

# **The Corpus Delicti**

Melville Davisson Post

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# The Corpus Delicti

## Melville Davisson Post

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### Introduction to The Corpus Delicti

The high ground of the field of crime has not been explored; it has not even been entered. The book stalls have been filled to weariness with tales based upon plans whereby the DETECTIVE, or FERRETING power of the State might be baffled. But, prodigious marvel! no writer has attempted to construct tales based upon plans whereby the PUNISHING power of the State might be baffled.

The distinction, if one pauses for a moment to consider it, is striking. It is possible, even easy, deliberately to plan crimes so that the criminal agent and the criminal agency cannot be detected. Is it possible to plan and execute wrongs in such a manner that they will have all the effect and all the resulting profit of desperate crimes and yet not be crimes before the law?

We are prone to forget that the law is no perfect structure, that it is simply the result of human labor and human genius, and that whatever laws human ingenuity can create for the protection of men, those same laws human ingenuity can evade. The Spirit of Evil is no dwarf; he has developed equally with the Spirit of Good.

All wrongs are not crimes. Indeed only those wrongs are crimes in which certain technical elements are present. The law provides a Procrustean standard for all crimes. Thus a wrong, to become criminal, must fit exactly into the measure laid down by the law, else it is no crime; if it varies never so little from the legal measure, the law must, and will, refuse to regard it as criminal, no matter how injurious a wrong it may be. There is no measure of morality, or equity, or common right that can be applied to the individual case. The gauge of the law is iron-bound. The wrong measured by this gauge is either a crime or it is not. There is no middle ground.

Hence is it, that if one knows well the technicalities of the law, one may commit horrible wrongs that will yield all the gain and all the resulting effect of the highest crimes, and yet the wrongs perpetrated will constitute no one of the crimes described by the law. Thus the highest crimes, even murder, may be committed in such manner that although the criminal is known and the law holds him in custody, yet it cannot punish him. So it happens that in this year of our Lord of the nineteenth century, the skillful attorney marvels at the stupidity of the rogue who, committing crimes by the ordinary methods, subjects himself to unnecessary peril, when the result which he seeks can easily be attained by other methods, equally expeditious and without danger of liability in any criminal tribunal. This is the field into which the author has ventured, and he believes it to be new and full of interest.

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It may be objected that the writer has prepared here a text-book for the shrewd knave. To this it is answered that, if he instructs the enemies, he also warns the friends of law and order; and that Evil has never yet been stronger because the sun shone on it.

[See Lord Hale's Rule, Russell on Crimes. For the law in New York see 18th N. Y. Reports, 179; also N. Y. Reports, 49, page 137. The doctrine there laid down obtains in almost every State, with the possible exception of a few Western States, where the decisions are muddy.]

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### I

"That man Mason," said Samuel Walcott, "is the mysterious member of this club. He is more than that; he is the mysterious man of New York."

"I was much surprised to see him," answered his companion, Marshall St. Clair, of the great law firm of Seward, St. Clair De Muth. "I had lost track of him since he went to Paris as counsel for the American stockholders of the Canal Company. When did he come back to the States?"

"He turned up suddenly in his ancient haunts about four months ago," said Walcott, "as grand, gloomy, and peculiar as Napoleon ever was in his palmiest days. The younger members of the club call him 'Zanona Redivivus.' He wanders through the house usually late at night, apparently without noticing anything or anybody. His mind seems to be deeply and busily at work, leaving his bodily self to wander as it may happen. Naturally, strange stories are told of him; indeed, his individuality and his habit of doing some unexpected thing, and doing it in such a marvelously original manner that men who are experts at it look on in wonder, cannot fail to make him an object of interest.

"He has never been known to play at any game whatever, and yet one night he sat down to the chess table with old Admiral Du Brey. You know the Admiral is the great champion since he beat the French and English officers in the tournament last winter. Well, you also know that the conventional openings at chess are scientifically and accurately determined. To the utter disgust of Du Brey, Mason opened the game with an unheard-of attack from the extremes of the board. The old Admiral stopped and, in a kindly patronizing way, pointed out the weak and absurd folly of his move and asked him to begin again with some one of the safe openings. Mason smiled and answered that if one had a head that he could trust he should use it; if not, then it was the part of wisdom to follow blindly the dead forms of some man who had a head. Du Brey was naturally angry and set himself to demolish Mason as quickly as possible. The game was rapid for a few moments. Mason lost piece after piece. His opening was broken and destroyed and its utter folly apparent to the lookers-on. The Admiral smiled and the game seemed all one-sided, when, suddenly, to his utter horror, Du Brey found that his king was in a trap. The foolish opening had been only a piece of shrewd strategy. The old Admiral fought and cursed and sacrificed his pieces, but it was of no use. He was gone. Mason checkmated him in two moves and arose wearily.

"'Where in Heaven's name, man,' said the old Admiral, thunderstruck, 'did you learn that masterpiece?'

"'Just here,' replied Mason. 'To play chess, one should know his opponent. How could the dead masters lay down rules by which you could be beaten, sir? They had never seen you'; and thereupon he turned and left the room. Of course, St. Clair, such a strange man would soon become an object of all kinds of mysterious rumors. Some are true and some are not. At any rate, I know that Mason is an unusual man with a gigantic intellect. Of late he seems to have taken a strange fancy to me. In fact, I seem to be the only member of the club that he will talk with, and I confess that he startles and fascinates me. He is an original genius, St. Clair, of an unusual order.'

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"I recall vividly," said the younger man, "that before Mason went to Paris he was considered one of the greatest lawyers of this city and he was feared and hated by the bar at large. He came here, I believe, from Virginia and began with the high-grade criminal practice. He soon became famous for his powerful and ingenious defenses. He found holes in the law through which his clients escaped, holes that by the profession at large were not suspected to exist, and that frequently astonished the judges. His ability caught the attention of the great corporations. They tested him and found in him learning and unlimited resources. He pointed out methods by which they could evade obnoxious statutes, by which they could comply with the apparent letter of the law and yet violate its spirit, and advised them well in that most important of all things, just how far they could bend the law without breaking it. At the time he left for Paris he had a vast clientage and was in the midst of a brilliant career. The day he took passage from New York, the bar lost sight of him. No matter how great a man may be, the wave soon closes over him in a city like this. In a few years Mason was forgotten. Now only the older practitioners would recall him, and they would do so with hatred and bitterness. He was a tireless, savage, uncompromising fighter, always a recluse."

