

A Little Diplomat.

A TRIAL FOR BURGLARY AND ITS UNUSUAL ENDING.

BY FRANK N. STRATTON.

I.

ROBERT ASHTON looked up from his desk to the tall figure in blue and brass that had suddenly appeared in the doorway.

"Good evening, Mike. Now, don't tell me you've got another one!"

"But Oi have, sor. Just put 'im in. An' a tough nut he is—fought loike a divil. He wants ye roight away, sor."

Ashton groaned and laid down his pen.

"It's a conspiracy, Mike. Ever since I was appointed county attorney, bound to defend pauper criminals gratuitously, you fellows have been perniciously active. This makes three this month. What's this one in for?"

Blue-and-brass expanded its chest.

"The Bigsby burglary, sor. Got 'im dead to rights. Old mon Bigsby oidentified 'im."

"Good for you, Mike. Wants me right away, does he? Well, I guess if I don't get to him for a few days he'll keep all right in Jerry's refrigerator."

Blue-and-brass grinned copiously, nodded assuringly, and sauntered away with swinging club, while Ashton again plunged into the legal labyrinths of Dighton *versus* Purley. There was a fat fee in that case. The "jail client" could wait.

The clock in the court-house tower struck five with the vigor and promptness due from a public servant, and Ashton glanced out at it in surprise.

"Confound the luck!" he growled.

"I can't catch that train now, and Purley is expecting me. I could go tonight, but I'll wait, and run down in the morning."

He pushed his chair back, put his feet on the desk, and lighted a cigar. A prolonged and insistent peal of the telephone, ending in two vicious snarls, interrupted his repose.

"Sounds as if it might be an urgent case," he muttered hopefully as he seized the receiver.

"Who? The jail? Oh, all right; what is it, Jerry? Yes, Mike told me. Well, you just inform the gentleman that he'll wait until I get ready. What's that? Oh, yes, I suppose I can—to accommodate you. All right; I'll drop in on my way home. And, say, Jerry, don't give him too much of that rich food. You'll astonish his stomach. Ha, ha! Good-by, Jerry!"

He hung the receiver up, resumed his recumbent posture, and finished the cigar. Then he leisurely put his hat on, locked the office door, and strolled down the street to the nearest newsstand. A tall, stern-faced man with long, stiff upper lip and sharp, cold, blue eyes, leading a bright-faced little girl, passed out as Ashton entered. The two men nodded as they passed, and Ashton caught a glimpse of the latest *Puck* in the tall man's pocket.

