Ring the bell.”

Tutt obeyed. He was a short, brisk little man with a pronounced abdominal convexity, and he maintained toward his superior, though but a few years his junior, a

mingled attitude of awe, admiration and affection such as a dickey bird might adopt toward a distinguished owl.

This attitude was shared by the entire office force. Inside the ground glass of the outer door Ephraim Tutt was king. To Tutt the opinion of Mr. Tutt upon any subject whatsoever was law, even if the courts might have held to the contrary. To Tutt he was the eternal fount of wisdom, culture and morality. Yet until Mr. Tutt finally elucidated his views Tutt did not hesitate to hold conditional if temporary opinions of his own. Briefly their relations were symbolized by the circumstance that while Tutt always addressed his senior partner as "Mr. Tutt," the latter accosted him simply as "Tutt." In a word there was only one Mr. Tutt in the firm of Tutt & Tutt.

But so far as that went there was only one Tutt. On the theory that a lily cannot be painted, the estate of one seemingly was as dignified as that of the other. At any rate there never was and never had been any confusion or ambiguity arising out of the matter since the day, twenty years before, when Tutt had visited Mr. Tutt's law office in search of employment. Mr. Tutt was just rising into fame as a police-court lawyer. Tutt had only recently been admitted to the bar, having abandoned his native city of Bangor, Maine, for the metropolis.

"And may I ask why you should come to me?" Mr. Tutt had demanded severely from behind the stogy, which even at that early date had been as much a part of his facial anatomy as his long ruminative nose. "Why the devil should you come to me? I am nobody, sir—nobody! In this great

city certainly there are thousands far more qualified than I to further your professional and financial advancement.”

“Because,” answered the inspired Tutt with modesty, “I feel that with you I should be associated with a good name.”

That had settled the matter. They bore no relationship to one another, but they were the only Tutts in the city and there seemed to be a certain propriety in their hanging together. Neither had regretted it for a moment, and as the years passed they became indispensable to each other. They were the necessary component parts of a harmonious legal whole. Mr. Tutt was the brains and the voice, while Tutt was the eyes and legs of a combination that at intervals—rare ones, it must be confessed—made the law tremble, sometimes in fear and more often with joy.

At first, speaking figuratively, Tutt merely carried Mr. Tutt’s bag—rode on his coat tails, as it were; but as time went on his activity, ingenuity and industry made him indispensable and led to a junior partnership. Tutt prepared the cases for Mr. Tutt to try. Both were well versed in the law if they were not profound lawyers, but as the origin of the firm was humble, their practise was of a miscellaneous character.

“Never turn down a case,” was Tutt’s motto.

“Our duty as sworn officers of the judicial branch of the Government renders it incumbent upon us to perform whatever services our clients’ exigencies demand,” was Mr. Tutt’s way of putting it.

In the end it amounted to exactly the same thing. As a result, in addition to their own clientele, other members of the bar who found themselves encumbered with matters



which for one reason or another they preferred not to handle formed the habit of turning them over to Tutt & Tutt. A never-ending stream of peculiar cases flowed through the office, each leaving behind it some residuum of golden dust, however small. The stately or, as an unkind observer might have put it, the ramshackly form of the senior partner was a constant figure in all the courts, from that of the coroner on the one hand to the appellate tribunals upon the other. It was immaterial to him what the case was about—whether it dealt with the “next eventual estate” or the damages for a dog bite—so long as he was paid and Tutt prepared it. Hence Tutt & Tutt prospered. And as the law, like any other profession, requires jacks-of-all-trades, the firm acquired a certain peculiar professional standing of its own, and enjoyed the good will of the bar as a whole.

They had the reputation of being sound lawyers if not overafflicted with a sense of professional dignity, whose word was better than their bond, yet who, faithful to their clients’ interests knew 7 no mercy and gave no quarter. They took and pressed cases which other lawyers dared not touch lest they should be defiled—and nobody seemed to think any the less of them for so doing. They raised points that made the refinements of the ancient schoolmen seem blunt in comparison. No respecters of persons, they harried the rich and taunted the powerful, and would have as soon jailed a bishop or a judge as a pickpocket if he deserved it. Between them they knew more kinds of law than most of their professional brethren, and as Mr. Tutt was a bookworm and a seeker after legal and other lore their dusty old library was full of hidden treasures, which on frequent occasions

were unearthed to entertain the jury or delight the bench. They were loyal friends, fearsome enemies, high chargers, and maintained their unique position in spite of the fact that at one time or another they had run close to the shadowy line which divides the ethical from that which is not. Yet Mr. Tutt had brought disbarment proceedings against many lawyers in his time and—what is more—had them disbarred.