"Well," said Walcott, "he reminds me of a great world-weary cynic, transplanted from some ancient mysterious empire. When I come into the man's presence I feel instinctively the grip of his intellect. I tell you, St. Clair, Randolph Mason is the mysterious man of New York."

At this moment a messenger boy came into the room and handed Mr. Walcott a telegram. "St. Clair," said that gentleman, rising, "the directors of the Elevated are in session, and we must hurry." The two men put on their coats and left the house.

Samuel Walcott was not a club man after the manner of the Smart Set, and yet he was in fact a club man. He was a bachelor in the latter thirties, and resided in a great silent house on the avenue. On the street he was a man of substance, shrewd and progressive, backed by great wealth. He had various corporate interests in the larger syndicates, but the basis and foundation of his fortune was real estate. His houses on the avenue were the best possible property, and his elevator row in the importers' quarter was indeed a literal gold mine. It was known that, many years before, his grandfather had died and left him the property, which, at that time, was of no great value. Young Walcott had gone out into the gold-fields and had been lost sight of and forgotten. Ten years afterwards he had turned up suddenly in New York and taken possession of his property, then vastly increased in value. His speculations were almost phenomenally successful, and, backed by the now enormous value of his real property, he was soon on a level with the merchant princes. His judgment was considered sound, and he had the full confidence of his business associates for safety and caution. Fortune heaped up riches around him with a lavish hand. He was unmarried and the halo of his wealth caught the keen eye of the matron with marriageable daughters. He was invited out, caught by the whirl of society, and tossed into its maelstrom. In a measure he reciprocated. He kept horses and a yacht. His dinners at Delmonico's and the club were above reproach. But with all he was a silent man with a shadow deep in his eyes, and seemed to court the society of his fellows, not because he loved them, but because he either hated or feared solitude. For years the strategy of the match-maker had gone gracefully afield, but Fate is relentless. If she shields the victim from the traps of men, it is not because she wishes him to escape, but because she is pleased to reserve him for her own trap. So it happened that, when Virginia St. Clair assisted Mrs. Miriam Steuvivant at her midwinter reception, this same Samuel Walcott fell deeply and hopelessly and utterly in love, and it was so apparent to the beaten generals present, that Mrs. Miriam Steuvivant applauded herself, so to speak, with encore after encore. It was good to see this courteous, silent man literally at the feet of the young debutante. He was there of right. Even the mothers of marriageable daughters admitted that. The young girl was brown-haired, brown-eyed, and tall enough, said the experts, and of the blue blood royal, with all the grace, courtesy, and inbred genius of such princely heritage.

Perhaps it was objected by the censors of the Smart Set that Miss St. Clair's frankness and honesty were a trifle old-fashioned, and that she was a shadowy bit of a Puritan; and perhaps it was of these same qualities that Samuel Walcott received his hurt. At any rate the hurt was there and deep, and the new actor stepped up into the old time-worn, semi-tragic drama, and began his role with a tireless, utter sincerity that was deadly dangerous if he

lost.

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Perhaps a week after the conversation between St. Clair and Walcott, Randolph Mason stood in the private waiting-room of the club with his hands behind his back.

He was a man apparently in the middle forties; tall and reasonably broad across the shoulders; muscular without being either stout or lean. His hair was thin and of a brown color, with erratic streaks of gray. His forehead was broad and high and of a faint reddish color. His eyes were restless inky black, and not over-large. The nose was big and muscular and bowed. The eyebrows were black and heavy, almost bushy. There were heavy furrows, running from the nose downward and outward to the corners of the mouth. The mouth was straight and the jaw was heavy, and square.

Looking at the face of Randolph Mason from above, the expression in repose was crafty and cynical; viewed from below upward, it was savage and vindictive, almost brutal; while from the front, if looked squarely in the face, the stranger was fascinated by the animation of the man and at once concluded that his expression was fearless and sneering. He was evidently of Southern extraction and a man of unusual power.

A fire smoldered on the hearth. It was a crisp evening in the early fall, and with that far-off touch of melancholy which ever heralds the coming winter, even in the midst of a city. The man's face looked tired and ugly. His long white hands were clasped tight together. His entire figure and face wore every mark of weakness and physical exhaustion; but his eyes contradicted. They were red and restless.

In the private dining-room the dinner party was in the best of spirits. Samuel Walcott was happy. Across the table from him was Miss Virginia St. Clair, radiant, a tinge of color in her cheeks. On either side, Mrs. Miriam Steuvisant and Marshall St. Clair were brilliant and lighthearted. Walcott looked at the young girl and the measure of his worship was full. He wondered for the thousandth time how she could possibly love him and by what earthly miracle she had come to accept him, and how it would be always to have her across the table from him, his own table in his own house.

They were about to rise from the table when one of the waiters entered the room and handed Walcott an envelope. He thrust it quickly into his pocket. In the confusion of rising the others did not notice him, but his face was ash white and his hands trembled violently as he placed the wraps around the bewitching shoulders of Miss St. Clair.

"Marshall," he said, and despite the powerful effort his voice was hollow, "you will see the ladies safely cared for, I am called to attend a grave matter."

"All right, Walcott," answered the young man, with cheery good nature, "you are too serious, old man, trot along."

"The poor dear," murmured Mrs. Steuvisant, after Walcott had helped them to the carriage and turned to go up the steps of the club,— "The poor dear is hard hit, and men are such funny creatures when they are hard hit."

Samuel Walcott, as his fate would, went direct to the private writing-room and opened the door. The lights were not turned on and in the dark he did not see Mason motionless by the mantel-shelf. He went quickly across the room to the writing-table, turned on one of the lights, and, taking the envelope from his pocket, tore it open. Then he bent down by the light to read the contents. As his eyes ran over the paper, his jaw fell. The skin drew away from his cheekbones and his face seemed literally to sink in. His knees gave way under him and he would have gone down in a heap had it not been for Mason's long arms that closed around him and held him up. The human

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economy is ever mysterious. The moment the new danger threatened, the latent power of the man as an animal, hidden away in the centers of intelligence, asserted itself. His hand clutched the paper and, with a half slide, he turned in Mason's arms. For a moment he stared up at the ugly man whose thin arms felt like wire ropes.

"You are under the dead-fall, aye," said Mason. "The cunning of my enemy is sublime."