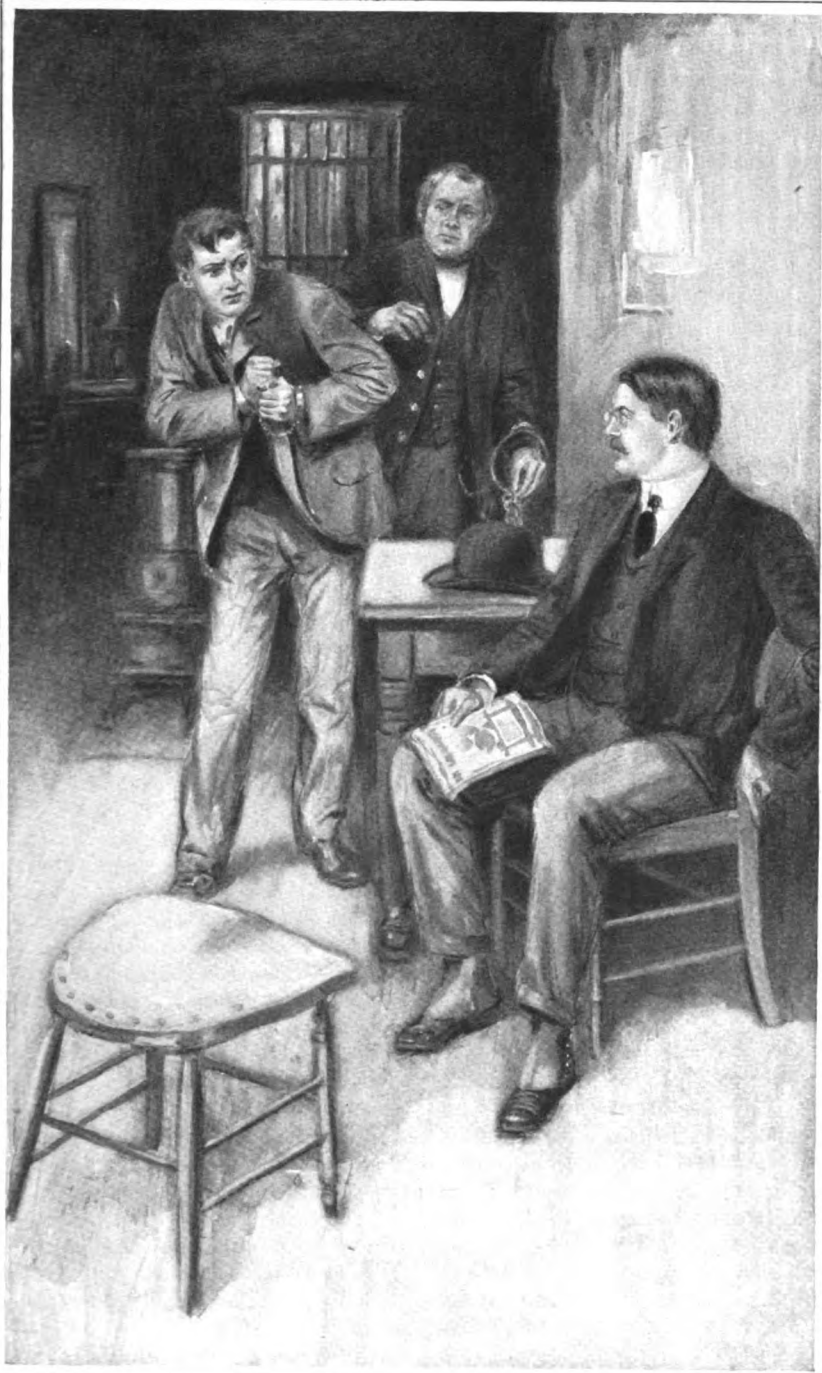
"John Stone's the last man on earth I should suspect of buying comic papers," Ashton remarked as he picked up his favorite magazine. "If he has smiled once during the two years he's been here, it's not of record."

"Buys 'em for his little girl," the dealer explained. "Guess she's the only thing on earth that can thaw him. Did you ever see such eyes? Like two sharp icicles blue with cold."

"Good lawyer, though," said Ashton, pocketing his change. "Plenty of money, and making more."

The grim, gray jail, granite-walled and steel-barred, recalled to Ashton's mind the existence of the Bigsby burglar. He ran up the stone steps, and pulled the door bell impatiently. The turnkey, stocky of form and fiery of head, admitted him.

"Glad you've come, Mr. Ashton. Your new client's been gone on like a



"ADMIT THAT I'M A THIEF? NEVER!"

tryin' to break in the winder. I jumped out of bed an' run to t'other end of the house, where he was, an' when I reached the winder I seen him jumpin' over the hedge-fence."

"And what is the distance from that window to that hedge?"

"Not furdur'n six rod. Just about six rod, I reckon."

"Very well, Mr. Bigsby, we'll say one hundred feet. And at what hour of the night was that?"

"Jest ten; I noticed the clock as I jumped out of bed."

"Ten! Now, Mr. Bigsby, you certainly are mistaken about that."

"No, sir; noticed it partic'lar."

Stone seemed embarrassed, and Bigsby grinned confidently at the jury.

"Will you tell me what time it is now by that clock on the wall at your left?" Stone purred. "Not that I question your veracity, Mr. Bigsby, but I am sure you must have mistaken the time."

The witness blinked for a moment at the clock, then drew a pair of spectacles from his pocket.

