

A HISTORY OF THE AMERICAN
COURTROOM PLAY

Thesis for the Degree of Ph. D.
MICHIGAN STATE UNIVERSITY
Thomas R. Long
1966



This is to certify that the

thesis entitled


**A HISTORY OF THE AMERICAN
COURTROOM PLAY**

presented by

THOMAS R. LONG

has been accepted towards fulfillment
of the requirements for

PH.D. degree in SPEECH



Major professor

Date Aug 29 / 1966

ABSTRACT

A HISTORY OF THE AMERICAN COURTROOM PLAY

by Thomas R. Long

An affinity between the drama and the courtroom has been recognized throughout history by outstanding dramatic theorists and legal authorities. Furthermore, some of the most prominent playwrights in history have recognized a court of law as a dramatic arena. From the very beginnings of extant drama, with the writings of Aristophanes, to the present day, playwrights have found form and meaning within the scope of what takes place in a court of law and have used the action in a courtroom as a means of dramatic expression. A look into the history of American drama reveals that American playwrights also have produced courtroom plays in all our periods of history.

The purpose of this study was to relate the history of the American courtroom play from the time the earliest courtroom play was written in America to the present day.

Five general bodies of sources were examined: (1) catalogues and compilations of play lists and descriptions; (2) histories of the drama and literature, particularly those written solely about America; (3) histories and annals of theatrical production in America; (4) newspaper and periodical

Thomas R. Long

accounts of plays and their productions; and, (5) play manuscripts. Primarily, the facilities of seven libraries were utilized to locate the manuscripts and gather the material for the study: The Michigan State University Library, East Lansing, Michigan; The University of Michigan Library, Ann Arbor, Michigan; The William L. Clements Library at The University of Michigan, Ann Arbor, Michigan; The Library of Congress, Washington, D.C.; The New York Public Library, New York City, New York; The Chicago Public Library, Chicago, Illinois; and, The School of Drama Library at The University of Oklahoma, Norman, Oklahoma.

This study was limited to American plays in which the main concern or principal action of each play takes place in a courtroom. It was further required that each play discussed have a minimum of approximately one-third of its action as courtroom participation. Sixty-six plays were found to meet these requirements.

It was discovered that the first American courtroom play was anonymously written in 1771, that being The Trial of Atticus, Before Justice Beau, For A Rape. From 1771 to the Civil War six courtroom plays were found to exist in American dramatic literature. From the Civil War to World War One twenty-two courtroom plays emerged, and from World War One to

the present day, thirty-eight courtroom plays were found.

The sixty-six plays discussed in this study were found to be a significant body of drama and theatre for the following reasons: (1) important themes were found in many of the works including the themes involving racial injustice, individual responsibility to important causes, the rights of Man to certain freedoms, and the ridiculousness and futility of War; (2) the courtroom play was found to be a contributor to dramatic form, particularly in the development of the "flashback" as a theatrical device. Elmer Rice's On Trial was found to be the first play in which this device was used significantly in any American drama; since the production of this play in 1914, many dramatists have used the technique of "flashbacks;" (3) the courtroom play was found to be a provider of entertainment for audiences in every period of American history; courtroom plays were seen to rank high on the list of popular plays on the New York stage; and, (4) the courtroom play was seen as a reflection of the American scene, concerning itself with subjects mirroring the problems of the American Republic including the threat of foreign oppression, the internal problems of social deterioration, the concern with inadequacies in The Law, and the representation of personages in history who can be identified as American in type and motive.

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by
Thomas R. Long

A THESIS

Submitted to
Michigan State University
in partial fulfillment of the requirements
for the degree of

DOCTOR OF PHILOSOPHY

Department of Speech

1966

843391
4/2/67

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1967

ACKNOWLEDGMENTS

My sincere thanks to Dr. James Brandon, who served as Major Professor and Chairman of the Committee for this Dissertation. Dr. Brandon's excellent guidance and assistance were particularly helpful to me. My thanks also to Dr. Kenneth Hance, Dr. Walter Emery, Dr. Sidney Berger, and Mr. Frank D. Day, all of whom served on the Committee.

I am also grateful to my friend and teacher, Dr. Roger M. Busfield, Jr., who guided me through the pilot study and helped stimulate many ideas for this paper. The advice and reassurance of Dr. Carl B. Cass is also greatly appreciated.

The encouragement of Mr. Donald Buell, Mr. Rupel J. Jones and Congressman Herbert C. Bonner, all of whom are deceased, was inspirational. Their contributions to the writing of this work were of a personal nature.

I shall always be thankful to Mother and Dad for their constant faith in me, and no words can be found to express my deepest gratitude to my wife, Jean, and our children, for their patience and devotion throughout the writing of this Dissertation.

TABLE OF CCNTENTS

	Page
ACKNOWLEDGMENTS.	ii
Chapter	
I. INTRODUCTION	1
Statement of Purpose	
Justification	
Definition of Terms	
Limitations	
Methods and Procedures	
II. THE AMERICAN COURTROOM PLAY FROM 1771 TO THE CIVIL WAR.	15
Introduction	
The Plays	
A Satire On Jurisprudence	
A Pacifist Play	
A Morality Play	
A Romantic Verse Tragedy	
Solon Shingle, A "Stage Yankee"	
Another Satire On Jurisprudence	
III. THE AMERICAN COURTROOM PLAY FROM THE CIVIL WAR TO THE FIRST WORLD WAR	46
Introduction	
The Plays	
American History	
Domestic Problems	
A Rural Folk-Comedy	
Violent Crime	
Politics and Big Business	
Special Talents	
IV. THE AMERICAN COURTROOM PLAY BETWEEN THE FIRST WORLD WAR AND THE PRESENT DAY.	116
Introduction	

The Plays

Comedies and Folk Plays Concerning
Domestic Problems

Serious Plays Concerning Domestic Problems

Social Protest Plays

Plays Concerning Politics

Plays Concerning War and the Military

Plays Concerning Aspects of American Law

Caponsacchi: An Historical Romantic

Verse Tragedy

Plays Concerning Religion and Morality

V. SUMMARY. 255

Introduction

Chronology

Courtroom Plays Reflect Trends In Drama

Playwrights and Adaptations

People and Events

Popular Plays and Actors

Themes

Significances

APPENDIX 285

BIBLIOGRAPHY 295

CHAPTER I

INTRODUCTION

Statement of Purpose

The purpose of this study is to relate the history of the American courtroom play from the time the earliest courtroom play was written in America to the present day.

Justification

What takes place in a court of law is manifestly dramatic. There are inherent conflict and drama in the courtroom during a trial. This is due to a trial's component parts of prosecution, defense and judgment. The component characters, too, of defendant, plaintiff, prosecutor, counsel, and judge are necessarily involved in the conflict. The spectators in a court of law may often be present because they expect to see "drama" enacted.

The affinity between the drama and the courtroom is expressed by dramatic critic and theorist, Eric Bentley, in the following manner:

One can be . . . specific about the influence of the law courts, for the drama abounds in trial scenes, good and bad. The reason is not that the playwrights tamely follow in each other's footsteps.

It is that the stage and the law court are two versions of the same thing - our human refusal to obey the precept, Judge not that ye be not judged. Plays are, in a symbolic sense, "Trial scenes"; and it is inevitable that they run to thousands of trial scenes in a literal sense. This being so, it is also inevitable that the language of the law court should creep in too. Judge, Prosecutor, advocate, plaintiff, defendant - what play could not be written with these five characters and a witness or two? Court-room language in that it finds itself under the dual compulsion of the theatre: to keep things moving and to be at each moment esthetically impressive.¹

Justice Michael A. Musmanno, well-known Pennsylvania judge and jurist, states in his autobiography his love for the theatre and his predilection for "any dramatic presentation with a courtroom setting."² Justice Musmanno also relates how the day on which the lawyers make their appeals to the just becomes "the climactic third act of courtroom drama. . .[when] . . .the S. R. O. sign is figuratively displayed."³

An outstanding American playwright of our time, Arthur Miller, in an introduction to a collection of his plays, makes the following observation: "A play is a species of jurisprudence, and some part of it must take the advocate's role, something else must act in defense, and the entirety must

¹Eric Bentley, The Life of the Drama (New York: Atheneum, 1964), pp. 87-88.

²Michael A. Musmanno, Verdict! (New York: Macfadden-Bartell Corporation), p. 206.

³Ibid., p. 218.

engage the Law."¹

As early as 1811 some consideration, at least, was made by an American writer of the relationship between the law and the drama:

A large majority of those who have been eminently successful in writing for it [the stage] have been originally bred to the study of the law. A fact so predominating in such a number of instances, cannot be the result of mere accident, and therefore manifestly indicated that there must exist, some connection however impreceptible to the world in general, between the law and drama.²

Some of the most outstanding playwrights of history have recognized a court of law as a dramatic arena. From the very beginnings of extant drama, Aristophanes involved his leading characters in a trial in The Frogs. For Elizabethan audiences William Shakespeare offered a courtroom scene in The Merchant of Venice, and Ben Jonson brings Volpone to a climax in a courtroom. Many outstanding European dramatists in the nineteenth century and in more recent times have used the courtroom for dramatic action. By way of example, some of them are: George Bernard Shaw in Saint Joan, The Devil's Disciple and Geneva; Eugene Brieux in The Red Robe; John Galsworthy in The Silver Box; Gerhardt Hauptman in The

¹ Arthur Miller, Arthur Miller's Collected Plays (New York: The Viking Press, 1957), p. 24.

² "Law and Drama," The Mirror of Taste and Dramatic Censor (1811), p. 228.

Assumption of Hannele; Ferenc Molnar in Liliom; and, Jean Anouilh in The Lark.

A look into the history of American drama reveals that American playwrights have produced courtroom plays in all our periods of history. Several outstanding American dramatists have written courtroom plays. These playwrights, like dramatists throughout the history of world drama, have found form and meaning within the scope of what takes place in a court of law and have used the action in a courtroom as a means of dramatic expression. In recent years American playwrights have given even more attention to the court of law as a setting for a play and the trial as a means of expressing dramatic action. Numbers of plays on the stage, motion picture screen, and television have used the courtroom for dramatizing ideas.

Some studies involving the investigation of courtroom drama have already been made. Directly related to the study is Santone's Master's thesis on the structure of courtroom drama.¹ Shestack's analysis of the lawyer in American drama, also proves to be useful, though indirectly related.² Jordan's analysis of detective drama is an aid, in that it discusses

¹Ellis Joseph Santone, "A Structural Analysis of Courtroom Drama" (unpublished Master's thesis, Purdue University, 1957).

²Marciarose Shestack, "An Analysis of the Lawyer As Revealed in Selected Plays of the American Drama of the Twentieth Century" (unpublished Master's thesis, Adelphi College, 1951).

some of the plays in this study.¹ Though it can be generally acknowledged that courtroom plays are a part of America's literary and dramatic heritage, this study is the first history of the American courtroom play to be made.

Definition of Terms

The generally accepted definition of the term history is meant here; i.e., the study of specific phenomena in human evolvment, in order to describe facts, so that the relationships among certain events may have clarity.

The term American in this study refers to those plays written by playwrights deemed American by biographical entries in encyclopaedias and by historians, critics, and dramatic theorists.

The term courtroom play refers specifically to those American plays in which the main concern or principal action takes place in a courtroom.

The term courtroom may mean an actual court of law involving all levels of civil courts, a Federal court, a military court, or any court strongly resembling these. The term may also refer to an improvised court of law or any court the playwright has manufactured to resemble an actual court of law.

¹Glenn R. Jordan, "A Study of the Popularity of Detective Drama Produced on the New York Stage From 1899 to 1936" (unpublished Master's thesis, University of Minnesota, 1938).