"Your enemy?" gasped Walcott. "When did you come into it? How in God's name did you know it? How your enemy?"

Mason looked down at the wide bulging eyes of the man.

"Who should know better than I?" he said. "Haven't I broken through all the traps and plots that she could set?"

"She? She trap you?" The man's voice was full of horror.

"The old schemer," muttered Mason. "The cowardly old schemer, to strike in the back; but we can beat her. She did not count on my helping you—I, who know her so well."

Mason's face was red, and his eyes burned. In the midst of it all he dropped his hands and went over to the fire. Samuel Walcott arose, panting, and stood looking at Mason, with his hands behind him on the table. The naturally strong nature and the rigid school in which the man had been trained presently began to tell. His composure in part returned and he thought rapidly. What did this strange man know? Was he simply making shrewd guesses, or had he some mysterious knowledge of this matter? Walcott could not know that Mason meant only Fate, that he believed her to be his great enemy. Walcott had never before doubted his own ability to meet any emergency. This mighty jerk had carried him off his feet. He was unstrung and panic-stricken. At any rate this man had promised help. He would take it. He put the paper and envelope carefully into his pocket, smoothed out his rumpled coat, and going over to Mason touched him on the shoulder.

"Come," he said, "if you are to help me we must go."

The man turned and followed him without a word. In the hall Mason put on his hat and overcoat, and the two went out into the street. Walcott hailed a cab, and the two were driven to his house on the avenue. Walcott took out his latchkey, opened the door, and led the way into the library. He turned on the light and motioned Mason to seat himself at the table. Then he went into another room and presently returned with a bundle of papers and a decanter of brandy. He poured out a glass of the liquor and offered it to Mason. The man shook his head. Walcott poured the contents of the glass down his own throat. Then he set the decanter down and drew up a chair on the side of the table opposite Mason.

"Sir," said Walcott, in a voice deliberate, indeed, but as hollow as a sepulcher, "I am done for. God has finally gathered up the ends of the net, and it is knotted tight."

"Am I not here to help you?" said Mason, turning savagely. "I can beat Fate. Give me the details of her trap."

He bent forward and rested his arms on the table. His streaked gray hair was rumpled and on end, and his face was ugly. For a moment Walcott did not answer. He moved a little into the shadow; then he spread the bundle of old yellow papers out before him.

"To begin with," he said, "I am a living lie, a gilded crime-made sham, every bit of me. There is not an honest piece anywhere. It is all lie. I am a liar and a thief before men. The property which I possess is not mine, but stolen from a dead man. The very name which I bear is not my own, but is the bastard child of a crime. I am more than all that—I am a murderer; a murderer before the law; a murderer before God; and worse than a murderer

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before the pure woman whom I love more than anything that God could make."

He paused for a moment and wiped the perspiration from his face.

"Sir," said Mason, "this is all drivel, infantile drivel. What you are is of no importance. How to get out is the problem, how to get out."

Samuel Walcott leaned forward, poured out a glass of brandy and swallowed it.

"Well," he said, speaking slowly, "my right name is Richard Warren. In the spring of 1879 I came to New York and fell in with the real Samuel Walcott, a young man with a little money and some property which his grandfather had left him. We became friends, and concluded to go to the far west together. Accordingly we scraped together what money we could lay our hands on, and landed in the gold-mining regions of California. We were young and inexperienced, and our money went rapidly. One April morning we drifted into a little shack camp, away up in the Sierra Nevadas, called Hell's Elbow. Here we struggled and starved for perhaps a year. Finally, in utter desperation, Walcott married the daughter of a Mexican gambler, who ran an eating house and a poker joint. With them we lived from hand to mouth in a wild God-forsaken way for several years. After a time the woman began to take a strange fancy to me. Walcott finally noticed it, and grew jealous.

"One night, in a drunken brawl, we quarreled, and I killed him. It was late at night, and, beside the woman, there were four of us in the poker room,—the Mexican gambler, a half-breed devil called Cherubim Pete, Walcott, and myself. When Walcott fell, the half-breed whipped out his weapon, and fired at me across the table; but the woman, Nina San Croix, struck his arm, and, instead of killing me, as he intended, the bullet mortally wounded her father, the Mexican gambler. I shot the half-breed through the forehead, and turned round, expecting the woman to attack me. On the contrary, she pointed to the window, and bade me wait for her on the cross trail below.

"It was fully three hours later before the woman joined me at the place indicated. She had a bag of gold dust, a few jewels that belonged to her father, and a package of papers. I asked her why she had stayed behind so long, and she replied that the men were not killed outright, and that she had brought a priest to them and waited until they had died. This was the truth, but not all the truth. Moved by superstition or foresight, the woman had induced the priest to take down the sworn statements of the two dying men, seal it, and give it to her. This paper she brought with her. All this I learned afterwards. At the time I knew nothing of this damning evidence.

"We struck out together for the Pacific coast. The country was lawless. The privations we endured were almost past belief. At times the woman exhibited cunning and ability that were almost genius; and through it all, often in the very fingers of death, her devotion to me never wavered. It was doglike, and seemed to be her only object on earth. When we reached San Francisco, the woman put these papers into my hands." Walcott took up the yellow package, and pushed it across the table to Mason.

"She proposed that I assume Walcott's name, and that we come boldly to New York and claim the property. I examined the papers, found a copy of the will by which Walcott inherited the property, a bundle of correspondence, and sufficient documentary evidence to establish his identity beyond the shadow of a doubt. Desperate gambler as I now was, I quailed before the daring plan of Nina San Croix. I urged that I, Richard Warren, would be known, that the attempted fraud would be detected and would result in investigation, and perhaps unearth the whole horrible matter.

"The woman pointed out how much I resembled Walcott, what vast changes ten years of such life as we had led would naturally be expected to make in men, how utterly impossible it would be to trace back the fraud to Walcott's murder at Hell's Elbow, in the wild passes of the Sierra Nevadas. She bade me remember that we were both outcasts, both crime-branded, both enemies of man's law and God's; that we had nothing to lose; we were

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both sunk to the bottom. Then she laughed, and said that she had not found me a coward until now, but that if I had turned chicken-hearted, that was the end of it, of course. The result was, we sold the gold dust and jewels in San Francisco, took on such evidences of civilization as possible, and purchased passage to New York on the best steamer we could find.