"Oh, never mind, if you can't see the dial without glasses," said Stone carelessly. "You don't wear glasses in your sleep, do you, Mr. Bigsby?"

"Oh, I know you're smart, but you can't ketch me that way, Mr. Stone," answered Bigsby, with a cunning glance at the attentive jury. "My clock set right by the bed, not ten feet from my nose, an' the moon was jest comin' up, an' shone straight through the winder on to it."

"Ah! That explains it. You were sleeping down-stairs?"

"I was."

"Your house is a large one, I believe."

"Purty good-sized. Two story; ten rooms."

"And—as you say you ran the full length of the house—your bed was at that end of the house farthest from the hedge-fence?"

"That's right."

"If I remember your property correctly, Mr. Bigsby—and a very fine property it is—there are several trees in the front yard, between the house and the hedge."

"Ain't a finer grove of cedars in the State, I reckon," responded the witness proudly.

Stone's long, nervous fingers drummed softly on the table before him as he idly contemplated a fly buzzing desperately in the web that decorated a corner of the court-room. Mr. Bigsby, smiling complacently, awaited the next question. The prosecuting attorney was frowning, and aimlessly fingering the indictment.

"I think that's all, Mr. Bigsby," resumed Stone. "Wait, though, just one moment; of course, you can describe to the jury the appearance of the man you saw?"

"You bet I can. Medium-sized young fellow, with brown, curly hair, blue eyes, smooth face, light clothes, straw hat, low-cut shoes. That's the man, right there at the table!"

"Quite positive about that description, are you?"

"Sure. Didn't I see him plain as I see you?"

"No doubt, Mr. Bigsby. But when you called on the officers you were unable to give them more than a very vague description of this burglar."

Mr. Bigsby coughed slightly, hesitated, and caressed the abundant hirsute growth on his retreating chin.

"Well, you see—I was considerable excited then. But soon as the officers fetched this feller in I knowed him; the sight of him sorter—refreshed my mem'ry. Yes, that's it—refreshed my mem'ry, as you lawyer fellers say. Ha! Ha! Guess I hit *you* that time, Mr. Stone!"

"I see you will have your little joke, Mr. Bigsby. It's strange that so shrewd a man as you didn't search for tracks."

"Didn't I? An' found 'em, too!"

"Where?"

Mr. Bigsby stared at the prosecuting attorney with the dubious expression of one who realizes he may have told too much. Stone leaned toward him, the cold blue eyes scintillating fire.

"Did you hear my question, sir? I asked where you found those tracks."

"At—the little ditch between the hedge an' the road."

"You may describe them."

man, if it takes all the rest of my life. I a thief! My God!"

"Very well, sir. You wanted my advice——"

"Confound your advice!"—the prisoner was shaking his clenched and manacled hands over Jerry's quickly interposed shoulder. "It's money you want. If I had that you'd clear me; you'd prove Bigsby a liar; you'd scour the county for evidence. I'll not plead guilty. You'll have to appear for me. And that's all I have to say to you, Mr. County Attorney, only—confound you, and Bigsby, and your county with you!"

The turnkey bustled him away, livid with fury.

"Pleasant little cuss," Jerry remarked when he returned, jingling the handcuffs, and shot the bolts of the steel door.

"Very amiable young gentleman," Ashton assented. "Isn't it sad, Jerry, to see so many innocent men sent up?"

The turnkey sighed sonorously and wagged the red head dolefully as he let the county attorney through the outer door.

"Sad? It's heart breakin', Mr. Ashton. Sometimes I think I'll throw up my job rather'n be a party to such scand'ous proceedin's any longer. Seems like we never catch the guilty ones at all."

Ashton laughed lightly as he ran down the stone steps and turned toward home, his precious magazine tucked safely under his arm.

II.

WHEN the case of the State *versus* Johnstone was called for trial, almost a month later, the county attorney, chatting in a corner of the court-room with the attorney for the State, had forgotten that he had a client of that name. Mildly indignant at being compelled to go through the form of a trial in so plain a case, the two attorneys took their seats. Ashton listened languidly as Bigsby related his oft-told tale to the listless and perspiring jury, and the venerable judge nodded drowsily during the perfunctory cross-examination of the prosecuting witness.