“Leave old Tutt alone,” was held sage advice, and when other lawyers desired to entertain the judiciary they were apt to invite Mr. Tutt to be of the party. And Tutt gloried in the glories of Mr. Tutt.

“That’s it!” repeated Tutt as he lit his stogy, which flared up like a burning bush, the cub of a Willie having foraged successfully in the outer office for a match. “He’s willing to be hanged or damned or anything else just for the sake of putting a bullet through the other fellow!”

“What was the name of the unfortunate deceased?”

“Tomasso Crocedoro—a barber.”

“That is almost a defense in itself,” mused Mr. Tutt. “Anyhow, if I’ve got to defend Angelo for shooting Tomasso you might as well give me a short scenario of the melodrama. By the way, are we retained or assigned by the court?”

“Assigned,” chirped Tutt.

“So that all we’ll get out of it is about enough to keep me in stogies for a couple of months!”

“And—if he’s convicted, as of course he will be—a good chance of losing our reputation as successful trial counsel. Why not beg off?”

"Let me hear the story first," answered Mr. Tutt. "Angelo sounds like a good sport. I have a mild affection for him already."

He reached into the lower compartment of his desk and lifted out a tumbler and a bottle of malt extract, which he placed carefully at his elbow. Then he leaned back again expectantly.

"It is a simple and naive story," began Tutt, 9 seating himself in the chair reserved for paying clients—that is to say, one which did not have the two front legs sawed off an inch or so in order to make lingering uncomfortable. "A plain, unvarnished tale. Our client is one who makes an honest living by blacking shoes near the entrance to the Brooklyn Bridge. He is one of several hundred original Tonys who conduct shoe-shining emporiums."

"Emporia," corrected his partner, pouring out a tumbler of malt extract.

"He formed an attachment for a certain young lady," went on Tutt, undisturbed, "who had previously had some sort of love affair with Crocedoro, as a result of which her social standing had become slightly impaired. In a word Tomasso jilted her. Angelo saw, pitied and loved her, took her for better or for worse, and married her."

"For which," interjected Mr. Tutt, "he is entitled to everyone's respect."

"Quite so!" agreed Tutt. "Now Tomasso, though not willing to marry the girl himself, seems to have resented the idea of having anyone else do so, and accordingly seized every opportunity which presented itself to twit Angelo about the matter."

"Dog in the manger, so to speak," nodded Mr. Tutt.

"He not only jeered at Angelo for marrying 10 Rosalina but he began to hang about his discarded mistress again and scoff at her choice of a husband. But Rosalina gave him the cold shoulder, with the result that he became more and more insulting to Angelo. Finally one day our client made up his mind not to stand it any longer, secured a revolver, sought out Tomasso in his barber shop and put a bullet through his head. Now however much you may sympathize with Angelo as a man and a husband, there isn't the slightest doubt that he killed Tomasso with every kind of deliberation and premeditation."

"If the case is as you say," replied Mr. Tutt, replacing the bottle and tumbler within the lower drawer and flicking a stogy ash from his waistcoat, "the honorable justice who handed it to us is no friend of ours."

"He isn't," assented his partner. "It was Babson, and he hates Italians. Moreover, he stated in open court that he proposed to try the case himself next Monday and that we must be ready without fail."

"So Babson did that to us!" growled Mr. Tutt. "Just like him. He'll pack the jury and charge our innocent Angelo into the middle of hades."

"And O'Brien is the assistant district attorney in charge of the prosecution," mildly added Tutt. "But what can we do? We're assigned, we've got a guilty client, and we've got to defend him."

"Have you set Bonnie Doon looking up witnesses?" asked Mr. Tutt. "I thought I saw him outside during the forenoon."

"Yes," replied Tutt. "But Bonnie says it's the toughest case he ever had to handle in which to find any witnesses for the defense. There aren't any. Besides, the girl bought the gun and gave it to Angelo the same day."

"How do you know that?" demanded Mr. Tutt, frowning.

"Because she told me so herself," said Tutt. "She's outside if you want to see her."