"I was growing to depend on the bold gambler spirit of this woman, Nina San Croix; I felt the need of her strong, profligate nature. She was of a queer breed and a queerer school. Her mother was the daughter of a Spanish engineer, and had been stolen by the Mexican, her father. She herself had been raised and educated as best might be in one of the monasteries along the Rio Grande, and had there grown to womanhood before her father, fleeing into the mountains of California, carried her with him.

"When we landed in New York I offered to announce her as my wife, but she refused, saying that her presence would excite comment and perhaps attract the attention of Walcott's relatives. We therefore arranged that I should go alone into the city, claim the property, and announce myself as Samuel Walcott, and that she should remain under cover until such time as we would feel the ground safe under us.

"Every detail of the plan was fatally successful. I established my identity without difficulty and secured the property. It had increased vastly in value, and I, as Samuel Walcott, soon found myself a rich man. I went to Nina San Croix in hiding and gave her a large sum of money, with which she purchased a residence in a retired part of the city, far up in the northern suburb. Here she lived secluded and unknown while I remained in the city, living here as a wealthy bachelor.

"I did not attempt to abandon the woman, but went to her from time to time in disguise and under cover of the greatest secrecy. For a time everything ran smooth, the woman was still devoted to me above everything else, and thought always of my welfare first and seemed content to wait so long as I thought best. My business expanded. I was sought after and consulted and drawn into the higher life of New York, and more and more felt that the woman was an albatross on my neck. I put her off with one excuse after another. Finally she began to suspect me and demanded that I should recognize her as my wife. I attempted to point out the difficulties. She met them all by saying that we should both go to Spain, there I could marry her and we could return to America and drop into my place in society without causing more than a passing comment.

"I concluded to meet the matter squarely once for all. I said that I would convert half of the property into money and give it to her, but that I would not marry her. She did not fly into a storming rage as I had expected, but went quietly out of the room and presently returned with two papers, which she read. One was the certificate of her marriage to Walcott duly authenticated; the other was the dying statement of her father, the Mexican gambler, and of Samuel Walcott, charging me with murder. It was in proper form and certified by the Jesuit priest.

"'Now,' she said, sweetly, when she had finished, 'which do you prefer, to recognize your wife, or to turn all the property over to Samuel Walcott's widow and hang for his murder?'

"I was dumfounded and horrified. I saw the trap that I was in and I consented to do anything she should say if she would only destroy the papers. This she refused to do. I pleaded with her and implored her to destroy them. Finally she gave them to me with a great show of returning confidence, and I tore them into bits and threw them into the fire.

"That was three months ago. We arranged to go to Spain and do as she said. She was to sail this morning and I was to follow. Of course I never intended to go. I congratulated myself on the fact that all trace of evidence against me was destroyed and that her grip was now broken. My plan was to induce her to sail, believing that I would follow. When she was gone I would marry Miss St. Clair, and if Nina San Croix should return I would defy her and lock her up as a lunatic. But I was reckoning like an infernal ass, to imagine for a moment that I could thus hoodwink such a woman as Nina San Croix.

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"To-night I received this." Walcott took the envelope from his pocket and gave it to Mason. "You saw the effect of it; read it and you will understand why. I felt the death hand when I saw her writing on the envelope."

Mason took the paper from the envelope. It was written in Spanish, and ran:

"Greeting to RICHARD WARREN.

"The great Señor does his little Nina injustice to think she would go away to Spain and leave him to the beautiful American. She is not so thoughtless. Before she goes, she shall be, Oh so very rich! and the dear Señor shall be, Oh so very safe! The Archbishop and the kind Church hate murderers.

"NINA SAN CROIX.

"Of course, fool, the papers you destroyed were copies.

"N. SAN C."

To this was pinned a line in a delicate aristocratic hand saying that the Archbishop would willingly listen to Madam San Croix's statement if she would come to him on Friday morning at eleven.

"You see," said Walcott, desperately, "there is no possible way out. I know the woman—when she decides to do a thing that is the end of it. She has decided to do this."

Mason turned around from the table, stretched out his long legs, and thrust his hands deep into his pockets. Walcott sat with his head down, watching Mason hopelessly, almost indifferently, his face blank and sunken. The ticking of the bronze clock on the mantel shelf was loud, painfully loud. Suddenly Mason drew his knees in and bent over, put both his bony hands on the table, and looked at Walcott.

"Sir," he said, "this matter is in such shape that there is only one thing to do. This growth must be cut out at the roots, and cut out quickly. This is the first fact to be determined, and a fool would know it. The second fact is that you must do it yourself. Hired killers are like the grave and the daughters of the horse leech,—they cry always, 'Give, Give.' They are only palliatives, not cures. By using them you swap perils. You simply take a stay of execution at best. The common criminal would know this. These are the facts of your problem. The master plotters of crime would see here but two difficulties to meet:

"A practical method for accomplishing the body of the crime.

"A cover for the criminal agent.

"They would see no farther, and attempt to guard no farther. After they had provided a plan for the killing, and a means by which the killer could cover his trail and escape from the theater of the homicide, they would believe all the requirements of the problems met, and would stop. The greatest, the very giants among them, have stopped here and have been in great error.

"In every crime, especially in the great ones, there exists a third element, preeminently vital. This third element the master plotters have either overlooked or else have not had the genius to construct. They plan with rare cunning to baffle the victim. They plan with vast wisdom, almost genius, to baffle the trailer. But they fail utterly to provide any plan for baffling the punisher. Ergo, their plots are fatally defective and often result in ruin. Hence the vital necessity for providing the third element—the escape ipso jure."

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Mason arose, walked around the table, and put his hand firmly on Samuel Walcott's shoulder. "This must be done to-morrow night," he continued; "you must arrange your business matters to-morrow and announce that you are going on a yacht cruise, by order of your physician, and may not return for some weeks. You must prepare your yacht for a voyage, instruct your men to touch at a certain point on Staten Island, and wait until six o'clock day after tomorrow morning. If you do not come aboard by that time, they are to go to one of the South American ports and remain until further orders. By this means your absence for an indefinite period will be explained. You will go to Nina San Croix in the disguise which you have always used, and from her to the yacht, and by this means step out of your real status and back into it without leaving traces. I will come here to-morrow evening and furnish you with everything that you shall need and give you full and exact instructions in every particular. These details you must execute with the greatest care, as they will be vitally essential to the success of my plan."