Limitations

Within the context of "The American Courtroom Play" the following limitations have been imposed:

1. For the purposes of this study a minimum requirement of approximately one-third of each play discussed has courtroom participation. Plays in which there is only a brief isolated scene in a courtroom are not included. Plays in which the principal action takes place in a jury room, a court house corridor, or similar locales are not included, unless, of course, improvised or manufactured courtroom participation takes place in these locales.

2. Only American courtroom plays are included for study. However, there may be instances in which they are adaptations from foreign works. In no instance is a foreign work originally in play form included.

3. This study includes only courtroom plays produced professionally, with the exception of the period prior to the Civil War (Chapter Two), where accounts of production are incomplete and descriptions of plays inadequate.

Methods and Procedures

The writer's first ideas for a study of courtroom drama began at a time when several courtroom plays had recently enjoyed a long Broadway run, and others were still holding the stage. For example, at that time Arthur Miller's The Crucible

was a recent grim reminder of the "McCarthy hearings;" Jerome Lawrence and Robert E. Lee's, Inherit the Wind, the play version of the famous Scopes trial in Dayton, Tennessee, was attracting audiences; Time Limit, by Henry Denker and Ralph Berkey, was not far removed from the prisoner-of-war episodes of the Korean War, on which it was based; and, Joseph Fields and Jerome Chodorov's, The Ponder Heart, was attracting customers who enjoy comedy, partly on the strength of the amusing courtroom scenes. The writer observed, due to the popularity of these plays, and due to the attraction trial scenes in motion pictures and television seemed to have for audiences, that an investigation into the subject of courtroom drama could prove revealing. Therefore, a pilot study of courtroom drama was formed. The pilot study of courtroom drama consisted of an investigation of all the plays appearing on the New York stage from June 15, 1919, to September 11, 1956, in order to discover how many productions during this thirty-seven year period included courtroom scenes. American plays, British plays, and translations and adaptations from foreign plays, were included. Full-length plays and one-act plays were examined. Courtroom scenes of any length were examined in the study. The pilot examination revealed that one-hundred ninety-two professional productions in New York, between 1919 and 1956, included to some degree, action in a courtroom.

This was an average of about five plays a season. Of the total one-hundred ninety-two plays, one-hundred twenty-two were American, forty-two were British, and twenty-eight were adaptations or translations from foreign plays. The pilot study further revealed that this body of plays included all types, modes, forms, styles, and classifications of dramatic literature. It also revealed that these plays were written about a great number of different subjects. Thirty-five of the original one-hundred twenty-two American plays are considered courtroom plays and are discussed in Chapters Three and Four. This means, that an average of almost one American courtroom play a year was produced on the New York stage, during the thirty-seven year period examined.

From this point, a number of approaches to the subject matter, revealed in the pilot study, seemed possible. The writer considered analyzing the courtroom play in terms of the playwright's handling of legal proceedings. A comparison of the courtroom play based on an actual event, with the authentic case proceedings of that event, was also considered. A study of the playwrights' use of the trial scene in terms of structure, organization, or dominant mood in selected plays, were other possibilities for study. Historical studies, ranging from the broadest view, that of an historical study of trial scenes in plays from the Greek drama to present day

drama, to simply, a study of the American courtroom play in the twentieth century, were also regarded as possibilities. However, due to a seeming unusual preponderance of American plays with courtroom scenes, and sensing that the courtroom play might be an important part of our literary and dramatic heritage, the courtroom play in America was examined more closely. A number of histories of the American drama were read, disclosing the fact that, courtroom plays appeared as prominent works in all our periods of history. It was also discovered by the writer, that many outstanding American playwrights had chosen the courtroom in which to tell their stories, and to reflect the American scene of their day. It was also discovered that many significant themes for courtroom plays were chosen by these playwrights. It now became apparent that the affinity between the law and the drama, discussed earlier, was significantly manifest in a number of American works which could be classified as courtroom plays. It also appeared that courtroom plays had not only appeared with significant frequency on the American stage, but contained a great number of opportunities for particular research and examination. It also became evident that, although the other studies concerning courtroom drama mentioned above could be made, an accounting of the history of the American courtroom play would present more important contributions to

the knowledge of the drama as an initial and comprehensive work in this area of study.

For this study, five general bodies of sources were examined: (1) catalogues and compilations of play lists and descriptions; (2) histories of the drama and literature, particularly those written solely about America; (3) histories and annals of theatrical production in America; (4) newspaper and periodical accounts of plays and their productions; and, (5) play manuscripts.

All five bodies of sources were used simultaneously to locate the plays used in this study. Early hints as to whether a play might be a courtroom drama came from: descriptions found in histories of the American drama; compilations of descriptions of plays; descriptions of plays in magazines and newspapers; or, by the brief mention of a character representing a lawyer, judge, or other courtroom figure, in cast lists appearing in histories and annals of theatrical production in America. Hundreds of play manuscripts and thousands of newspaper and periodical accounts were examined to find the sixty-six plays discussed in this study. Play collections, individually bound scripts, plays in periodicals, plays on microprint, and excerpts and partial scripts, were probed to find courtroom plays. For example, over five hundred microprints of plays printed before 1830

were inspected, resulting in the discovery of only three court-room plays. In all periods, however, where plays were found to be unpublished, it was necessary to rely on description, in order to determine whether a play should be included in the study. Upon selecting the plays discussed in this history, the same five bodies of source material were used for further research, with the addition of general studies of American history and culture.

Some of the most important sources used for this study should be mentioned. The writer found Arthur Hobson Quinn's A History of the American Drama from the Beginning to the Civil War, and A History of the American Drama from the Civil War to the Present Day, to be indispensable for a study of this nature. His excellent descriptions of plays, his comprehensive bibliography, and his exhaustive list of plays in each volume, proved to be paramount sources. Other excellent lists of American plays were also found in the Cambridge History of American Literature, Volume I, and Margaret Mayorga's A Short History of the American Drama. All these sources concern the American drama in all periods of history, and are somewhat broad in scope. They were the most helpful, however, in the very early periods. George C. D. Odell's monumental, fifteen volume, Annals of the New York Stage, covering theatrical activity in that city, from the very beginning to 1894,

proved invaluable. The New York Dramatic Mirror, published from 1875 to 1919, was an outstanding source in which comprehensive critical comments were found. The New York Times, published from 1852 to the present time, was also extremely useful. Both The New York Times and The New York Dramatic Mirror, are found on microfilm. A vital aid was also found in what is commonly termed as, "The Best Play Series," spanning professional production in America from the 1894-95 season to the 1964-65 season. This series has been edited at various times by Burns Mantle, Garrison P. Sherwood, John Chapman, Louis Kronenberger, and Henry Hewes.

The facilities of several libraries were used to locate the manuscripts and gather the material used in this study: The Michigan State University Library, East Lansing, Michigan; The University of Michigan Library, Ann Arbor, Michigan; The William L. Clements Library at the University of Michigan, Ann Arbor, Michigan; The Library of Congress, Washington, D.C.; The New York Public Library, New York City, New York; The Chicago Public Library, Chicago, Illinois; and The School of Drama Library at The University of Oklahoma, Norman, Oklahoma. Samuel French, Incorporated, play agents, and The Drama Book Shop, both located in New York City, were particularly helpful in locating manuscripts of plays.

During the research procedures for this history, it

became evident that critics, historians, compilers, and other writers, gave some courtroom plays much more attention than others. Some of the plays were prominently recognized; others would receive an average mention, while still others were passed over in a cursory manner. Therefore, the availability of research items for each play depended upon its relative popularity and acceptance at the time of its productions.

The outstanding courtroom plays were found to have received critical acclaim; or, were popular with audiences; or, were prominently recognized as being important by drama historians. For this group, facts about the plays, facts about the playwrights, facts about important productions, descriptions of the general story line, comments on significant characters, and discussions of theme, were available in most cases. Their significance and value, determined by the emphasis placed on them by historians and critics, was also more readily discerned.

Another group of plays emerged during the research, in which prominence was not a factor. Critics and historians gave some degree of attention to this group. For this grouping of plays, basic facts concerning each play, playwright, and significant production, were available in the majority of instances. A play in this group was often cited for its unusual subject matter, its special "star" cast, or

some other factor, giving it a small degree of recognition. A third group of plays researched received almost no mention or attention whatsoever.

The amount of attention each play in this study finally received was not arbitrary, but decided by the emphasis and attention given the work by historians, critics, audiences, and dramatic theorists. This method of accounting seemed to give each play its proper stress. It also seemed to place the courtroom play in the proper perspective of the broad history of the American drama as a background.

CHAPTER II

THE AMERICAN COURTROOM PLAY FROM 1771 TO THE CIVIL WAR

Introduction

The following introductory comments are intended to present a brief overview of the American drama, from early America to the Civil War; they are also intended to introduce the courtroom plays in this period in a chronological manner, and within the framework of the history of the American drama. The plays themselves are discussed in a following section in more detail.

In the span of American history from pre-Revolutionary days to the Civil War, the development of native drama seems to fall naturally into four chronological periods. The first, the pre-Revolutionary period (1766-1774), begins with the writing of Ponteach, or The Savages of America, by Major Robert Rogers; Ponteach is generally regarded, by historians of the American drama, as the first play written by an American about America. The second period, the Revolutionary era (1774-1787), begins with the ceasing of professional stage productions in America, by a resolution of the Continental Congress. The third period, the post-Revolutionary era (1787-1830), begins with the reestablishment of professional productions, particularly

with the presentation of William Dunlap's The Contrast, the first American comedy of manners. The great majority of plays produced in America during this period, however, were foreign imports. The fourth period, prior to the Civil War (1830-1860), is a period in which playwrights were engaged in writing predominantly romantic comedy and tragedy; it is also an age dominated by the romantic actor. These four periods are usually viewed by drama historians as logical divisions.¹ Courtroom plays appear in each period.

Playwriting in the pre-Revolutionary period was strongly influenced by a general disfavor toward the production of plays, in earlier Colonial America. A strong Puritan conscience, actually disallowing the presentation of plays publicly, halted any early development of native playwrights. This attitude was to affect the American drama until almost the beginning of the twentieth century,² when realism became a definitive part of American playwriting. This attitude during the Colonial period resulted in only sporadic attempts at playwriting by native Americans.

¹These divisions are favored by Arthur Hobson Quinn in A History of the American Drama From the Beginning to the Civil War (New York: Harper and Brothers, Publishers, 1927), Margaret Mayorga in A Short History of the American Drama (New York: Dodd Mead and Company, 1932), Arthur Hornblow in A History of the Theatre in America (2 vols.; Philadelphia: Lippincott, 1919), and Glen Hughes in A History of the American Theatre (New York: Samuel French, 1951).

²Mayorga, 19.

The few plays reaching the stage in Colonial America were British. Later, as the Revolutionary War approached, British plays appeared in great numbers on the American stage. For this reason, Hugh F. Rankin, in The Theatre in Colonial America, calls the nature of the early American theatre "derivative."¹ A few American plays began to appear, only after professional English players had made their mark in the new country.² The leading cities for theatrical activity by the English prior to the Revolution were Williamsburg, Philadelphia, Charleston, and New York. The first printed play in America to survive, Androboros (the Man-Eater), was written by an Englishman.³ With the introduction of popular English plays in America, and new plays being written in America by Englishmen, native writers were influenced and an American drama slowly began to develop. According to Reed, "the beginning of somewhat significant dramatic and theatrical activity in the American colonies may be dated from 1751."⁴

¹Hugh F. Rankin, The Theatre in Colonial America (Chapel Hill: University of North Carolina Press, 1965), p. 189.