Ashton was about to dismiss the witness when he saw his client glance upward, start from his chair at the opposite side of the table with a look of amazement, then drop back and avert his face. At the same instant he felt a hand upon his shoulder, and, looking up, saw Stone bending over him, his stern face twitching convulsively.

"I beg your pardon, Ashton," Stone whispered hurriedly, "but you must let me into this case. I must cross-examine this witness. That boy is no criminal—it's not possible!"

Before the startled county attorney could reply, Stone was addressing the drowsy judge, who started up from his nap with an expression of profound interest.

"Your honor, Mr. Ashton has kindly consented to accept my assistance in this case. With your honor's permission I shall continue the cross-examination of this witness."

The jury straightened up and leaned forward, mouths agape, while the judge adjusted his spectacles and stared curiously at Stone's eager face.

"I shall certainly object to such procedure," the prosecuting attorney exclaimed, springing up. "Mr. Ashton, having begun this cross-examination, must finish——"

"It is within the discretion of the court," Stone broke in impatiently. "Your honor, this is the first favor I have ever asked of this court."

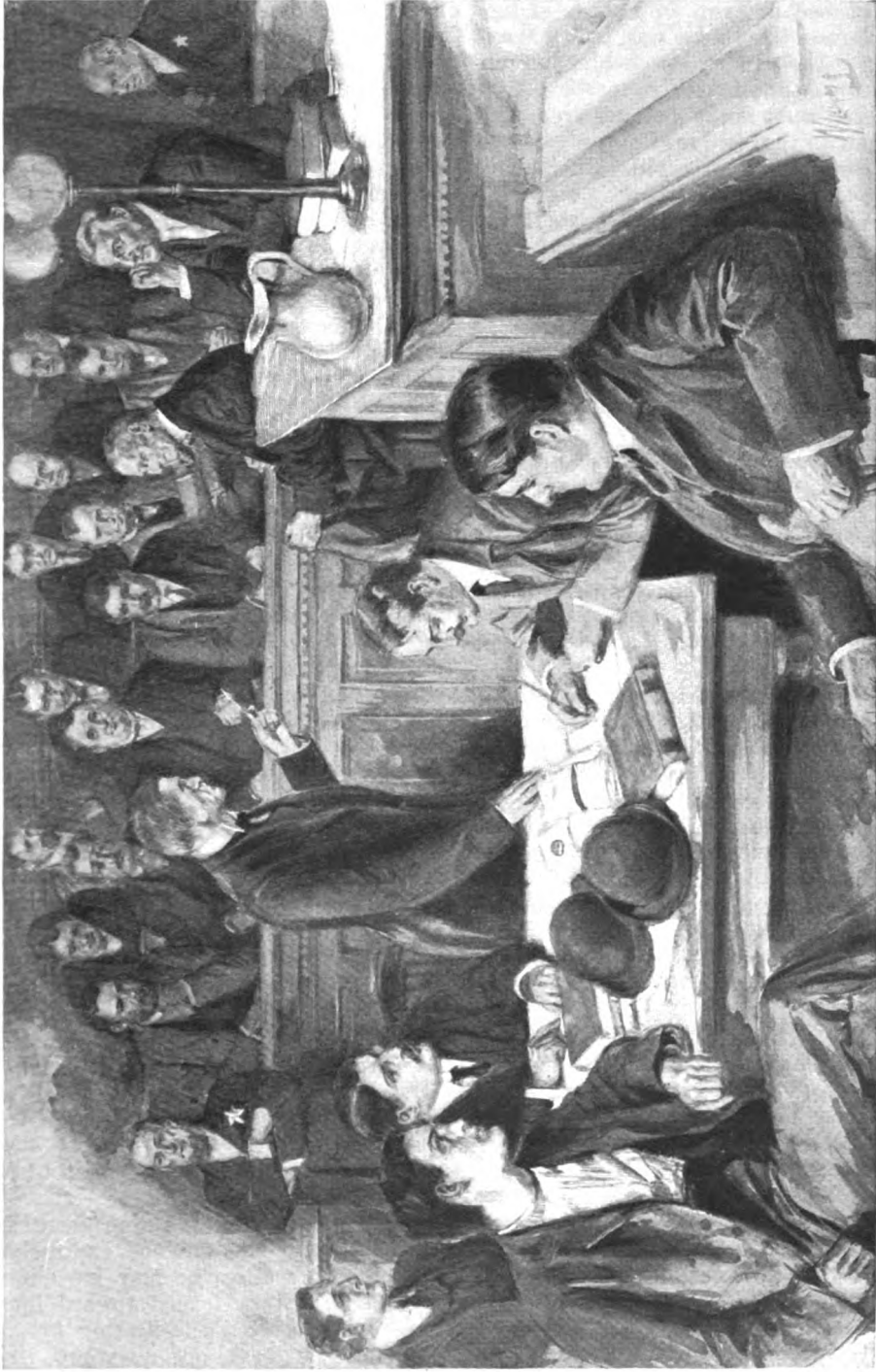
"It's rather irregular, as you are aware, Mr. Stone," said the judge slowly, "but I think I shall allow it in this case; I don't see that it will prejudice the case in any way. You may proceed, Mr. Stone."