Through it all Walcott had been silent and motionless. Now he arose, and in his face there must have been some premonition of protest, for Mason stepped back and put out his hand. "Sir," he said, with brutal emphasis, "not a word. Remember that you are only the hand, and the hand does not think." Then he turned around abruptly and went out of the house.

### III

The place which Samuel Walcott had selected for the residence of Nina San Croix was far up in the northern suburb of New York. The place was very old. The lawn was large and ill kept; the house, a square old-fashioned brick, was set far back from the street, and partly hidden by trees. Around it all was a rusty iron fence. The place had the air of genteel ruin, such as one finds in the Virginias.

On a Thursday of November, about three o'clock in the afternoon, a little man, driving a dray, stopped in the alley at the rear of the house. As he opened the back gate an old negro woman came down the steps from the kitchen and demanded to know what he wanted. The drayman asked if the lady of the house was in. The old negro answered that she was asleep at this hour and could not be seen.

"That is good," said the little man, "now there won't be any row. I brought up some cases of wine which she ordered from our house last week and which the Boss told me to deliver at once, but I forgot it until to-day. Just let me put it in the cellar now, Auntie, and don't say a word to the lady about it and she won't ever know that it was not brought up on time."

The drayman stopped, fished a silver dollar out of his pocket, and gave it to the old negro. "There now, Auntie," he said, "my job depends upon the lady not knowing about this wine; keep it mum."

"Dat's all right, honey," said the old servant, beaming like a May morning. "De cellar door is open, carry it all in and put it in de back part and nobody ain't never going to know how long it has been in dar."

The old negro went back into the kitchen and the little man began to unload the dray. He carried in five wine cases and stowed them away in the back part of the cellar as the old woman had directed. Then, after having satisfied himself that no one was watching, he took from the dray two heavy paper sacks, presumably filled with flour, and a little bundle wrapped in an old newspaper; these he carefully hid behind the wine cases in the cellar. After awhile he closed the door, climbed on his dray, and drove off down the alley.

About eight o'clock in the evening of the same day, a Mexican sailor dodged in the front gate and slipped down to the side of the house. He stopped by the window and tapped on it with his finger. In a moment a woman opened the door. She was tall, lithe, and splendidly proportioned, with a dark Spanish face and straight hair. The man stepped inside. The woman bolted the door and turned round.

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"Ah," she said, smiling, "it is you, Senor? How good of you!"

The man started. "Whom else did you expect?" he said quickly.

"Oh!" laughed the woman, "perhaps the Archbishop."

"Nina!" said the man, in a broken voice that expressed love, humility, and reproach. His face was white under the black sunburn.

For a moment the woman wavered. A shadow flitted over her eyes, then she stepped back. "No," she said, "not yet."

The man walked across to the fire, sank down in a chair, and covered his face with his hands. The woman stepped up noiselessly behind him and leaned over the chair. The man was either in great agony or else he was a superb actor, for the muscles of his neck twitched violently and his shoulders trembled.

"Oh," he muttered, as though echoing his thoughts, "I can't do it, I can't!"

The woman caught the words and leaped up as though some one had struck her in the face. She threw back her head. Her nostrils dilated and her eyes flashed.

"You can't do it!" she cried. "Then you do love her! You shall do it! Do you hear me? You shall do it! You killed him! You got rid of him! but you shall not get rid of me. I have the evidence, all of it. The Archbishop will have it to-morrow. They shall hang you! Do you hear me? They shall hang you!"

The woman's voice rose, it was loud and shrill. The man turned slowly round without looking up, and stretched out his arms toward the woman. She stopped and looked down at him. The fire glittered for a moment and then died out of her eyes, her bosom heaved and her lips began to tremble. With a cry she flung herself into his arms, caught him around the neck, and pressed his face up close against her cheek.

"Oh! Dick, Dick," she sobbed, "I do love you so! I can't live without you! Not another hour, Dick! I do want you so much, so much, Dick!"

The man shifted his right arm quickly, slipped a great Mexican knife out of his sleeve, and passed his fingers slowly up the woman's side until he felt the heart beat under his hand, then he raised the knife, gripped the handle tight, and drove the keen blade into the woman's bosom. The hot blood gushed out over his arm, and down on his leg. The body, warm and limp, slipped down in his arms. The man got up, pulled out the knife, and thrust it into a sheath at his belt, unbuttoned the dress, and slipped it off of the body. As he did this a bundle of papers dropped upon the floor; these he glanced at hastily and put into his pocket. Then he took the dead woman up in his arms, went out into the hall, and started to go up the stairway. The body was relaxed and heavy, and for that reason difficult to carry. He doubled it up into an awful heap, with the knees against the chin, and walked slowly and heavily up the stairs and out into the bathroom. There he laid the corpse down on the tiled floor. Then he opened the window, closed the shutters, and lighted the gas. The bathroom was small and contained an ordinary steel tub, porcelain lined, standing near the window and raised about six inches above the floor. The sailor went over to the tub, pried up the metal rim of the outlet with his knife, removed it, and fitted into its place a porcelain disk which he took from his pocket; to this disk was attached a long platinum wire, the end of which he fastened on the outside of the tub. After he had done this he went back to the body, stripped off its clothing, put it down in the tub and began to dismember it with the great Mexican knife. The blade was strong and sharp as a razor. The man worked rapidly and with the greatest care.

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When he had finally cut the body into as small pieces as possible, he replaced the knife in its sheath, washed his hands, and went out of the bathroom and downstairs to the lower hall. The sailor seemed perfectly familiar with the house. By a side door he passed into the cellar. There he lighted the gas, opened one of the wine cases, and, taking up all the bottles that he could conveniently carry, returned to the bathroom. There he poured the contents into the tub on the dismembered body, and then returned to the cellar with the empty bottles, which he replaced in the wine cases. This he continued to do until all the cases but one were emptied and the bath tub was more than half full of liquid. This liquid was sulphuric acid.

When the sailor returned to the cellar with the last empty wine bottles, he opened the fifth case, which really contained wine, took some of it out, and poured a little into each of the empty bottles in order to remove any possible odor of the sulphuric acid. Then he turned out the gas and brought up to the bathroom with him the two paper flour sacks and the little heavy bundle. These sacks were filled with nitrate of soda. He set them down by the door, opened the little bundle, and took out two long rubber tubes, each attached to a heavy gas burner, not unlike the ordinary burners of a small gas stove. He fastened the tubes to two of the gas jets, put the burners under the tub, turned the gas on full, and lighted it. Then he threw into the tub the woman's clothing and the papers which he had found on her body, after which he took up the two heavy sacks of nitrate of soda and dropped them carefully into the sulphuric acid. When he had done this he went quickly out of the bathroom and closed the door.