²William Dunlap gives a thorough account of English theatrical production in America and its influence on American drama in his History of the American Theatre (New York: Burt Franklin, 1963), pp. 1-141. This work was originally published in 1797.

³Robert Hunter, Androboros (Printed at Mo--ropolis [?] since August, 1714 [?]).

⁴Perley Isaac Reed, The Realistic Presentation of American Characters in Native American Plays Prior to Eighteen Seventy (Columbus: The Ohio State University Bulletin, 1905), p. 13.

His date is predicated upon Wegelin's reference to a production in Boston, of a farce entitled The Suspected Daughter, by "T. T."¹ Both Reed and Wegelin agree that The Suspected Daughter is probably the first production in America by a native American. On the other hand, according to Professor Arthur Hobson Quinn, Thomas Godfrey's The Prince of Parthia, produced in 1771, was the only native American play to reach the stage before the Revolution.²

A year before The Prince of Parthia was produced, genuine American drama was born with the publication of Major Robert Rogers' play about Indian and white relations, Ponteach.³ This was the first native American play about an American subject, and was strongly anti-British.⁴ After 1766, the native quest for freedom and independence began to appear frequently in the literature of the day, including the drama. Most of the material was in the form of pamphlets, broadsides, or simple dialogues. Though pre-Revolutionary drama was crude, native playwrights did, however, attempt "to make use of something which would appeal directly to the sentiments and

¹Oscar Wegelin, Early American Plays 1714-1830 (New York: The Literary Collector Press, 1905), p. 58.

²Quinn, 28.

³Mayorga, 16.

⁴Quinn, 28.

conditions of the new nation."¹ Pre-Revolutionary spirit and thought is also to be found in the first courtroom play written in America, The Trial of Atticus, Before Justice Beau, For A Rape. The Trial of Atticus, Before Justice Beau, For A Rape, was printed in 1771, five years before the Revolution and five years after the publication of Ponteach. Like so much of the pre-Revolutionary dramatic literature, however, the first American courtroom play, and the only one of the pre-Revolutionary period, probably was not intended for production, but meant only to be read. It is typical of an undistinguished, but diminutive number of unoriginal plays by the playwrights of the period. None of the plays "possesses enduring qualities."²

In the second period, the Revolutionary War precipitated the suspension of professionally produced plays in America, beginning in 1774. However, American and British military personnel presented plays. This activity began in Boston, but was carried on in every major city.³ The military presentations, and nearly all the plays, presented by both amateur and professional groups prior to 1800, were taken directly from the stage in London. However, this did not prevent native Americans, caught up in the spirit of the

¹Montrose J. Moses, The American Dramatist (Boston: Little, Brown, and Company, 1925), p. 83.

²Reed, 25.

³Dunlap, 87.

Revolution, to reflect that spirit in dramatic form. Leading the pro-Whig writers was Mrs. Mercy Warren, who counted John Adams and Thomas Jefferson among her friends. Her dramatic satires, particularly The Group and The Adulateur, could be called dialogues or conversations in dramatic form, rather than plays. Moses Coit Tyler, famous nineteenth century historian, gives the following description of partisan American drama during the Revolution:

Tentative and crude as nearly all the writings in dramatic form, which were produced among us during the period of the Revolution, they were not unworthy of some slight attention, in the first place, as giving the genesis of a department of American literature now becoming considerable, but chiefly, as reproducing the ideas, the passions, the motives, and the moods of that stormful time in our history, with a frankness, a liveliness, and an unshrinking realism not approached by any other species of Revolutionary literature.¹

There were many sympathizers with the Tory cause. Some of them, too, wrote plays, albeit anonymously, supporting their sentiment. One of the most important dramatic pieces of the Revolutionary War, The Patriots, however, is strangely pacifist. It was written by Colonel Robert Munford, who distinguished himself as a patriot of the Revolution.² The Patriots is definitely a product of the Revolutionary conflict, and remains as the only extant courtroom play of the period.

¹Moses Coit Tyler, The Literary History of the American Revolution (New York: 2 vols.; Frederick Ungar Publishing Co., 1957), II, p. 188.

²Wegelin, 58.

By the end of the Revolution and toward the turn into the nineteenth century, rules for dramatic expression in America were barely becoming established. The few native plays now existing were not collectively impressive. What had been written, in play form by native writers to this time, could not be considered artistically noteworthy, either. It can also be said that, American plays prior to 1787 mirrored "the feeling of the time in its most intense moods, and the hopes, fears, and agonies of that great period. . . ."¹ The only courtroom play of the period, The Patriots, is no exception.

In the post-Revolutionary period, from 1787 until 1830, there was still Puritanical influence in the resistance to the production of plays. The production of The Contrast, by William Dunlap, is generally recognized as the beginning of quality American drama.² Unfortunately, The Contrast did not stimulate a body of American plays. A number of plays were beginning to receive production about this time, but the majority of them were foreign plays, particularly those by British authors. Translations from France and Germany were also numerous. The most translated foreign playwright, appearing on the American stage during this period, was August von Kotzebue, a German. Kotzebue's plays were sentimental and

¹Quinn, 60.

²Universally upheld by Quinn, Mayorga, Hornblow, and Hughes.

exalted the middle class, a factor making him popular to audiences in America. Kotzebue's plays were mostly domestic dramas, as were many of the plays brought from other foreign countries during the period. All told, a variety of subjects prevailed, and the American plays influenced by the imports were also heterogeneous. Margaret Mayorga emphasizes the importance of the influence of these foreign plays:

The best work of American Dramatists was largely imitative of foreign modes, and of modes, at that, which represented a period of decadence abroad. Yet the very success of these imitative plays, unconcerned with native subject-matter, encouraged certain habits among the theatre-going public.¹

The theatre-going public responded to the imported European plays during this period. The Revolutionary War caused many playhouses to close; however, most of the major cities on the eastern seaboard had reestablished theatrical activity completely by the season of 1809-10. Reese James Davis, considers the 1809-10 season a crucial one, particularly in Philadelphia, for it was during this season, says James, audiences began to develop a trust in native American drama.² This trust became manifest mainly in the adaptations from foreign works by John Howard Payne, and the plays on native themes by Samuel Wordsworth, Richard Penn Smith, and James Nelson Barker. Two plays by Barker, How To Try a Lover (1817),

¹Mayorga, 56.

²Reese Davis James, Cradle of Culture (Philadelphia: University of Pennsylvania Press, 1957), p. 117.

and The Tragedy of Superstition (1826), included courtroom scenes, but the scenes were too brief to establish either play as a courtroom drama. An earlier, less important play, A New World Planted by Joseph Croswell (1802), also falls into this category.

As the year 1830 grew near, audiences and native playwrights were decidedly responding to each other, but the direction of the American drama continued to be indefinite. The indeterminate quality of the native American play also continued to be the result of foreign influence. It is possible that American audiences desired the imported play because of its superiority over native attempts at playwriting up to this time.¹

In the final period preceding the Civil War (1830-1860), the exigencies of a growing nation caused the American drama to continue to search for definite form. Foreign influence was still present, but American dramatists began to dignify themselves by producing a few outstanding works. The following comments are Reed's conclusions about the playwriting during this period:

The servility of American authors of the playwrights of Europe continued to be marked until after the Civil War, although during the . . . years leading up to 1860, even under the constant foreign influence, there appeared with increasing frequency

¹ Mayorga, 75.

American plays which exhibit something of the craftsmanship and creative conception of real matters.¹

The principal dramatic works produced by American playwrights during this period were mainly of two types, romantic tragedies and domestic comedies. Both types showed a definite foreign flavor and style.

The romantic quality of the serious pieces was carried over, particularly, from the works of Alexandre Dumas and Victor Hugo, writing in Paris at the time, and setting the current mode of literature for a large part of the Western world. The temper of America was romantic, also; this was due to the inherited spirit of the Revolution and the War of 1812. Richard Moody, writing specifically on the romantic force in American drama, explains that, though internal romantic influences were taking place in America, it was "the spirit of the industrial revolution in Europe, of the French Revolution, and of the 'Napoleonic legend' . . . [that] . . . contributed more definitely to the cult of the middle class and the romanticism of the self-made, the characteristic romantic features of life in America from 1800 to 1850."² An outstanding courtroom play of the period, The Broker of Bogota, by Robert Montgomery Bird, is representative of the romantic

¹Reed, 44.

²Richard Moody, America Takes The Stage (Bloomington: Indiana University Press, 1955), p. 1.

influences on American playwrights of the day. The Broker of Bogota is a romantic verse tragedy, written by Bird in 1834, just a few years following the production of Alexandre Dumas' Henri III (1829) and Victor Hugo's Hernani (1830). These two French works set the spark that developed into the romantic movement.

The domestic comedies of the period also reflected the prevailing romantic spirit, but of primary importance was the native American comedic characters appearing in them with frequency. It was between 1830 and 1860 that American comedy "types" began to find a permanent place in the American play. Possibly the most outstanding comedy of the entire period was Anna Cora Mowatt's Fashion, a bright comedy of manners, in which plot gives way to the rich characters, who represent a cross-section of New York society. One of the most famous individual characters in all American literature, also first came to the stage during this era, that of Rip Van Winkle. One of the highlights in some versions of Rip Van Winkle, is a brief trial scene in a courtroom in which Rip is first recognized after his long sleep. Famous delineator of "Yankee" roles, James H. Hackett played Rip Van Winkle, in Philadelphia in 1830.¹ In the same year The People's Lawyer, by J. S. Jones,

¹Reese D. James, Old Drury of Philadelphia (Philadelphia: University of Philadelphia Press, 1932), p. 452.

the first genuine American courtroom comedy, was acted on the stage. The main character of The People's Lawyer, Solon Shingle, has many of the characteristics of Rip Van Winkle. Both characters, homely, provincial, and conservative, can be called "Yankee" types. The "stage Yankee" was first introduced¹ in Dunlap's The Contrast, with the character of Jonathan, a New England servant. The character of Solon Shingle, however, was one of the most popular "stage Yankees", and attracted actors and amused audiences for generations. Solon Shingle's antics in the courtroom highlight the play. Remnants of Solon Shingle and Rip Van Winkle still appear occasionally on our stage today.

The period beginning in 1830 and continuing until 1870 might be called the age of the actor in America. The actor was the most important theatrical figure of this forty-year period. The dominance of the actor prevented the encouragement of new playwrights, for the actors usually acted as managers, and offered prizes for plays to fit their own "star" personalities. This resulted in a plethora of superficial scripts built around the talents of a popular actor. There was no copyright law, either; therefore, the play was usually owned, so to speak, by the actor who was playing the leading

¹Oral Sumner Coad and Edwin Mims, Jr., The American Stage, Vol. XIV of The Pageant of America, ed. Ralph Henry Gabriel (15 vols.; New Haven: Yale University Press, 1929), p. 33.

role. The actor-manager was to eventually give over to the domination of the exclusive manager, who controlled the actor and the play. This was to be a gradual process, but by 1870, common practice in the American theatre.

It can generally be stated that in the period from the early beginnings of drama in America to 1860, the following influences on the American drama were present; (1) dominance of British and foreign plays; (2) puritan attitudes which frowned on play production; and (3) cultural uncertainties inherent in a struggling and growing nation. These influences resulted in an American drama which grew gradually, sporadically, and with uncertainty. Few plays and playwrights emerged, but those that did reflected the spirit and thought of a growing nation.

The courtroom play was represented in each period. In the pre-Revolutionary period one American courtroom play was written, The Trial of Atticus, Before Justice Beau, For A Rape. The Patriots represented the Revolutionary era. Toward the end of the post-Revolutionary era, in 1827, The Trial of Cain, was published. This courtroom play, probably never intended for production, was written as a "sermon" or morality poem, rather than as a stage piece. In the pre-Civil War period, The Broker of Bogota and The People's Lawyer emerged as excellent examples of American drama of the times.