"I might as well give her what you call 'the once over,'" replied the senior partner.

Tutt retired and presently returned half leading, half pushing a shrinking young Italian woman, shabbily dressed but with the features of one of Raphael's madonnas. She wore no hat and her hands and finger nails were far from clean, but from the folds of her black shawl her neck rose like a column of slightly discolored Carrara marble, upon which her head with its coils of heavy hair was poised with the grace of a sulky empress.

"Come in, my child, and sit down," said Mr. Tutt kindly. "No, not in that one; in that one." He indicated the chair previously occupied by his junior. "You can leave us, Tutt. I want to talk to this young lady alone."

The girl sat sullenly with averted face, showing 12 in her attitude her instinctive feeling that all officers of the law, no matter upon which side they were supposed to be, were one and all engaged in a mysterious conspiracy of which she and her unfortunate Angelo were the victims. A few words from the old lawyer and she began to feel more confidence, however. No one, in fact, could help but realize at first glance Mr. Tutt's warmth of heart. The lines of his sunken cheeks if left to themselves automatically tended to draw

together into a whimsical smile, and it required a positive act of will upon his part to adopt the stern and relentless look with which he was wont to glower down upon some unfortunate witness in cross-examination.

Inside Mr. Tutt was a benign and rather mellow old fellow, with a dry sense of humor and a very keen knowledge of his fellow men. He made a good deal of money, but not having any wife or child upon which to lavish it he spent it all either on books or surreptitiously in quixotic gifts to friends or strangers whom he either secretly admired or whom he believed to be in need of money. There were vague traditions in the office of presents of bizarre and quite impossible clothes made to office boys and stenographers; of ex-convicts reoutfitted and sent rejoicing to foreign parts; of tramps gorged to repletion and then pumped dry of their 13 adventures in Mr. Tutt's comfortable, dingy old library; of a fur coat suddenly clapped upon the rounded shoulders of old Scraggs, the antiquated scrivener in the accountant's cage in the outer office, whose alcoholic career, his employer alleged, was marked by a trail of empty rum kegs, each one flying the white flag of surrender.

And yet old Ephraim Tutt could on occasion be cold as chiseled steel, and as hard. Any appeal from a child, a woman or an outcast always met with his ready response; but for the rich, successful, and those in power he seemed to entertain a deep and enduring grudge. He would burn the midnight oil with equal zest to block a crooked deal on the part of a wealthy corporation or to devise a means to extricate some no less crooked rascal from the clutches of the law, provided that the rascal seemed the victim of hard

luck, inheritance or environment. His weather-beaten conscience was as elastic as his heart. Indeed when under the expansive influence of a sufficient quantity of malt extract or ancient brandy from the cellaret on his library desk he had sometimes been heard to enunciate the theory that there was very little difference between the people in jail and those who were not.

He would work weeks without compensation to argue the case of some guilty rogue before the 14 Court of Appeals, in order, as he said, to “settle the law,” when his only real object was to get the miserable fellow out of jail and send him back to his wife and children. He went through life with a twinkling eye and a quizzical smile, and when he did wrong he did it—if such a thing is possible—in a way to make people better. He was a dangerous adversary and judges were afraid of him, not because he ever tricked or deceived them but because of the audacity and novelty of his arguments, which left them speechless. He had the assurance that usually comes with age and with a lifelong knowledge of human nature, yet apparently he had always been possessed of it.

Once a judge having assigned him to look out for the interests of a lawyerless prisoner suggested that he take his new client into the adjoining jury room and give him the best advice he could. Mr. Tutt was gone so long that the judge became weary, and to find out what had become of him sent an officer, who found the lawyer reading a newspaper beside an open window, but no sign of the prisoner. In great excitement the officer reported the situation to the judge, who ordered Mr. Tutt to the bar.

"What has become of the prisoner?" demanded His Honor.

"I do not know," replied the lawyer calmly. "The window was open and I suspect that he used it as a means of exit."

"Are you not aware that you are a party to an escape—a crime?" hotly challenged the judge.

"I most respectfully deny the charge," returned Mr. Tutt.

"I told you to take the prisoner into that room and give him the best advice you could."

"I did!" interjected the lawyer.

"Ah!" exclaimed the judge. "You admit it! What advice did you give him?"