The deadly acids at once attacked the body and began to destroy it; as the heat increased, the acids boiled and the destructive process was rapid and awful. From time to time the sailor opened the door of the bathroom cautiously, and, holding a wet towel over his mouth and nose, looked in at his horrible work. At the end of a few hours there was only a swimming mass in the tub. When the man looked at four o'clock, it was all a thick murky liquid. He turned off the gas quickly and stepped back out of the room. For perhaps half an hour he waited in the hall; finally, when the acids had cooled so that they no longer gave off fumes, he opened the door and went in, took hold of the platinum wire and, pulling the porcelain disk from the stopcock, allowed the awful contents of the tub to run out. Then he turned on the hot water, rinsed the tub clean, and replaced the metal outlet. Removing the rubber tubes, he cut them into pieces, broke the porcelain disk, and, rolling up the platinum wire, washed it all down the sewer pipe.

The fumes had escaped through the open window; this he now closed and set himself to putting the bathroom in order, and effectually removing every trace of his night's work. The sailor moved around with the very greatest degree of care. Finally, when he had arranged everything to his complete satisfaction, he picked up the two burners, turned out the gas, and left the bathroom, closing the door after him. From the bathroom he went directly to the attic, concealed the two rusty burners under a heap of rubbish, and then walked carefully and noiselessly down the stairs and through the lower hall. As he opened the door and stepped into the room where he had killed the woman, two police officers sprang out and seized him. The man screamed like a wild beast taken in a trap and sank down.

"Oh! oh!" he cried, "it was no use! it was no use to do it!" Then he recovered himself in a manner and was silent. The officers handcuffed him, summoned the patrol, and took him at once to the station house. There he said he was a Mexican sailor and that his name was Victor Ancona; but he would say nothing further. The following morning he sent for Randolph Mason and the two were long together.

## IV

The obscure defendant charged with murder has little reason to complain of the law's delays. The morning following the arrest of Victor Ancona, the newspapers published long sensational articles, denounced him as a fiend, and convicted him. The grand jury, as it happened, was in session. The preliminaries were soon arranged and the case was railroaded into trial. The indictment contained a great many counts, and charged the prisoner with the murder of Nina San Croix by striking, stabbing, choking, poisoning, and so forth.

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The trial had continued for three days and had appeared so overwhelmingly one-sided that the spectators who were crowded in the court room had grown to be violent and bitter partisans, to such an extent that the police watched them closely. The attorneys for the People were dramatic and denunciatory, and forced their case with arrogant confidence. Mason, as counsel for the prisoner, was indifferent and listless. Throughout the entire trial he had sat almost motionless at the table, his gaunt form bent over, his long legs drawn up under his chair, and his weary, heavy-muscled face, with its restless eyes, fixed and staring out over the heads of the jury, was like a tragic mask. The bar, and even the judge, believed that the prisoner's counsel had abandoned his case.

The evidence was all in and the People rested. It had been shown that Nina San Croix had resided for many years in the house in which the prisoner was arrested; that she had lived by herself, with no other companion than an old negro servant; that her past was unknown, and that she received no visitors, save the Mexican sailor, who came to her house at long intervals. Nothing whatever was shown tending to explain who the prisoner was or whence he had come. It was shown that on Tuesday preceding the killing the Archbishop had received a communication from Nina San Croix, in which she said she desired to make a statement of the greatest import, and asking for an audience. To this the Archbishop replied that he would willingly grant her a hearing if she would come to him at eleven o'clock on Friday morning. Two policemen testified that about eight o'clock on the night of Thursday they had noticed the prisoner slip into the gate of Nina San Croix's residence and go down to the side of the house, where he was admitted; that his appearance and seeming haste had attracted their attention; that they had concluded that it was some clandestine amour, and out of curiosity had both slipped down to the house and endeavored to find a position from which they could see into the room, but were unable to do so, and were about to go back to the street when they heard a woman's voice cry out in, great anger: "I know that you love her and that you want to get rid of me, but you shall not do it! You murdered him, but you shall not murder me! I have all the evidence to convict you of murdering him! The Archbishop will have it to-morrow! They shall hang you! Do you hear me? They shall hang you for this murder!" that thereupon one of the policemen proposed that they should break into the house and see what was wrong, but the other had urged that it was only the usual lovers' quarrel and if they should interfere they would find nothing upon which a charge could be based and would only be laughed at by the chief; that they had waited and listened for a time, but hearing nothing further had gone back to the street and contented themselves with keeping a strict watch on the house.

The People proved further, that on Thursday evening Nina San Croix had given the old negro domestic a sum of money and dismissed her, with the instruction that she was not to return until sent for. The old woman testified that she had gone directly to the house of her son, and later had discovered that she had forgotten some articles of clothing which she needed; that thereupon she had returned to the house and had gone up the back way to her room,— this was about eight o'clock; that while there she had heard Nina San Croix's voice in great passion and remembered that she had used the words stated by the policemen; that these sudden, violent cries had frightened her greatly and she had bolted the door and been afraid to leave the room; shortly thereafter, she had heard heavy footsteps ascending the stairs, slowly and with great difficulty, as though some one were carrying a heavy burden; that therefore her fear had increased and that she had put out the light and hidden under the bed. She remembered hearing the footsteps moving about upstairs for many hours, how long she could not tell. Finally, about half-past four in the morning, she crept out, opened the door, slipped downstairs, and ran out into the street. There she had found the policemen and requested them to search the house.

The two officers had gone to the house with the woman. She had opened the door and they had had just time to step back into the shadow when the prisoner entered. When arrested, Victor Ancona had screamed with terror, and cried out, "It was no use! it was no use to do it!"

The Chief of Police had come to the house and instituted a careful search. In the room below, from which the cries had come, he found a dress which was identified as belonging to Nina San Croix and which she was wearing when last seen by the domestic, about six o'clock that evening. This dress was covered with blood, and had a slit about two inches long in the left side of the bosom, into which the Mexican knife, found on the prisoner, fitted perfectly. These articles were introduced in evidence, and it was shown that the slit would be exactly over the

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heart of the wearer, and that such a wound would certainly result in death. There was much blood on one of the chairs and on the floor. There was also blood on the prisoner's coat and the leg of his trousers, and the heavy Mexican knife was also bloody. The blood was shown by the experts to be human blood.