The Plays

A Satire On Jurisprudence

The first American courtroom play, The Trial of Atticus, Before Justice Beau, For A Rape, published in 1771, has no record of production. The satirical nature of the play is its outstanding feature. The characters names, for example, are obvious forms of synecdoche; a lawyer is named Mr. Rattle, William Froth is the name of a conjurer, and, Colonel Josiah Beau, Justice of the Peace, ostensibly is the epitome of magisterial justice and charm. Many satires, similar to this one in play form, were popular during the pre-Revolutionary period. The essence of the play is literary, rather than dramatic. This fact, along with the author's instructions "to the Reader,"¹ indicate it probably was not expected to be acted. The playwright identifies himself only as "The Compiler."²

The plot is simple. Ezekiel Chuckle and his wife, Sarah, complain to Colonel Justice Beau, a Justice of the Peace, that a person by the named of Atticus forceably raped Sarah. Atticus is brought to trial, and after hearing testimony from a number of amusing witnesses, is found guilty. Judge Beau, more interested in money than justice, fines

¹The Trial of Atticus, Before Justice Beau, For A Rape (Boston: Printed and fold (sic) by Isaiah Thomas, near the Mill-bridge, for the author, 1771) p. 1.

²Ibid.

Atticus in lieu of corporal punishment. Atticus refuses to pay; the Judge warns him of any further wrongdoings, and lets him go. During these procedures the author pokes a great deal of fun at professional people, particularly the technical language used by physicians, attorneys, deacons,¹ and judges. The following excerpt, similar to the jesting by Moliere in many of his plays, is a typical humorous exchange from the play:

Justice

I shall then proceed to trial; are the witnesses all present?

Officer

All but Mr. William Froth² and Paul Shephard.

Justice

What is the reason they did not attend at the time.

Doctor Pip

I can plead excuse for Mr. Froth. I was not obliged myself to visit sundry patients this morning, and sent him to several others under my care, particularly to Mrs. Whiffle; her case is very singular and dangerous, she had a caries in the second of the dentes molares, in the inferior maxilaris; as she was eating cherries she unfortunately broke the caries bone with a cherry stone, and largely fractured the maxilaris, which has been followed with a train of direful symptoms.

Justice

Do you imagine, Sir, it is hastening to amputation?

¹Ibid., 34. The author makes it very clear in a footnote that he intends no mockery of religion. He insists the characters are taken from real life and merely means to show their hypocrisy.

²All the italics in this passage were written into the manuscript by the author.

Doctor

I shall use all my endeavors to preserve it for
sake of mastication.¹

References to The Trial of Atticus, Before Justice
Beau, For A Rape, are rare. In American Plays Printed 1714-
1830, compiler Hill states the setting of the play is "ap-
parently laid in Braintree, Massachusetts."² Braintree is in
close proximity to Boston, the seat of much pre-Revolutionary
controversy. The Trial of Atticus, Before Justice Beau, For
A Rape is the only pre-Revolutionary courtroom drama extant.

A Pacifist Play

The Revolutionary period is also represented by only
one courtroom play, The Patriots, by Colonel Robert Munford.
Most of the plays written during the Revolution are political
in intent, and have definite partisan points of view. The
Patriots, however, is significantly non-partisan.

The plot concerns two gentlemen, Meanwell and Trueman,
who are accused of Toryism. Meanwell and Trueman, the pro-
tagonists of the play, are brought to "trial" by a Whig Com-
mittee. The men who make up the Whig Committee are extremely
suspicious characters who exhibit ignorance and intolerance.
American soldiers are pictured as either poltroons or

¹The Trial of Atticus, Before Justice Beau, For A
Rape, 20.

²Frank Pierce Hill, American Plays Printed 1714-1830
(Stanford: Stanford University Press, 1934), p. 107.

blusterers. Trueman and Meanwell, on the other hand, are moderates who despise war. Early in the play, Trueman, who is in love with the daughter of one of the members of the Whig Committee, makes his feelings clear by stating: "Her father is a violent patriot without knowing the meaning of the word."¹ Later, Meanwell adds: "And never may I signalize my attachment to liberty by persecuting innocent men, only because they differ in opinion with me."² The bias and intolerance of the Whig Committee is evident throughout the hearing. The following statement by the character, Strut, epitomizes the feeling of the committee:

The nature of the offence, gentlemen, is, that they are Scotchmen; every Scotchman being an enemy, and these men being Scotchmen, they come under the ordinance which directs an oath to be tendered to all those against whom there is just cause to suspect they are enemies.³

"Suspicion is proof" seems to be the theme of the hearing; however, Trueman and Meanwell are eventually released, after members of the committee overhear them speak against Toryism. This five act comedy has some real basis, for it was not unusual during the Revolutionary times for citizens, like Meanwell and Trueman, to be questioned by similar committees.

¹Robert Munford, The Patriots, in A Collection of Plays and Poems (Petersburg: Printed by William Prentis, 1798), p. 56.

²Ibid., 57.

³Ibid.

The Patriots is significant because "it probably represented the sentiments of thousands of the author's countrymen, who were uncertain just where their duty lay, but. . .after the decision had been made, fought valiantly for their country."¹ Though The Patriots is pacifist, the Revolution was not without the patriotic zeal and pro-Whig sentiment of Colonel Robert Munford. William Munford, the author's son, is responsible for collecting and publishing Colonel Munford's works.² In an introduction to a collection of his father's plays and poems, William Munford makes the following explanation of Colonel Munford's political feelings:

The play of the Patriots is a picture of real and pretended patriots; . . . If any construction should be put upon it as a satire on the conduct of America in the late revolution, the whole tenour of the author's conduct will exempt him from the imputation of such an intention. He entered warmly into the principles of the friends of America, he boldly fought in her defence, and proved his attachment to her. . . by deeds.³

Direct evidence of any production of The Patriots is not available to us. However, William Munford, in his preface to his father's works, indicates the probability of a production.⁴

¹Quinn, 55.

²Wegelin, 58.

³Munford, vi.

⁴Ibid., v-vii.

A Morality Play

In the post-Revolutionary period (1787-1830) only one courtroom drama emerged, The Trial of Cain, published in 1827. American drama during this period is uncertain and multifarious. The Trial of Cain is just one example of the various subjects dramatized during this time. The Trial of Cain, a didactic poetic drama, is a straightforward morality piece.

The Trial of Cain is unimportant as a theatrical work, but it does seem to be a link to the American past, reminding us of the literary satires of Mercy Warren, during the Revolutionary War. The Trial of Cain, however, concerns theology rather than politics. This pedagogical treatise is, perhaps, more poem than play, and is certainly more an attempt at sermonizing than dramatizing. Nevertheless, a distinct play form is present. Wegelin calls it an early American poem;¹ Hill lists The Trial of Cain as a play.² The author, Erastus Brown, "evidently a teacher of divinity, . . . adopted the dramatic form in order to make his teachings more effective."³ It is doubtful that any production of The Trial of Cain has reached the stage; the author also remains in obscurity.

The extended title of the play gives an accurate description of the plot: The Trial of Cain, The First Murderer,

¹Oscar Wegelin, Early American Poetry, Vol. I (2 vols. New York: Peter Smith, 1930), p. 160.

²Hill, 13.

³Ibid.

in poetry, By Rule of Court, In which A Predestinarian, a Universalian, and an Arminian argue as attorneys at the bar; the two former as the Prisoner's Counsel, the latter as Attorney-General.¹ The main question of the play is whether Cain's murder of Abel is an act of free will. The author also extols the virtues of Christianity over Deism. The cast of characters includes such allegorical names as Foreknowledge, Truth, and Martyr; the author also makes numerous allusions to Biblical passages and religious dogma, such as Calvinism. The following speech exemplifies the author's philosophy of the triumph of free will; it is spoken by Verdict of the Jury, a character in the play, as he passes moral judgment on the defendant:

With one consent the Jury all agree,
That Cain, a moral agent, broke decree;
Free from necessity he made his choice
and acted, free, is our united voice:
Our judgment to declare a little further,
We find him guilty of wilful murder.²

Chief Judge, another character in the play, upholds a grim decree in the final speech of the play:

The pris'ner is found guilty of the crime,
And shall be mark'd with infamy through time,
And soon depart into the land of Nod,
For having broke the high decree of God;
Where conscious horrors will forever roll,
And frightful spectres haunt his guilty soul!³

¹Erastus Brown, The Trial of Cain (Boston: Printed for the purchaser, 1827), p. 1.

²Ibid., 31.

³Ibid., 32.

A Romantic Verse Tragedy

In the final period prior to the Civil War (1830-1860), two important courtroom plays became a significant part of American drama. The People's Lawyer by J. S. Jones, brought the concept of the "stage Yankee" to fruition, and The Broker of Bogota by Robert Montgomery Bird, is one of the most accomplished of the romantic verse tragedies of the time. The robust and romantic feeling with which The Broker of Bogota is written is similar to the Elizabethan playwrights. The plot, too, suggests the inclination toward European design; for example, The Broker of Bogota is not unlike some of the tragedies of Shakespeare, or the melodramas of John Webster.

Bogota, Columbia, in the eighteenth century, is the setting for The Broker of Bogota. A well-to-do money lender, Baptista Febro, is an honored citizen who has two sons and a daughter. He has turned away from his eldest son, Ramon, because of the young boy's foolish and wayward ways. The Viceroy of New Granada, Palmera, deposits large sums of gold in the vaults owned by Febro. A profligate, Caberero, befriends Ramon in order to use him to arrange a plot to rob Febro's vaults. Febro, devoted to his son, tries to force Caberero to leave the country by bribing him. A servant overhears Febro dare Caberero to rob him. The robbery takes place and Febro eventually finds himself caught in a web of

circumstances in which he is accused of stealing from himself for profit. In a trial before the Viceroy, the servant's testimony implicates Febro. Ramon stands mute in the court, which further implicates his father. The trial is conducted under Roman law, requiring the defendant to prove his innocence. The play ends with further testimony during which Ramon confesses, then, burdened with guilt, throws himself from a balcony. Febro faints and quickly dies. The curtain falls.

Several sub-plots involve complications with Febro's other two children, a son of the Viceroy, and a daughter of Febro's good friend. Their love affairs and attempts to make them secret are eventually intertwined with the main plot. This story of a man who lives completely for his children, only to have those he loves most turn against him, is outstanding verse tragedy. Professor Quinn attests that with the character of Febro, Dr. Bird has drawn "one of the most living portraits in our dramatic history."¹

The role of Febro attracted one of the greatest American actors in history, Edwin Forrest. William Rouseville Alger, one of Forrest's biographers, says that Forrest found the play a particular favorite and that he "always spoke of

¹These comments are in an introduction to: Robert Montgomery Bird, "The Brcker of Bogota," Representative American Plays 1767-1923, ed. Arthur Hobson Quinn (New York: The Century Co., 1925), p. 212.

it with enthusiasm and with deep regret that it was so much too fine for his average audiences that he was obliged to lay it aside for noiser and more glaring performances with not one tithe of its merit."¹ Forrest created the role of Febro with its first performance February 12th, 1834.² Odell, writing of its opening, calls it one of America's most dignified plays.³ Forrest kept The Broker of Bogota in his repertoire for thirty years, reviving it often.

The trial scenes are the most violent, and yet the most poignant, for Bird has trapped Febro in such a net of circumstantial evidence, great pity is felt for the old man. For example, when Febro is attempting to defend himself before the Viceroy, he speaks thusly against an accuser:

Now, were heaven just,
Thou shouldst die with this slander in
thy throat,
Monster of falsehood! Has it come to
this?