With a courteous inclination of his head toward the bench, Stone turned his keen, cold eyes upon Bigsby.

"Now, Mr. Bigsby," he said softly, almost caressingly, "having just arrived, I did not hear your testimony in chief. Have the kindness to state what it was that first called your attention to—the defendant."

Mr. Bigsby, delighted to relate his story once more, assumed an expression befitting the center of attraction about which the case revolved.

"Well, as I said, he waked me up



"WAIT, THOUGH, JUST ONE MOMENT; OF COURSE, YOU CAN DESCRIBE TO THE JURY THE APPEARANCE OF THE MAN YOU SAW?"

"Don't know as I can," said Bigsby, shifting uneasily in his chair. "Only they wasn't very big."

"You measured them?"

"No, I didn't."

"You showed them to the officers?"

"Well, what if I did?"

"And you put your foot in one of—"

"How'd you know—"

"You're not here to ask questions, sir. I know more than you think. The officers are subpoenaed, and you may as well tell the truth. State to this jury how that track compared, in size, with your foot."

The witness gazed appealingly at the State's attorney.

"Go on!" Stone snarled.

"Well, it was a leetle—jest a very leetle—bigger'n my foot—an' I ain't no big man, nohow."

Stone leaned back and closed his eyes. Ashton heard the faint sigh of relief, saw the ghost of a smile that flittered athwart the stern face. Then the old gladiator opened his eyes and rose to his feet.

"Gentlemen of the jury," he said quietly, "I ask you to note the comparative size of the shoes of these two men."

"Couldn't he have changed—"
Bigsby blustered.

Stone turned upon him fiercely, the lawyer's hard face illumined by the fire of combat.

"Silence, you perjured scoundrel!" he roared. "And you, Mr. Prosecutor, keep your seat until this witness—who could not read the figures on that clock—explains how he was able to distinguish the size, height, shoes—aye, even the color of hair and eyes of a man of whom he had but a momentary glimpse at a distance of one hundred feet, and that in the night, when the faint light of the hardly risen moon was totally obscured by the house and a dense grove of cedars!"

The frightened witness attempted to flee from his chair, but the enraged lawyer pushed him back.

"Your honor," said Stone, "I think you will agree with me that it needed not the evidence of the tracks to demonstrate that the State has committed

a grievous error in this case; that it is this man Bigsby who should sit where this prisoner sits, on a charge of wilful and malicious perjury!"

"I ain't no perjurer," Bigsby whimpered. "Can't a feller be mistaken? Anybody's liable to be mistaken—an' he's nothin' but a tramp, nohow—an' we've been robbed till it was time to do sumthin'."