The body of the woman was not found, and the most rigid and tireless search failed to develop the slightest trace of the corpse, or the manner of its disposal. The body of the woman had disappeared as completely as though it had vanished into the air.

When counsel announced that he had closed for the People, the judge turned and looked gravely down at Mason. "Sir," he said, "the evidence for the defense may now be introduced."

Randolph Mason arose slowly and faced the judge.

"If your Honor please," he said, speaking slowly and distinctly, "the defendant has no evidence to offer." He paused while a murmur of astonishment ran over the court room. "But, if your Honor please," he continued, "I move that the jury be directed to find the prisoner not guilty."

The crowd stirred. The counsel for the People smiled. The judge looked sharply at the speaker over his glasses. "On what ground?" he said curtly.

"On the ground," replied Mason, "that the corpus delicti has not been proven."

"Ah!" said the judge, for once losing his judicial gravity. Mason sat down abruptly. The senior counsel for the prosecution was on his feet in a moment.

"What!" he said, "the gentleman bases his motion on a failure to establish the corpus delicti? Does he jest, or has he forgotten the evidence? The term 'corpus delicti' is technical, and means the body of the crime, or the substantial fact that a crime has been committed. Does anyone doubt it in this case? It is true that no one actually saw the prisoner kill the decedent, and that he has so successfully hidden the body that it has not been found, but the powerful chain of circumstances, clear and close-linked, proving motive, the criminal agency, and the criminal act, is overwhelming.

"The victim in this case is on the eve of making a statement that would prove fatal to the prisoner. The night before the statement is to be made he goes to her residence. They quarrel. Her voice is heard, raised high in the greatest passion, denouncing him, and charging that he is a murderer, that she has the evidence and will reveal it, that he shall be hanged, and that he shall not be rid of her. Here is the motive for the crime, clear as light. Are not the bloody knife, the bloody dress, the bloody clothes of the prisoner, unimpeachable witnesses to the criminal act? The criminal agency of the prisoner has not the shadow of a possibility to obscure it. His motive is gigantic. The blood on him, and his despair when arrested, cry 'Murder! murder!' with a thousand tongues.

"Men may lie, but circumstances cannot. The thousand hopes and fears and passions of men may delude, or bias the witness. Yet it is beyond the human mind to conceive that a clear, complete chain of concatenated circumstances can be in error. Hence it is that the greatest jurists have declared that such evidence, being rarely liable to delusion or fraud, is safest and most powerful. The machinery of human justice cannot guard against the remote and improbable doubt. The inference is persistent in the affairs of men. It is the only means by which the human mind reaches the truth. If you forbid the jury to exercise it, you bid them work after first striking off their hands. Rule out the irresistible inference, and the end of justice is come in this land; and you may as well leave the spider to weave his web through the abandoned court room."

The attorney stopped, looked down at Mason with a pompous sneer, and retired to his place at the table. The judge sat thoughtful and motionless. The jurymen leaned forward in their seats.

## The Corpus Delicti

"If your Honor please," said Mason, rising, "this is a matter of law, plain, clear, and so well settled in the State of New York that even counsel for the People should know it. The question before the evidence for the defense may now be introduced."

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"If your Honor please," said Mason, rising, "this is a matter of law, plain, clear, and so well settled in the State of New York that even counsel for the People should know it. The question before your Honor is simple. If the corpus delicti, the body of the crime, has been proven, as required by the laws of the commonwealth, then this case should go to the jury. If not, then it is the duty of this Court to direct the jury to find the prisoner not guilty. There is here no room for judicial discretion. Your Honor has but to recall and apply the rigid rule announced by our courts prescribing distinctly how the corpus delicti in murder must be proven."

"The prisoner here stands charged with the highest crime. The law demands, first, that the crime, as a fact, be established. The fact that the victim is indeed dead must first be made certain before anyone can be convicted for her killing, because, so long as there remains the remotest doubt as to the death, there can be no certainty as to the criminal agent, although the circumstantial evidence indicating the guilt of the accused may be positive, complete, and utterly irresistible. In murder, the corpus delicti, or body of the crime, is composed of two elements:

"Death, as a result.

"The criminal agency of another as the means.

It is the fixed and immutable law of this State, laid down in the leading case of Ruloff v. The People, and

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binding upon this Court, that both components of the corpus delicti shall not be established by circumstantial evidence. There must be direct proof of one or the other of these two component elements of the corpus delicti. If one is proven by direct evidence, the other may be presumed; but both shall not be presumed from circumstances, no matter how powerful, how cogent, or how completely overwhelming the circumstances may be. In other words, no man can be convicted of murder in the State of New York, unless the body of the victim be found and identified, or there be direct proof that the prisoner did some act adequate to produce death, and did it in such a manner as to account for the disappearance of the body."

The face of the judge cleared and grew hard. The members of the bar were attentive and alert; they were beginning to see the legal escape open up. The audience were puzzled; they did not yet understand. Mason turned to the counsel for the People. His ugly face was bitter with contempt.

"For three days," he said, "I have been tortured by this useless and expensive farce. If counsel for the People had been other than play-actors, they would have known in the beginning that Victor Ancona could not be convicted for murder, unless he were confronted in this court room with a living witness, who had looked into the dead face of Nina San Croix; or, if not that, a living witness who had seen him drive the dagger into her bosom.

"I care not if the circumstantial evidence in this case were so strong and irresistible as to be overpowering; if the judge on the bench, if the jury, if every man within sound of my voice, were convinced of the guilt of the prisoner to the degree of certainty that is absolute; if the circumstantial evidence left in the mind no shadow of the remotest improbable doubt; yet, in the absence of the eyewitness, this prisoner cannot be punished, and this Court must compel the jury to acquit him."

The audience now understood, and they were dumfounded. Surely this was not the law. They had been taught that the law was common sense, and this,—this was anything else.

Mason saw it all, and grinned. "In its tenderness," he sneered, "the law shields the innocent. The good law of New York reaches out its hand and lifts the prisoner out of the clutches of the fierce jury that would hang him."