"The law does not permit me to state that," answered Mr. Tutt in his most dignified tones. "That is a privileged communication from the inviolate obligation to preserve which only my client can release me—I cannot betray a sacred trust. Yet I might quote Cervantes and remind Your Honor that 'Fortune leaves always some door open to come at a remedy!'"

Now as he gazed at the tear-stained cheeks of the girl-wife whose husband had committed murder in defense of her self-respect, he vowed that so far as he was able he would fight to save him. The more desperate the case the more desperate her need of him—the greater the duty and the greater his honor if successful.

"Believe that I am your friend, my dear!" he assured her. "You and I must work together to set Angelo free."

"It's no use," she returned less defiantly. "He done it. He won't deny it."

"But he is entitled to his defense," urged Mr. Tutt quietly.



"He won't make no defense."

"We must make one for him."

"There ain't none. He just went and killed him."

Mr. Tutt shrugged his shoulders.

"There is always a defense," he answered with conviction. "Anyhow we can't let him be convicted without making an effort. Will they be able to prove where he got the pistol?"

"He didn't get the pistol," retorted the girl with a glint in her black eyes. "I got it. I'd ha' shot him myself if he hadn't. I said I was goin' to, but he wouldn't let me."

"Dear, dear!" sighed Mr. Tutt. "What a case! Both of you trying to see which could get hanged first!"

The inevitable day of Angelo's trial came. Upon the bench the Honorable Mr. Justice Babson glowered down upon the cowering defendant flanked by his distinguished counsel, Tutt & Tutt, and upon the two hundred good and true talesmen who, "all other business laid aside," had been dragged from the comfort of their homes and the important affairs of their various livelihoods to pass upon the merits of the issue duly joined 17 between The People of the State of New York and Angelo Serafino, charged with murder.

One by one as his name was called each took his seat in the witness chair upon the *voir dire* and perjured himself like a gentleman in order to escape from service, shyly confessing to an ineradicable prejudice against the entire Italian race and this defendant in particular, and to an antipathy against capital punishment which, so each unhesitatingly averred, would render him utterly incapable of satisfactorily performing his functions if selected as a

juryman. Hardly one, however, but was routed by the Machiavellian Babson. Hardly one, however ingenious his excuse—whether about to be married or immediately become a father, whether engaged in a business deal involving millions which required his instant and personal attention, whether in the last stages of illness or obligated to be present at the bedside of a dying wife—but was browbeaten into helplessness and ordered back to take his place amidst the waiting throng of recalcitrant citizens so disinclined to do their part in elevating that system of trial by jury the failure of which at other times they so loudly condemned.

This trifling preliminary having been concluded, the few jurymen who had managed to wriggle through the judicial sieve were allowed to withdraw, 18 the balance of the calendar was adjourned, those spectators who were standing up were ordered to sit down and those already sitting down were ordered to sit somewhere else, the prisoners in the rear of the room were sent back to the Tombs to await their fate upon some later day, the reporters gathered rapaciously about the table just behind the defendant, a corpulent Ganymede in the person of an aged court officer bore tremblingly an opaque glass of yellow drinking water to the bench, O'Brien the prosecutor blew his nose with a fanfare of trumpets, Mr. Tutt smiled an ingratiating smile which seemed to clasp the whole world to his bosom—and the real battle commenced; a game in which every card in the pack had been stacked against the prisoner by an unscrupulous pair of officials whose only aim was to maintain their record of convictions of “murder in the

first” and who laid their plans with ingenuity and carried them out with skill and enthusiasm to habitual success.

They were a grand little pair of convicts, were Babson and O’Brien, and woe unto that man who was brought before them. It was even alleged by the impious that when Babson was in doubt what to do or what O’Brien wanted him to do the latter communicated the information to his conspirator upon the bench by a system of preconcerted 19 signals. But indeed no such system was necessary, for the judge’s part in the drama was merely to sustain his colleague’s objections and overrule those of his opponent, after which he himself delivered the *coup de grace* with unerring insight and accuracy. When Babson got through charging a jury the latter had always in fact been instructed in brutal and sneering tones to convict the defendant or forever after to regard themselves as disloyal citizens, oath violators and outcasts; though the stenographic record of his remarks would have led the reader thereof to suppose that this same judge was a conscientious, tender-hearted, merciful lover of humanity, whose sensitive soul quivered at the mere thought of a prison cell, and who meticulously sought to surround the defendant with every protection the law could interpose against the imputation of guilt.