Stone turned away from him contemptuously.

"If the court please," he said quietly, "I move the immediate discharge of this defendant."

"Has the State any further evidence to submit?" asked the judge sternly.

"None, your honor," answered the abashed prosecuting attorney. "The State will not oppose the motion. But I wish to say that had I suspected—"

"Never mind about that, sir," the judge interrupted. "I want you to understand, you and Mr. Ashton, that henceforth this court will tolerate no such neglect of duty. Let this affair teach you that the mere arrest of a friendless stranger is not conclusive evidence of guilt. As for this witness, he shall have my attention—my undivided attention—later. Gentlemen of the jury, the evidence in this case compels the court to take the case from you, and to discharge the defendant. Defendant discharged. Mr. Bailiff, adjourn court!"

The prisoner did not move. Stone beckoned Ashton aside and slipped a purse into his hand.

"For him," he said in an undertone. "And if he—if you should want me, I shall be in my office."

III.

WHEN Ashton, thirty minutes later, tossed the purse upon Stone's desk, the old lawyer scarcely looked up as he asked:

"Wouldn't accept it, eh?"

"He guessed who sent it."

"Very well," Stone said calmly, and resumed his work.

"Look here, John Stone," Ashton broke out impetuously, "it's none of my business, perhaps, but I want to say to you that you're a hard man, and that

you're making an awful mistake. With all his faults, that boy is one to be proud of, and if his story's true—and I believe it is—you're more to be blamed than he for his waywardness. While you may have meant it for his good, it was your sternness and tyrannical harshness that drove him away; and now, when a word from you would bring him back, you're going to let him go to the dogs. I repeat it, John Stone, you're a hard man—and an unjust one!"

Stone arose slowly, and put his hands on the county attorney's shoulders. There was a strange quaver in his voice when he spoke:

"I am. I know it. I realize it now. Ashton, you don't know how the sight of him to-day, in that place, affected me. You're not a father—you can't understand how I—love that boy!"

"Then come with me," cried Ashton eagerly. "He can't be gone far. We'll overtake him and——"

Stone shook his head and resumed his seat.

"No," he said decisively. "I was too harsh—I forgot that he was a Stone, to be persuaded but not coerced, but—he must come to me; I shall never go to him."

"He will never do that," the county attorney said.

"Then he may go his way. To-day I saved him, and our name—which, by good luck, he had the presence of mind to conceal—from lasting disgrace, and he gave me not one look of gratitude or recognition. Until to-day, I had not seen him for five long years. Not in twenty times five years shall I ask him to return!"

A patter of little feet sounded in the outer office. The door between the two rooms swung partly open, and the lit-

tle, bright-faced girl danced in and climbed upon Stone's knees.

"No more school till fall, papa," she cried merrily. "Now you and me will have *such* fun! You know what you promised me for vacation!"

The hard face softened, and buried itself in the golden curls.

"You shall have the pony and cart this very evening, Bessie."

"But that isn't what I want, now—and you promised me anything I wanted."

"Don't want the pretty pony and the cart?"

"Oh, there's something I want a hundred times more! May I have it, papa?"

Two soft little hands were caressing the hard face; two bright blue eyes were beaming pleadingly. Stone smiled. Ashton looked twice before he could believe it, but he smiled—proudly, happily.

"May you have it, sweetheart? You may have anything you wish."

The child led her father to the door, threw it wide open, and Stone stopped, transfixed, erect, motionless. There, in the doorway of the outer office, stood—Ashton's late client.

The little girl ran to him. He lifted her in his arms, and met Stone's gaze haughtily, unflinchingly. The child, tearful-eyed, stretched out her arms.

"I want him, papa. I want Wally—my brother! I found him and begged him to come. Please, papa!"

She whispered something in the boy's ear, and he slowly held out one hand.

"For her sake—and mother's," he said.

Then Ashton slipped away; for the arms of stern John Stone were about his children.