Mason sat down. The room was silent. The jurymen looked at each other in amazement. The counsel for the People arose. His face was white with anger, and incredulous.

"Your Honor," he said, "this doctrine is monstrous. Can it be said that, in order to evade punishment, the murderer has only to hide or destroy the body of the victim, or sink it into the sea? Then, if he is not seen to kill, the law is powerless and the murderer can snap his finger in the face of retributive justice. If this is the law, then the law for the highest crime is a dead letter. The great commonwealth winks at murder and invites every man to kill his enemy, provided he kill him in secret and hide him. I repeat, your Honor,"—the man's voice was now loud and angry and rang through the court room—"that this doctrine is monstrous!"

"So said Best, and Story, and many another," muttered Mason, "and the law remained."

"The Court," said the judge, abruptly, "desires no further argument."

The counsel for the People resumed his seat. His face lighted up with triumph. The Court was going to sustain him.

The judge turned and looked down at the jury. He was grave, and spoke with deliberate emphasis.

"Gentlemen of the jury," he said, "the rule of Lord Hale obtains in this State and is binding upon me. It is the law as stated by counsel for the prisoner: that to warrant conviction of murder there must be direct proof either of the death, as of the finding and identification of the corpse, or of criminal violence adequate to produce death, and exerted in such a manner as to account for the disappearance of the body; and it is only when there is direct proof of the one that the other can be established by circumstantial evidence. This is the law, and cannot now be departed from. I do not presume to explain its wisdom. Chief-Judge Johnson has observed, in the leading case, that it may have its probable foundation in the idea that where direct proof is absent as to both the fact of the death and of criminal violence capable of producing death, no evidence can rise to the degree of moral certainty that the individual is dead by criminal intervention, or even lead by direct inference to this result; and that, where the fact of death is not certainly ascertained, all inculpatory circumstantial evidence wants the key necessary for its satisfactory interpretation, and cannot be depended on to furnish more than probable results. It may be, also, that such a rule has some reference to the dangerous possibility that a general preconception of guilt, or a general excitement of popular feeling, may creep in to supply the place of evidence, if, upon other than direct proof of death or a cause of death, a jury are permitted to pronounce a prisoner guilty."

"In this case the body has not been found and there is no direct proof of criminal agency on the part of the

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prisoner, although the chain of circumstantial evidence is complete and irresistible in the highest degree. Nevertheless, it is all circumstantial evidence, and under the laws of New York the prisoner cannot be punished. I have no right of discretion. The law does not permit a conviction in this case, although every one of us may be morally certain of the prisoner's guilt. I am, therefore, gentlemen of the jury, compelled to direct you to find the prisoner not guilty."

"Judge," interrupted the foreman, jumping up in the box, "we cannot find that verdict under our oath; we know that this man is guilty."

"Sir," said the judge, "this is a matter of law in which the wishes of the jury cannot be considered. The clerk will write a verdict of not guilty, which you, as foreman, will sign."

The spectators broke out into a threatening murmur that began to grow and gather volume. The judge rapped on his desk and ordered the bailiffs promptly to suppress any demonstration on the part of the audience. Then he directed the foreman to sign the verdict prepared by the clerk. When this was done he turned to Victor Ancona; his face was hard and there was a cold glitter in his eyes.

"Prisoner at the bar," he said, "you have been put to trial before this tribunal on a charge of cold-blooded and atrocious murder. The evidence produced against you was of such powerful and overwhelming character that it seems to have left no doubt in the minds of the jury, nor indeed in the mind of any person present in this court room.

"Had the question of your guilt been submitted to these twelve arbiters, a conviction would certainly have resulted and the death penalty would have been imposed. But the law, rigid, passionless, even-eyed, has thrust in between you and the wrath of your fellows and saved you from it. I do not cry out against the impotency of the law; it is perhaps as wise as imperfect humanity could make it. I deplore, rather, the genius of evil men who, by cunning design, are enabled to slip through the fingers of this law. I have no word of censure or admonition for you, Victor Ancona. The law of New York compels me to acquit you. I am only its mouthpiece, with my individual wishes throttled. I speak only those things which the law directs I shall speak.

"You are now at liberty to leave this court room, not guiltless of the crime of murder, perhaps, but at least rid of its punishment. The eyes of men may see Cain's mark on your brow, but the eyes of the Law are blind to it."

When the audience fully realized what the judge had said they were amazed and silent. They knew as well as men could know, that Victor Ancona was guilty of murder, and yet he was now going out of the court room free. Could it happen that the law protected only against the blundering rogue? They had heard always of the boasted completeness of the law which magistrates from time immemorial had labored to perfect, and now when the skillful villain sought to evade it, they saw how weak a thing it was.

V

The wedding march of Lohengrin floated out from the Episcopal Church of St. Mark, clear and sweet, and perhaps heavy with its paradox of warning. The theater of this coming contract before high heaven was a wilderness of roses worth the taxes of a county. The high caste of Manhattan, by the grace of the check book, were present, clothed in Parisian purple and fine linen, cunningly and marvelously wrought.

Over in her private pew, ablaze with jewels, and decked with fabrics from the deft hand of many a weaver, sat Mrs. Miriam Steuvasant as imperious and self-complacent as a queen. To her it was all a kind of triumphal procession, proclaiming her ability as a general. With her were a choice few of the genus homo, which obtains at the five-o'clock teas, instituted, say the sages, for the purpose of sprinkling the holy water of Lethe.

"Czarina," whispered Reggie Du Puyster, leaning forward, "I salute you. The ceremony sub jugum is superb."

"Walcott is an excellent fellow," answered Mrs. Steuvasant; "not a vice, you know, Reggie."

"Aye, Empress," put in the others, "a purist taken in the net. The clean-skirted one has come to the altar. Vive la vertu!"

Samuel Walcott, still sunburned from his cruise, stood before the chancel with the only daughter of the blue blooded St. Clairs. His face was clear and honest and his voice firm. This was life and not romance. The lid of the sepulcher had closed and he had slipped from under it. And now, and ever after, the hand red with murder was clean as any.

The minister raised his voice, proclaiming the holy union before God, and this twain, half pure, half foul, now by divine ordinance one flesh, bowed down before it. No blood cried from the ground. The sunlight of high noon streamed down through the window panes like a benediction.

Back in the pew of Mrs. Miriam Steuvasant, Reggie Du Puyster turned down his thumb. "Habet!" he said.