¹William Rounseville Alger, Life of Edwin Forrest, (2 vols., Philadelphia: J. B. Lippincott and Co., 1877), I, p. 350-351.

²There is some contradiction to the date this play was first introduced. George C. D. Odell in Annals of the New York Stage, Vol. III (New York: Columbia University Press, 1949), p. 681, gives February 12, 1834 as the opening date. T. Allston Brown, however, in A History of the New York Stage (New York: Dodd, Mead and Company, 1903), p. 111, gives January 8, 1834, as the first performance. Historians concede that Odell is more reliable. In this particular case he provides more evidence than does Brown; therefore, we shall use Odell's date.

³Odell, 681.

Is't true? is't possible? a man like me,
 Old,--in the twilight of my years, and
 looking
 Into the dusky midnight of my grave,--
 An old man that has saved a life, whereon
 No man hath found a stain[.] Oh! you
 are mad,
 To think this thing of me. A fraud?
 a fraud!
 What! I commit it? with these gray
 hairs too?
 And without aim,--save to enrich this
 rogue,
 That swears away my life?¹

Dr. Bird distinguished himself both as a novelist and a dramatist. In a number of his plays he imitated English drama. He received an M. D. degree from the University of Pennsylvania, but probably never practiced.² Rees considers The Broker of Bogota Dr. Bird's most finished work.³

Solon Shingle, A "Stage Yankee"

No two courtroom plays could differ more than The Broker of Bogota and The People's Lawyer by Dr. Joseph Stevens Jones. Dr. Jones was also a physician who practiced surgery. He was a graduate of the Harvard Medical School.⁴ Jones' simple comedy is significant for two reasons: (1) it further developed the concept of the "stage Yankee," begun by Dunlap

¹Bird, Representative American Plays, 241.

²James Rees, The Dramatic Authors of America (Philadelphia: G. B. Zieber and Co., 1845), p. 30.

³Ibid., 29.

⁴Ibid., 93.

in The Contrast and, (2) it stimulated American actors to use the character of Solon Shingle as a personal vehicle to fame and notoriety. It is important in this study for it is a definite precursor to a number of plays in which facsimiles of "stage Yankees" appear.

The story of The People's Lawyer involves Charles Otis, a very poor fellow who lives with his sister and mother. Otis is incriminated when an associate in his clerk's office deliberately places a watch and chain in his pocket. The family calls on Robert Howard, "The People's Lawyer," to defend Otis. The lawyer gets the guilty man on the witness stand. He then forces the man to confess.

Strangely, Solon Shingle has little to do with the story, but without him the play would not have reached the popularity it enjoyed. Solon Shingle, exhibiting a great deal of rustic wisdom, appears as a backwoods farmer who comes to Boston to sell a load of "apple-sarse." He almost seems to be forced into the plot of the play. His appearances are brief until he appears at the courthouse. During the court proceedings Solon falls asleep; on awakening, he thinks Charles Otis is being tried for stealing his apple sauce. The Yankee humor so attractive to performers becomes obvious in this scene between Tripper, an attorney-at-law; the Judge; and Solon:

Tripper

Ah, Mr. Shingle, what do you know of this affair:

Solon

Well, sir, I can't say; you know there's no telling who's Governor till after 'lection. So I guess.

Tripper

Mr. Shingle, I think I had the pleasure of examining you once before in a case.

.....

Solon

Jest so. But I don't tell all I know, for nothing--as I said in the last war, for my father fit in the Revolution.

Tripper

Never mind that, sir--an article has been stolen, as you are aware; now confine yourself to this fact.

.....

Solon

That's what I'm coming to--...Squire, I wish you'd hand me a pen there tu pick my tooth. I eat three cents' worth of clams afore I came into court, and really believe there's a clam atween my eye tooth and tother one next tu it.

.....

Judge

Mr. Shingle, the loss of the article is proved without your evidence. 'Twas found in the prisoner's pocket--as you doubtless heard.

Solon

In his pocket?

Judge

So said the witness.

Solon

Then his pocket must have been as big as a hogpen, to hold my barrel of apple-sarse.¹

¹Joseph S. Jones, The People's Lawyer: Montrose J. Moses, Representative Plays By American Dramatists from 1765 to the Present Day (New York: Benjamin Blom, Inc., 1964), II, pp. 417-418.

In December of 1842, the character of Solon Shingle reached the New York stage,¹ with George "Yankee" Hill as the merry farmer. Hill had also played the role in Philadelphia and Boston.² A number of actors became popular playing the role of Solon Shingle. Laurence Hutton, in Curiosities of the American Stage, gives us an interesting account of how the role changed from 1842 to late in the nineteenth century:

It was Charles Burke who first discovered the possibilities lying dormant in the character of Solon Shingle. . . ."Yankee" Hill and Joshua Silsbee both admirable representatives of Yankee character parts played Solon Shingle as a young man, with all of the "Down-East" characteristics which distinguish stage Down-Easters; and it was not until he fell into the hands of Burke that he became the simple-minded, phenomenally shrewd old man from New England, with a soul which soared no higher than the financial value of a bar'l of apple-sass. Until Mr. Owens, the last of the Solon Shingles, died and took Solon Shingle with him, the drivelling old farmer from Massachusetts was as perfect a specimen of his peculiar species as our stage has ever seen.³

Hutton is referring to John Edmond Owens who rose to national fame as "the greatest delineator of the Yankee type."⁴ Historians generally agree that Solon Shingle was formed more by

¹Odell, IV, p. 613.

²Moses in Representative Plays By American Dramatists, II, discusses at length the history of the play, pp. 381-390.

³Laurence Hutton, Curiosities of the American Stage (New York: Harper and Brothers, 1891), p. 40.

⁴Glenn Hughes, A History of the American Theatre (New York: Samuel French, 1951), p. 172.

the actor than by the playwright. Most of the responsibility for this phenomena they attribute to Owens. Hodge, however, in Yankee Theatre, tends to give Dr. Jones more credit:

Solon is a fully drawn character, amusing in the drollest manner, often clever, and sometimes apparently stupid. Under his outer shell, however, is the same basic-type character present in all the Yankee plays. He is no fool; yet, by contrast to city people, he appears to be one. In Solon Shingle, Jones is laughing at the eccentricities of old age in conflict with the directness and naivete of youth. The play is more solid comedy than the usual Yankee fare, and this may account for its long life in the hands of . . . successful comedians. . .¹

Solon Shingle is very similar to two other famous Yankee characters, namely, Asa Trenchard in Englishman Tom Taylor's Our American Cousin, and Adam Trueman in Anna Cora Mowatt's Fashion. Moody sees Solon Shingle's "particular style of honest straightforward attack on sham and artificiality in society was really a forerunner of the ingenious and deflating manner of Will Rogers."² Solon Shingle held the stage until the 1880's with Owens in the role. Toward the end of his popularity, however, dramatic stagecraft had changed, and the play received less than favorable criticism. The critic for the New York Dramatic Mirror found The People's Lawyer "the poorest apology for a play to be found anywhere."³ This critic did not

¹Francis Hodge, Yankee Theatre (Austin: University of Texas Press, 1964), p. 214.

²Moody, 123.

³New York Dramatic Mirror, February 8, 1879, p. 2.

favor the courtroom proceedings in the play either, for he stated that "in witnessing this play it is easy to see how fully its success is due to Owens, for really a more ridiculous representation of a trial was never presented on any stage."¹ It is evident that Solon's easy and slow moving comedic actions in the courtroom could be considered precursory to those of Lightnin' Bill Jones in Lightnin', Judge Priest in Back Home, and similar characters in other courtroom plays discussed later in this study.

Another Satire On Jurisprudence

Chronologically, the final courtroom play of this period is A Coroner's Inquisition by A. Oakey Hall, produced in 1857. A Coroner's Inquisition, a comedy, is a satirical piece on English law methods, which takes place in London and the English village of Shepperton. An example of the satirical nature of the play is given in the following brief speech by the character of Gregory Griggs, an innkeeper and one of Her Majesty's Coroners for the County of Slopeley:

. . .I had my certificate of appointment yesterday, countersigned by the thirty-second clerk to Her Gracious Majesty's eighteenth assistant to the principal deputy of the Circumlocution office of the Home Department.²

¹Ibid.

²A. Oakey Hall, A Coroner's Inquisition (New York: Samuel French, 1857?), p. 3.

The story of A Coroner's Inquisition concerns the search for a missing cadaver, who is the son-in-law of Gregory Griggs. Griggs' appointment as coroner gives him a sense of power, out of which much of the comedy develops. The missing man in the play eventually appears in the final scene, alive and well. The trial in the play takes place when Griggs assumes the authority of a judge investigating a murder.

The author of A Coroner's Inquisition, Abraham Oakey Hall, was an American lawyer, politician, journalist, and author. From 1879 to 1882 he was city editor for the New York World. He was also District Attorney of New York County, New York, and served as Mayor of New York. In his six years as District Attorney it is reported he sent twelve-thousand persons to prison, and pigeon-holed more than ten-thousand indictments against others.¹ His play, A Coroner's Inquisition, opened at Burton's New Theatre, June 1st, 1857.²

A Coroner's Inquisition, chronologically, is the final courtroom play to appear in the period from pre-Revolutionary America to the Civil War. A total of six plays during this span of time can be categorized as courtroom drama. Three of the six plays can be considered important to the history

¹Dumas Malone (ed.), Dictionary of American Biography (New York: Charles Scribner's Sons, 1932), 114-115.

²Odell, VI, p. 528.

of American drama. They are, The Patriots, The Broker of Bogota, and The People's Lawyer. The Patriots is an outstanding literary document of the Revolutionary War. The Broker of Bogota is a distinguished play, representing one of the best romantic verse tragedies of the time. The People's Lawyer introduces the character of Solon Shingle, one of the prominent "stage Yankees" in American theatrical history, holding the stage for almost fifty years. By today's standards none of these plays can be called refined dramaturgy. They are seldom, if ever, revived. Their importance as theatre, and as courtroom drama, lies mostly in how they are viewed in terms of literary history.

CHAPTER III

THE AMERICAN COURTROOM PLAY FROM THE CIVIL WAR TO THE FIRST WORLD WAR

Introduction

In the period from the Civil War to World War One, the American drama can be divided into three eras. The first period, from 1860 to 1880, the commercial theatrical manager emerges as an important figure, resulting in a dearth of new American plays of merit. The realistic novel also becomes an influence on the drama during this period. In the second era, from 1880 to 1900, melodramatic and romantic plays dominate the stage, though native playwrights begin to portray American life and culture with more frequency. The third period, from 1900 to 1914, is a period of promise in the American drama, in which realism and the awareness of social forces play a significant role in native playwriting.

In the period prior to the Civil War, the American drama had become distinct primarily through the efforts of a few individual playwrights. During the war no great dramatic work emerges as a result of the conflict; a number of plays were written on the theme of the Civil War at the time,

but they remain unimportant due to their superficiality. Few of these plays were ever printed. Unlike the strong attempts at playwriting induced by the Revolutionary War and the War of 1812, the Civil War had very little influence "upon the character of the amusement in the American Theatre."¹

During the eighteen sixties American plays written prior to the Civil War were most popular. The most admired seems to be the comedies of Joseph Stevens Jones and the tragedies of Robert Montgomery Bird and George Henry Boker. Boker's Francesca da Rimini was particularly well received, and attracted audiences until the twentieth century. Rip Van Winkle was also popular with American audiences during the sixties. Theatre-goers at this time were also attracted to the works of two Irish-Americans, Dion Boucicault and John Brougham. In the period during and immediately following the Civil War, original production in America was not encouraged; therefore, no important new native playwrights emerge.