He was, as Tutt put it, “a dangerous old cuss.” O’Brien was even worse. He was a bull-necked, bullet-headed, pug-nosed young ruffian with beery eyes, who had an insatiable ambition and a still greater conceit, but who had devised a blundering, innocent, helpless way of conducting himself before a jury that deceived them into believing that his inexperience required their help and his

disinterestedness their loyal support. Both of them were apparently fair-minded, honest public servants; 20 both in reality were subtly disingenuous to a degree beyond ordinary comprehension, for years of practise had made them sensitive to every whimsy of emotion and taught them how to play upon the psychology of the jury as the careless zephyr softly draws its melody from the æolian harp. In a word they were a precious pair of crooks, who for their own petty selfish ends played fast and loose with liberty, life and death.

Both of them hated Mr. Tutt, who had more than once made them ridiculous before the jury and shown them up before the Court of Appeals, and the old lawyer recognized well the fact that these two legal wolves were in revenge planning to tear him and his helpless client to pieces, having first deliberately selected him as a victim and assigned him to officiate at a ceremony which, however just so far as its consummation might be concerned, was nothing less in its conduct than judicial murder. Now they were laughing at him in their sleeves, for Mr. Tutt enjoyed the reputation of never having defended a client who had been convicted of murder, and that spotless reputation was about to be annihilated forever.

Though the defense had thirty peremptory challenges Mr. Tutt well knew that Babson would sustain the prosecutor's objections for bias until the jury box would contain the twelve automata 21 personally selected by O'Brien in advance from what Tutt called "the army of the gibbet." Yet the old war horse outwardly maintained a calm and genial exterior, betraying none of the apprehension which in fact

existed beneath his mask of professional composure. The court officer rapped sharply for silence.

"Are you quite ready to proceed with the case?" inquired the judge with a courtesy in which was ill concealed a leer of triumph.

"Yes, Your Honor," responded Mr. Tutt in velvet tones.

"Call the first talesman!"

The fight was on, the professional duel between traditional enemies, in which the stake—a human life—was in truth the thing of least concern, had begun. Yet no casual observer would have suspected the actual significance of what was going on or the part that envy, malice, uncharitableness, greed, selfishness and ambition were playing in it. He would have seen merely a partially filled courtroom flooded with sunshine from high windows, an attentive and dignified judge in a black silk robe sitting upon a dais below which a white-haired clerk drew little slips of paper from a wheel and summoned jurymen to a service which outwardly bore no suggestion of a tragedy.

He would have seen a somewhat unprepossessing 22 assistant district attorney lounging in front of the jury box, taking apparently no great interest in the proceedings, and a worried-looking young Italian sitting at the prisoner's table between a rubicund little man with a round red face and a tall, grave, longish-haired lawyer with a frame not unlike that of Abraham Lincoln, over whose wrinkled face played from time to time the suggestion of a smile. Behind a balustrade were the reporters, scribbling on rough sheets of yellow paper. Then came rows of benches, upon the first of which, as near the jury box as possible, sat Rosalina in a

new bombazine dress and wearing a large imitation gold cross furnished for the occasion out of the legal property room of Tutt & Tutt. Occasionally she sobbed softly. The bulk of the spectators consisted of rejected talesmen, witnesses, law clerks, professional court loafers and women seeking emotional sensations which they had not the courage or the means to satisfy otherwise. The courtroom was comparatively quiet, the silence broken only by the droning voice of the clerk and the lazy interplay of question and answer between talesman and lawyer.

Yet beneath the humdrum, casual, almost indifferent manner in which the proceedings seemed to be conducted each side was watching every move made by the other with the tension of a tiger ready to spring upon its prey. Babson and O'Brien were engaged in forcing upon the defense a jury composed entirely of case-hardened convicts, while Tutt & Tutt were fighting desperately to secure one so heterogeneous in character that they could hope for a disagreement.

By recess thirty-seven talesmen had been examined without a foreman having been selected, and Mr. Tutt had exhausted twenty-nine of his thirty challenges, as against three for the prosecution. The court reconvened and a new talesman was called, resembling in appearance a professional hangman who for relaxation leaned toward the execution of Italians. Mr. Tutt examined him for bias and every known form of incompetency, but in vain—then challenged peremptorily. Thirty challenges! He looked on Tutt with slightly raised eyebrows.