Although many theatres closed down when the Civil War began, the lack of theatrical activity was short lived. The majority of the theatres in the large American cities held performances throughout the time the War was being waged;

¹Montrose J. Moses, "The Drama, 1860-1918," Cambridge History of American Literature, ed. William P. Trent, John Erskine, Stuart P. Sherman, and Carl Van Doren (New York: G. P. Putnam's Sons, 1921), III, Part II, 266.

therefore, the effect the Civil War had on the theatre conditions in America during the conflict was not serious.

The features of the American drama in the fifteen years following the Civil War were mainly predetermined by a new, aggressive figure in the American theatre - the manager. The strong personalities of popular actors, like Joseph Jefferson and J. S. Jones, were now being used for financial gain by the energetic managers. The effect on native drama was disastrous; the production of plays with serious content was discouraged, for they were considered box-office gambles. The actors and playwrights no longer controlled the American theatre; the era of author and actor management had given way to the business manager.

The commercial managers produced many new plays, most of which were poor copies of foreign works. Moses calls these adaptations "domestic perversions of the same. . .source."¹ The lack of original native dramas was also due to "the distinct predilection, among theatre-going peoples, for plays to fit the temperaments of the reigning stage favourites [actor personalities], and by the styles and fashions that emanated from London and Paris."²

¹Moses, Cambridge History of American Literature, 270.

²Ibid., 267.

The new dramas which appeared on American stages following the Civil War were formless and lacked any distinctness. Moody describes their limitations:

Classical admonitions regarding the unities, the climax, the denouement, and the number of acts were avoided if, indeed, they were ever considered. Nor was the province of the drama limited by any strict concept of appropriateness. There was little attempt, for example, to distinguish between comedy, farce, melodrama, and tragedy; and many plays were so filled with interpolations of songs, dances and scenic effects that they were little more than variety entertainments. This was particularly true in the interval from 1865 to 1875, when the variety shows of the mid-century had died out and vaudeville as such had not yet started.¹

The reasons for the dearth of American plays following the Civil War are apparent. They stem mainly from the fact that "native drama did not grow out of literature, as it did in England and in France; it grew out of the theatre, and so it had to bide its time until the theatre found a need for it."²

No new courtroom plays were produced during the period between 1860 and 1880. However, The People's Lawyer and The Broker of Bogota, both written prior to the Civil War, were performed many times. There were also a number of plays written between 1860 and 1880 in which courtroom scenes of various lengths prominently appeared. For example, the acting

¹Moody, 234.

²Moses, Cambridge History of American Literature, 270.

of Miss Rose Eytinge in the trial scene in Augustin Daly's adaptation of Charles Reade's novel, Griffith Gaunt, helped to make it a success during the 1860's. Daly's adaptation of Dicken's Pickwick Papers also included an important scene in a courtroom. A significant courtroom scene also appeared in Mark Twain's The Gilded Age. None of these plays, however, are courtroom plays within our definition. The American poet, Henry Wadsworth Longfellow, wrote a courtroom play published in 1868 entitled, Giles Corey of the Salem Farms. This play, about one of the central figures in the Salem witchcraft trials, never reached the stage.

By the end of the Civil War another factor was beginning to influence dramatic writing in America; what was to be known as realism began to appear in the works of American dramatists. In other words, American playwrights began to select the familiar phases of life as a subject for their plays; a more human view of dramatic subject matter began to become a basis for native American plays. The influences of the realistic movement on dramatic literature were subtle and gradual, however, and did not become definitive until almost the beginning of the twentieth century. Primary in the influence of realism on the drama were novelists. Particular influence was achieved by William Dean Howells and Henry James. American readers in the late eighteen sixties

and early seventies chose Howells and James as their most popular realistic novelists. It was William Dean Howells, particularly, who became a profound influence on Edward Harrigan, James A. Herne, Augustus Thomas and Clyde Fitch, all prominent American playwrights between 1870 and 1910.

In 1886, the editor of Harper's New Monthly Magazine stated quite bluntly that, "the real drama is in our novels mostly. It is they chiefly which approach our actual life. . ."¹ The editor went so far as to recommend that Sidney Luska's novel, Mrs. Peixada, would make a good play. He specifically suggested that in "the scenes in court when she [Mrs. Peixada] pleads guilty, he would have tragic 'action' enough, and what such action does not always give - pathos and genuine tragedy."²

As early as 1830, critics of the American drama had been concerned over the status of native dramaturgy. The following comments appeared in the American Quarterly Review of that year:

It is not necessary to be always writing on national subjects, or illustrating our own history and manners. But we do think, that the new literature of a new country; new in its existence, its institutions, and situation, ought to have a special reference to these circumstances. It is this reference which alone can give it originality, and maintain its claims to a national character.³

¹"Editor's Study," Harper's New Monthly Magazine, LXXIII (July, 1886), 317.

²Ibid.

³"Dramatic Literature," American Quarterly Review, VIII (September, 1830), 152.

It was not until the period following the Civil War, however, that native playwrights began to illustrate, to any notable degree, American life and culture. This was the time of the beginning of realism in American drama. It was by no means the dominant mode of writing, however; from the Civil War to around 1880, the main body of American drama can still be described as romantic and melodramatic.

In the period from 1880 to 1900 American playwrights began to write more frequently on current events and topical subjects, particularly those about American life. By 1880, "a journalistic sense had entered the American theatre,"¹ and this fact precipitated an interest in subjects that were topical. Bronson Howard, William Gillette, Augustus Thomas, and Clyde Fitch represent a nucleus of outstanding playwrights who wrote with a definite sense of journalistic reality, though melodrama and romanticism still had a grip on American audiences. Brander Matthews, writing in Harper's New Monthly Magazine, attributes the slow growth of American drama to "the development of the newspaper in England . . . and the perfecting of the mechanics of play-making by Scribe."² Playwriting on the journalistic level and dependence upon European

¹Moses, 279.

²Matthews refers to Eugene Scribe, a proponent of the "well-made play," in which a plot was developed superficially from stock elements. See Brander Matthews, "The Dramatic Outlook in America," Harper's New Monthly Magazine, LXVIII (May, 1889), p. 925.

models lasted into the twentieth century. Howard, Gillette, Thomas, Fitch, and their followers, however, made deliberate attempts to help the American drama to become a mirror of national life. Unfortunately, very few plays with significant depth emerged from their efforts.

Gillette's Civil War play, Held By The Enemy, which was produced in 1886, is an excellent example of the attempts at serious drama during the period. It is significant that native playwrights did not seriously consider the Civil War as a subject for their work, until almost twenty years after the event. This is perhaps because audiences simply were not interested in attending serious drama, particularly plays about a terrible event still vivid in their minds. When the subject of the Civil War did reach the stage, moreover, the plays seemed to reflect the status of the theatre rather than the serious nature of the material. Held By The Enemy, for example, mainly concerns the actions of a spy who attempts to escape through enemy Yankee lines by means of a hospital stretcher. The Civil War, as represented here, is only a framework for melodramatic action. Gillette's play does have a brief, but rather exciting, court-martial scene, but as so many of the playwrights of the day chose to do, Gillette shifted the scene of the action of the play often, leaving very little time for dramatic development. Herbert Bergman summarizes his findings

in a study of Civil War plays with the following statements:

The plays are almost devoid of any serious content for a more than cursory treatment of slavery, for political convictions or ideas, for economic conditions, or for ethical beliefs.

One finds instead, rather hackneyed plots, embodying the reconciliation theme, lace of sectional bias, romantically melodramatic characters and action, and contrived comic relief.¹

Though Bergman's observations are generally true, Dion Boucicault's Belle Lamar (1874) was an early Civil War play with some merit. More importantly, Bronson Howard's Shenandoah (1888), which also concerns the Civil War, emerges as an important social drama of the late nineteenth century.² Giles Corey, Yeoman by Mary E. Wilkins, and The Ensign by William Haworth, both courtroom plays, were further attempts at historical drama before the turn of the century. The Ensign could not be considered significant, though Giles Corey, Yeoman has some stature.

Toward the end of the nineteenth century, theatrical managers controlled almost all the dramatic activity in America. In 1896 a Theatrical Trust was formed by a number of successful managers. Moses takes a dim view of this event

¹Herbert Bergman, "Major Civil War Plays, 1882-1899," Southern Speech Journal, XIX (March, 1954), 224.

²Arthur Hobson Quinn in A History of the American Drama from the Civil War to the Present Day, pp. 57-60, discusses the significance of Howard's Shenandoah.

by pointing out that, "in such an atmosphere, while in time we got good bad plays, it was impossible for a serious body of American dramaturgical art to develop."¹

From the time the Theatrical Trust was formed in 1896 to World War One, the dramatist surrendered to the dictates of the manager.² The results, for the most part, were manifest in plays patterned for a particular "star" and usually showed the influence of the European dramatic technicians. Courtroom plays, too, served as vehicles for "stars." By way of examples, Gus Williams used Fred Maeder's Captain Mishler as an instrument to further his career; Jane Cowl starred in Common Clay; David Warfield attracted audiences in A Grand Army Man, written by David Belasco, Pauline Phelps, and Marion Short; and, "Nat" Goodwin played the leading role in Clyde Fitch's The Cowboy and The Lady. American audiences were also given the opportunity to see the great Miss Sarah Bernhardt in Madame X, a popular European courtroom play.

The American drama, though primarily commercial in intent, was definitely showing promise after the turn of the century.³ Romantic verse tragedies were being replaced by

¹Moses, Cambridge History of American Literature, 280.

²Ibid., 282.

³William Archer, "The Development of American Drama," Harper's Monthly Magazine, CXLII (1921), 75.

more realistic works; Anglo-French imitations were less frequent on the American stage; and melodramas, in which the heroine was snatched from the clutches of a villain or an unmerciful railroad engine, were almost a thing of the past. A group of American playwrights were now putting emphasis upon the right of self-expression by the individual. They were also becoming more aware of the evolution of character in their plays, laying aside some of the superficial characteristics of plot and character personality. By the end of the first decade of the twentieth century, the American drama also began to show "a greater sensitiveness to the social forces of the times."¹ The influences of realism were now evident in the works of James A. Herne and Clyde Fitch. George Broadhurst and Charles Klein were trying to give a journalistic "look" to plays about the conditions of the business world. Plays about married life were also popular, reflecting the desire for more intimacy in the drama. Charles Rann Kennedy wrote significantly on religious subjects. William Vaughn Moody wrote plays of ideas in which opposing points of view were brought into dramatic conflict. Edward Brewster Sheldon wrote important thesis dramas such as The Nigger and The Boss. Finally, Rachel Crothers produced important plays that commented on contemporaneous American civilization. The romances

¹Moses, Cambridge History of American Literature, 286.

and melodramas became more thoughtful and the thesis plays more purposeful during this period of American dramatic history.

After the turn of the century the courtroom play seemed to have a natural affinity for the social problems and domestic situations being presented on the stage during this time. Common Clay, for example, produced in 1915 and written by Cleves Kinhead, is a commentary on American social strata. Just A Woman and The Unwritten Law are both concerned with divorce problems. A Grand Army Man and Young America relate the specific problems of children and the law. The Governor's Boss, The Last Resort, and Mills of the Gods cover the subjects of politics and big business, mirroring the interest of the theatre-goer in themes of American life.

The novel continued to be an influencing factor on the drama. Earlier it was pointed out that this influence began about the time the Civil War ended. The influence continued to rise until the First World War. The influence of William Dean Howells, the leading exponent of realism in nineteenth century America, was clearly shown in the works of Charles Klein, George Broadhurst, and Clyde Fitch, all of whom were writing plays after the turn of the century. Though the influence of the novel continued, American playwrights did not relate their work to any specific literary movement

or social evolution.¹ In fact, native American playwrights lagged behind the novel, which insisted upon verisimilitude, although the desire for verity was "the dominant literary mood"² of the period.

A great number of novels and stories achieved dramatization during this period. The dramatized novel was at the height of popularity around 1900. Dramatized novels of the law courts were also brought to the stage. Paul M. Potter's dramatization of Nancy Stair, for example, is a courtroom play taken from a popular novel. Back Home by Bayard Veiller, another courtroom play, is constructed from the very popular stories of the day, in which Judge Priest is the leading character. The process of novelizing plays also became popular around the turn of the century, but the results were mostly "hack work."³

By 1910 many of the great names in American drama who had long been contributing to the theatre, were no longer appearing in theatre programs. Fitch and Moody were dead; Thomas, Gillette and Belasco had written their best plays. By this time also, the motion picture had become a competitor

¹Ibid., 292.

²Richard Burton, The New American Drama (New York: Thomas Y. Crowell Company, 1913), p. 78.

³Burton, 215.

to the legitimate stage. There had been progress, however, for by the time of World War One, the American dramatist, no longer relying upon foreign models, had reached a stage of independence, resulting in genuine promise for the future. Up to this time most American plays had "the semblance of reality often without the substance."¹ It had been a drama of novelty rather than a reflection of life. The promise was bright, however, because a wider variety of subjects were now finding their way to the American stage. It was about this time, too, that some forces of regeneration were at work. Moses describes it in the following manner.

Then, suddenly, something happened to the theatre. A new breath of life blew through the open door. The spirit of reform began to undermine the commercial manager's grip. This change came not from the theatre itself but from outside. It did not directly challenge the theatre at first, but began an insidious propaganda among those whose money flowed through the box-office. The publishing of plays found a yearly increasing reading public, whose taste for the better thing began to be whetted. Independent producing groups - amateurs to be sure, but potential entities later to develop into such organizations as the Theatre Guild and the Provincetown Players - began to challenge the commercial manager on his own ground.²

Around the beginning of World War One a few keenly skillful playwrights, led by Eugene O'Neill and Elmer Reizenstein

¹Charlton Andrews, The Drama To-Day (Philadelphia: J. B. Lippincott Company, 1913), 103.

²Moses, The American Dramatist, 418.

(later Rice), were making significant contributions in their early careers. There was also an evident change in the American's attitude toward social customs; sentimentality and the simpler phases of life were no longer dominating the national mood.¹

Cleve Kinkead's Common Clay, Elmer Rice's On Trial, and Charles Klein's The Third Degree, all courtroom plays, reflected the public's desire for forceful and penetrating drama. At the same time, audience reaction to Bayard Veiller's Back Home and Fred Ballard's Young America indicated sentimental drama and the romantic spirit was still very much a part of American drama.

The Plays

American History

The courtroom plays in this chapter are discussed, as they are in the preceding chapter, in terms of their subject matter. There are twenty-two plays discussed in this chapter, sixteen more than the number in Chapter Two; therefore, the plays naturally fall into groupings, the size of the grouping depending on the frequency of the subject matter. The plays are not presented chronologically; however, important dates applicable to the discussion of the plays, are included as

¹Burton, 78.

guidelines for the reader. The first group of plays discussed are based on various aspects of American history.

American history became specifically manifest in four courtroom plays produced between 1892 and 1906. The Ensign (1892) by William Haworth concerns a Naval court-martial in the wake of an heroic effort by a young Union officer to defend the Flag; Peter Styvesant (1899) by Bronson Howard and Brander Matthews, is a comedy in which the Governor of New Amsterdam is the central figure; The Judge and The Jury (1906) by Harry D. Cottrell and Oliver Morosco is about a young girl's adventures in the rugged American Western frontier; and, Giles Corey, Yeoman (1893) by Mary E. Wilkins, tells the story of one of the principal figures in the Salem witch trials of the late seventeenth century. Of the four, Giles Corey, Yeoman is the most important.

Twenty-five years before Mary E. Wilkins' play, Giles Corey, Yeoman, first appeared on the stage, Henry Wadsworth Longfellow used similar material for his play, Giles Corey of the Salem Farms. The Salem witch trials of 1672 have been the subject for a number of American stories, novels, and plays. Arthur Miller's The Crucible (1953) is perhaps the dramatization considered to be the most acceptable theatrical work. In Miller's play, Giles Corey is a minor role. The similarities between Giles Corey, Yeoman and The Crucible, will be

pointed out in Chapter Four, where the latter is discussed at length.

Mary E. Wilkins' play is a six act tragedy telling the story of the accusation, trial, torture, and death of Giles Corey, citizen of Salem, Massachusetts. When the play was produced in New York the critic for The New York Times felt that the play possibly was much better reading than a work for the stage.¹ The critic proceeded, however, to praise the author's acumen for historical study, as noted in the following excerpts:

The author's gift of analysis has enabled her, it seems to us, to get more closely at the truth of the witchcraft in old Salem than any one who preceded her in the task of literary investigation in her field. . .

Miss Wilkins shows us exactly how, with a vague foreboding in the colony, born of cruel superstition, gross ignorance. . .the maundering of an old hag, the prattle of a child, the idle talk of a self-satisfied householder, and a jealous girl's thirst for vengeance, brought death and dishonor upon a simple, virtuous family. This exposition is remarkably clear and powerful. It carries conviction with it. . .²

The New York Times critic also found the pathos in the play eluding him because it was not life-like.³ "The heart is not touched,"⁴ the critic said. Giles Corey, Yeoman was produced in New York and Boston by "the so-called Theatre of Arts

¹The New York Times, April 17, 1893, p. 4.

²Ibid.

³Ibid.

⁴Ibid.

and Letters."¹ Mary E. Wilkins' biographer, Edward Foster, indicates the produced version by the Theatre of Arts and Letters was only a "garbled version"² of Miss Wilkins' original play. In either case, The New York Dramatic Mirror found the New York production to be mildly terrifying and having some dramatic moments.³ Brander Matthews pays tribute to Miss Wilkins' ability to tell a story, but also finds her "not equipped with the technic or with the instinct of a born play-maker."⁴

All the characters in Giles Corey, Yeoman were actual participants in the trials in Salem.⁵ Probably the finest attribute of Miss Wilkins' play is its genuine quality of documentary story-telling. The following passage is from a scene in the Salem court, in which Martha Corey, Giles Corey's wife, is being questioned by Judge Hathorne:

¹Brander Matthews, These Many Years (New York: Charles Scribner's Sons, 1917), p. 337.

²Edward Foster, Mary E. Wilkins Freeman (New York: Hendricks House, 1956), p. 112.

³New York Dramatic Mirror, April 22, 1893, p. 3.

⁴Brander Matthews, 337.

⁵Robert Calef, "More Wonders of the Invisible World," Narratives of the Witchcraft Cases, 1648-1706, ed. George Lincoln Burr (New York: Charles Scribner's Sons, 1914), pp. 343-344. More characters appearing in the play are discussed in: "A Brief and True Narrative by Deodat Lawson, 1692," Narratives of the Witchcraft Cases, 1648-1706, pp. 154-156. Calef's narrative was written in 1700 and Lawson's in 1692.

Hathorne

What say you to the charges that your husband, Giles Corey, hath many a time brought against you in the presence of witnessed - that you hindered him when he would go to prayer, causeing the words to go from him strangely; that you were out after night-fall, and did ride home on a broomstick; and that you scoffed at these maids and their affliction, as if you were a witch yourself?

Giles

I said not so! Martha, I said not so!

Hathorne

What say you to your husband's charge that you did afflict his ox and cat, causing his ox to fall in the yard, and the cat to be strangely sick?

Giles

Devil take the ox and the cat! I said not that she did afflict them.

Hathorne

Peace, Goodman Corey; you are now in court.¹

The dialogue seems strikingly realistic to have been written in 1893. Martha's impassioned defense of her innocence is another example of Miss Wilkin's ability to authenticate her dramatic work:

Martha

(with sudden fervor)

I am no witch. There is no such thing as a witch. Oh, ye worshipful magistrates, ye ministers and good people of Salem Village, I pray ye hear me speak for a moment's space. Listen not to this testimony of distracted children, this raving of a poor

¹Wilkins, Mary E., Giles Corey, Yeoman (New York: Harper and Brothers Publishers, 1893), p. 47-48.

lovesick, jealous maid, who should be treated softly, but not let to do this mischief. Ye, being in your fair wits and well acquaint with your own knowledge, must know, as I know, that there be no witches.¹

In reading Giles Corey, Yeoman it seems apparent that Miss Wilkins could not have written the play in the realistic manner in which it appears, unless she had considerable knowledge of the trials. The play also appears to be much unlike the other dramas of the period in that the playwright does not place emphasis on plot, but on characterization. Most of the melodramas of the 1890's were constructed with an emphasis on a succession of situations out of which grew a rather superficial plot; Giles Corey, Yeoman is an exception to this practice. Moreover, the characters seem to have real motive and purpose rather than the heavily accented heroes and heroines of the more popular plays of the period. In a body of several prose works, Miss Wilkins' main gift to literature is her "dispassionate observation of local character and constitutes an important contribution to the local-color school by its study of repressed people in a decaying social system, capturing their spirit through their dialect."² History, and certainly the critics, may have been unfair to Miss Wilkins' play about the Salem trials, for Giles Corey, Yeoman fits into the

¹Ibid., 56.

²James D. Hart, The Oxford Companion to American Literature (4th ed.; New York: Oxford University Press, 1965), pp. 295, 296.

description of her contributions. Giles Corey, Yeoman, moreover, is in direct contrast to another historical play of the period, The Ensign by William Haworth.

The Ensign was apparently inspired by an incident during the Civil War, in which Capt. Charles Wilkes, Commander of the San Jacinto, United States Navy, intercepted two emissaries of the Confederacy to the British Government, resulting in the capture of the emissaries, but almost provoking England to make war against the United States for intercepting a steamer, the Trent, bearing the English flag.

In the play two British naval officers - one a credit to his country and the other a renegade American, learn of the plan of Captain Wilkes to intercept the Trent. The rascal seeks to prevent the departure of the San Jacinto by provoking a quarrel with Ensign Ben Baird, and he succeeds so well that he is killed in the attempt by the Ensign, but the San Jacinto sails just the same. Then comes court-martial, [sic] conviction by Judges who uphold the justice of the killing, but bow to their duty under the law, appeals by a heart-broken mother and sweetheart, a big-hearted gruff, old 'sad sea dog,' and a child to President Lincoln for pardon, and, in the last act, just as the Ensign is about to be strung up to the yardarm, in the presence of all his sorrowing friends, the pardon arrives, and all is joy.¹

The critic for the New York Times found The Ensign overflowing "with patriotism, love, pathos, and fun."² The New York

¹The New York Times, December 6, 1892, p. 4.

²Ibid.

Dramatic Mirror was not as favorable, finding the play predictable.¹ Apparently the audiences agreed with the Dramatic Mirror, for the play ran only two weeks.

The Ensign is typical of the action-filled melodrama of the eighteen-nineties; a plethora of this kind of play filled the American stages during the era in which audiences seldom took things for granted. The theatre-goer demanded his action in large, bold strokes. Moses says of these melodramas: "The emotions were not subtle; they ascended toward the climax, not in flowing consistency, but with intermittent thumps."² This kind of play was seen on American stages until well past the turn of the century; however, their popularity began to wane soon after 1900. A courtroom play, The Judge and The Jury, by Harry D. Cottrell and Oliver Morosco, produced in 1906, is a melodrama of the type described by Moses.