“Patrick Henry Walsh—to the witness chair, please, Mr. Walsh!” called the clerk, drawing another slip from the box.

Mr. Walsh rose and came forward heavily, while Tutt & Tutt trembled. He was the one man they were afraid of—an old-timer celebrated as a bulwark of the prosecution, who could always be safely counted upon to uphold the arms of the law, who regarded with reverence all officials connected with the administration of justice, and from 24 whose composition all human emotions had been carefully excluded by the Creator. He was a square-jawed, severe, heavily built person, with a long relentless upper lip, cheeks ruddy from the open air; engaged in the contracting business; and he had a brogue that would have charmed a mavis off a tree. Mr. Tutt looked hopelessly at Tutt.

Babson and O’Brien had won.

Once more Mr. Tutt struggled against his fate. Was Mr. Walsh sure he had no prejudices against Italians or foreigners generally? Quite. Did he know anyone connected with the case? No. Had he any objection to the infliction of capital punishment? None whatever. The defense had exhausted all its challenges. Mr. Tutt turned to the prospective foreman with an endearing smile.

“Mr. Walsh,” said he in caressing tones, “you are precisely the type of man in whom I feel the utmost confidence in submitting the fate of my client. I believe that you will make an ideal foreman. I hardly need to ask you whether you will accord the defendant the benefit of every reasonable doubt, and if you have such a doubt will acquit him.”

Mr. Walsh gazed suspiciously at Mr. Tutt.

“Sure,” he responded dryly, “Oi’ll give him the benefit o’ the doubt, but if Oi think he’s guilty Oi’ll convict him.”

Mr. Tutt shivered.

“Of course! Of course! That would be your duty! You are entirely satisfactory, Mr. Walsh!”

“Mr. Walsh is more than satisfactory to the prosecution!” intoned O’Brien.

“Be sworn, Mr. Walsh,” directed the clerk; and the filling of the jury box in the memorable case of People versus Serafino was begun.

“That chap doesn’t like us,” whispered Mr. Tutt to Tutt. “I laid it on a bit too thick.”

In fact, Mr. Walsh had already entered upon friendly relations with Mr. O’Brien, and as the latter helped him arrange a place for his hat and coat the foreman cast a look tinged with malevolence at the defendant and his counsel, as if to say “You can’t fool me. I know the kind of tricks you fellows are all up to.”

O’Brien could not repress a grin. The clerk drew forth another name.

“Mr. Tompkins—will you take the chair?”

Swiftly the jury was impaneled. O’Brien challenged everybody who did not suit his fancy, while Tutt & Tutt sat helpless.

Ten minutes and the clerk called the roll, beginning with Mr. Walsh, and they were solemnly sworn a true verdict to find, and settled themselves to the task.

The mills of the gods had begun to grind, and 26 Angelo was being dragged to his fate as inexorably and as surely,



with about as much chance of escape, as a log that is being drawn slowly toward a buzz saw.

“You may open the case, Mr. O’Brien,” announced Judge Babson, leaning back and wiping his glasses.

Then surreptitiously he began to read his mail as his fellow conspirator undertook to tell the jury what it was all about. One by one the witnesses were called—the coroner’s physician, the policeman who had arrested Angelo outside the barber shop with the smoking pistol in his hand, the assistant barber who had seen the shooting, the customer who was being shaved. Each drove a spike into poor Angelo’s legal coffin. Mr. Tutt could not shake them. This evidence was plain. He had come into the shop, accused Crocedoro of making his wife’s life unbearable and—shot him.

Yet Mr. Tutt did not lose any of his equanimity. With the tips of his long fingers held lightly together in front of him, and swaying slightly backward and forward upon the balls of his feet, he smiled benignly down upon the customer and the barber’s assistant as if these witnesses were merely unfortunate in not being able to disclose to the jury all the facts. His manner indicated that a mysterious and untold tragedy lay behind what they had heard, a tragedy pregnant with primordial vital passions, involving the most sacred of human relationships, which when known would rouse the spirit of chivalry of the entire panel.

On cross-examination the barber testified that Angelo had said: “You make small of my wife long enough!”

“Ah!” murmured Mr. Tutt, waving an arm in the direction of Rosalina. Did the witness recognize the defendant’s