The Judge and The Jury was perhaps a victim of the waning popularity of the sensational melodrama after the turn of the century. The story concerns a young girl whose parents are killed by Indians, is rescued, and "nourished by a rough but golden-hearted tavern keeper, and grows up to be loved by a stalwart, honest miner, a monosyllabic Apache, and a city chap with the gift of gab and a susceptible heart."³ The

¹New York Dramatic Mirror, December 10, 1892, p. 4.

²Moses, 301.

³The New York Times, December 6, 1892, p. 4.

100

miner and the city man eventually fight for the affections of the girl, but a shot in the dark by a third party complicates the life for the heroine. The misunderstandings are settled by a trial and the story ends happily. The New York Times dismissed The Judge and The Jury by finding "little reason for much of the fuss. . ."¹ The collaborators, Harry D. Cottrell and Oliver Morosco, made no significant contribution to American drama with The Judge and The Jury or any other work. Two other collaborators, however, also using a segment of American history as a basis for drama, made major contributions to the American drama throughout their careers; Bronson Howard and Brander Matthews collaborated on the courtroom play, Peter Styvesant.

Bronson Howard was recognized as the outstanding American dramatist of his time.² From 1870 to 1906 he contributed articulate stage creations to American audiences. His outstanding works include Saratoga, Aristocracy, and Shenandoah. Brander Matthews is also a significant figure in the history of American drama, particularly in the area of the one-act play. After his playwriting days, Matthews became a noted critic and interpreter of the drama.

¹Ibid., September 2, 1906, p. 9.

²Quinn, A History of the American Drama from the Civil War to the Present Day (Volume One), pp. 39-65. Quinn's chapter on Bronson Howard is probably the most comprehensive to be found in American drama histories.

Peter Styvesant is the story of Dutch life in New Amsterdam and was classified as a comedy by the New York Dramatic Mirror.¹ The main character of the work is Peter Styvesant, the governor of New Amsterdam. The setting is the seventeenth century in New York. William H. Crane, popular actor at the turn of the century, was star and producer of Peter Styvesant. The play first opened early in 1899 in Providence, Rhode Island, and was a quick failure.²

Considering the talents of the collaborators, Peter Styvesant should have been more successful. In New York it also met with failure. The following comments are from The New York Times on the opening of Peter Styvesant in that city:

That the authors, Messrs. Bronson Howard and Brander Matthews have been at pains to put some sort of appreciable historical quality in their laboriously manufactured piece. . . But what we all want in a play. . . is vitality, and there is precious little of that in this elaborately artificial story. . .

The play, it seemed, ought to have been effective, because all its essential scenes have been done over and over again. The old Governor's soft heart and fierce manner, his blundering when he meddles with love affairs, his grief when he believes his ward, Conrad, guilty of treachery, and his Brutus-like heroism at the trial. . .³

¹New York Dramatic Mirror, October 7, 1899, p. 16.

²Lewis C. Strang, Players and Plays of the Last Quarter Century (Boston: L. C. Page and Company, 1903), p. 146.

³The New York Times, October 3, 1899, p. 5.

Brander Matthews was asked to write the historical play for William H. Crane.¹ The audiences wanted to see Crane in the comedy, but because there was an unusual mixture of comedy and pathos, the audiences did not accept it.² In Jack E. Bender's dissertation on Brander Matthews, only a brief reference is made to Peter Styvesant.³

Domestic Problems

Along with the trend toward verisimilitude in American plays, the playwrights began to take an interest in man's social spectrum as a motive for writing a drama; i.e., American playwrights, between 1895 and the end of World War One, wrote on the relationships of the individual and his family, of poverty and wealth, of class and creed, of crime and criminality, and of man's relationship to woman in marriage. This interest produced a great number of plays concerning the domestic problems of divorce, unwed mothers, adopted children, and the class conflicts involved in each of these problems. Seven courtroom plays produced between 1899 and 1916 were written specifically about domestic problems. The most

¹Playwright Matthews discusses how he developed the plot of Peter Styvesant in his recollections; Brander Matthews, These Many Years, pp. 338-339.

²Matthews, These Many Years, 340.

³Jack E. Bender, "The Theatre of Brander Matthews" (unpublished Ph.D. dissertation, University of Michigan, 1954), p. vi.

popular of the seven was Common Clay by Cleves Kinkead, which ran 316 performances in New York.

Common Clay was presented for the first time at the castle Square Theatre in Boston, Massachusetts, January 7, 1915.¹ The Boston Transcript critic had high praise for Kinkead's work; he also placed emphasis on the strong language of the play, and the reasons for the play's popularity, as shown in the following comments:

. . .he [Kinkead] has unmistakable instinct for the directness, the vigor, the swift, yet cumulating "punch" that is the mode of the hour in the American theatre. . .

The virtues of Mr. Kinkead's play by no means halt at this well-invented, well-conducted, ably cumulated, close-knit, direct, vigorous, plausible and human narrative suspensively told in true terms of the theatre. They shine out of much pungent and sharply-set speech, that calls things and conditions commonly existent by the names by which they are commonly known in common talk; that is in harsh characters with the "shyster" lawyer and the "common woman"; that is nowhere mealy-mouthed and that teems with acrid humor - a speech of men and women speaking as they really are and without thought of the glosses of theatre and parlor. Not, possibly, always a speech for the ears of boys and maidens.²

Common Clay takes place in a large American city in the middle west. A prominent and wealthy family living in this city are a Mr. and Mrs. Fullerton and their son, Hugh. The Fullerton's have had trouble getting domestic help. As

¹Boston Transcript, January 8, 1915.

²Ibid.

the play opens they have just hired a new domestic, Ellen Neal (played by the famous actress, Jane Cowl) who is made love to by Hugh Fullerton. Later, we learn there has been a baby boy and Ellen demands part of the Fullerton fortune even if the child does not bear the prominent name. An old family friend of the Fullertons, Judge Filson, is called in as counsel. In court, Ellen's pitiful story falls on the sympathetic ears of Judge Filson. As a coincidence, we learn that the Judge's mistress had given birth to Ellen, after which the mistress died. In an epilogue Ellen is found in Paris, having been sent there to study by Judge Filson. In Paris she falls into the arms of Hugh Fullerton.

The New York papers generally praised the play. The New York Times said of Kinkead's work: ". . . what he has really given us is a graphic illustration of the injustice and cruel irony in society's immemorial attitude toward the woman with a child born out of wedlock - particularly when the man and woman come from different walks of life."¹ The same newspaper also claimed that Common Clay contained the same kind of social criticism found in the works of the French playwright, Eugene Brieux.² The New York Dramatic Mirror paid

¹The New York Times, August 27, 1915, p. 9.

²Ibid. Eugene Brieux's plays are generally conceded to be social documents of considerable significance. Kinkead may have been familiar with Brieux's work since the Frenchman's plays were being produced in America in 1915.

particular notice to the "graphic court scene."¹

The author of Common Clay, Cleves Kinhead, was a lawyer from Kentucky. He was a student in Professor George Pierce Baker's playwriting class at Harvard. Common Clay was a result of the class, and received a literary award.

Noted critic and dramatic theorist, Walter Prichard Eaton, held very little praise for Common Clay. He wrote it off as being designed for the commercial tastes of the public. He said, for example, that Common Clay "has two great assets to popularity - the long arm of coincidence and a ruined female. The public dearly loves them both. . .the result is. . .a rather false and artificial melodrama."²

The "ridiculous coincidences"³ in Common Clay are evident in the plot description; chance meetings and abrupt turnings of plot, however, were in popular usage by American playwrights from 1895 to the end of World War One. In a review of another courtroom play similar to Common Clay in plot, The Guilty Man by Ruth Helen Davis and Charles Klein, a critic sums up his feelings about this type of courtroom drama in these words:

We have had it all before. We had it in
"Madame X" and we had it only last season in

¹New York Dramatic Mirror, September 1, 1915, p. 8.

²Walter Prichard Eaton, Plays and Players (Cincinnati: Stewart and Kidd Company, 1916), p. 111.

³Ibid.

"Common Clay." For that matter, we had it only last week in "The Silent Witness," which, however much embarrassment it may cause, simply must be recognized as a poor relation of "The Guilty Man." For the new play at the Astor is one of those built on a criminal trial wherein the prisoner at the bar turns out to be a long lost child, preferably illegitimate, of some dignitary of the court, preferably the prosecuting attorney.

In "The Guilty Man," the one on trial for murder is the natural daughter of the prosecuting attorney; in "The Silent Witness" it is his son. In "Madame X," the woman on trial for murder turned out to be the mother of the boyish lawyer assigned to her defense. In "Common Clay," as you surely recall, the poor girl in the witness box was suddenly recognized by the heckling lawyer on the other side as an illegitimate child of his own.

Of all these plays, that celebrated dramatic critic, George M. Cohan, made no end of fun when he staged a trial scene, (subtly given in rhyming couplets.) wherein everybody - judge, prisoner, witnesses and all - were found to be long lost members of one family.¹

The 316 performance run of Common Clay in New York's Republic Theatre attests to its popularity. This dramatization today, however, might seem clichéd, too melodramatic, and lacking in subtlety to audiences. The following dialogue might serve as an example; the scene is between Ellen Neal and Judge Filson, her newly discovered father:

Ellen

If you want to do anything for me you can't go snooping around on the sly about it.

(Passionately) I won't be shoved off into dark corners. I'm tired of having everybody ashamed of me when they are all doing as I've done. The big people are no better

¹The New York Times, August 19, 1916, p. 7.

than the other ones - and I'm going back into the streets. (She starts toward the door hastily. As she opens it, Filson, his face writhing in pain, cries her name)

Filson

Ellen! Ellen! (He sways slightly and puts his hand on railing for support. He drops his head and his lips move without speech. Ellen pauses and looks at him. Slowly she closes the door and stands, hand on knob, thinking)

Ellen

I - I can't leave you if it hurts you that much. (pauses) I'll do as you say. (Pauses) Maybe you're right - (Pauses and takes hand off door-knob) But there's something bigger than right or wrong - (Starts toward him) it's helping one another. (She falls in his arms and clutches his shoulder. He looks upward, his lips move, and he caresses her)¹

Curtain

Some similarities have already been pointed out between Common Clay and other courtroom dramas of the period concerning domestic problems. In the introductory portion of this chapter, a discussion was made of how many playwrights in America during this period were affected by European models. It was seen that this influence was also accompanied by a tendency of American playwrights to begin writing on a journalistic level, prompted by a desire on the part of audiences and managers to popularize newspaper headlines on the stage. The European influence and the effects of journalism are both

¹Cleves Kinhead, Common Clay (New York: Samuel French, 1914), pp. 83-84.

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manifest in The Guilty Man, by Helen Ruth Davis and Charles Klein.

The Guilty Man is based on a French novel by Francois Coppée, Le Coupable. The New York Dramatic Mirror has reserved praise for it. It said: "In part at least it is powerful drama. The whole subject matter suggests Emile Zola in its ruthless revelation of character, its penetrative force into the vital spirit of low life and in its general achievement of theatrical situation."¹

The story of The Guilty Man takes place in France. The plot complications begin with an affair between Claude Lescuyer, a young law student, and Marie Forgeat. Marie becomes pregnant. Eighteen years later Marie is seen married to a brutal dance hall proprietor. The dance hall proprietor wants Claudine, Marie's young daughter, to marry a much older, lecherous man. Eventually, there is a physical struggle during which Marie kills the old man. A trial ensues, and the public prosecutor happens to be Claude Lescuyer, the father of Claudine. He makes a good case until he sees Marie in the pre-hearing. At the trial he pronounces himself guilty for all that happened. At first the daughter spurns her father, but at the end of the play, the three miserable

¹ New York Dramatic Mirror, August 26, 1916, p. 3.

people, Claude, Marie, and Claudine, walk out together. "Here we have a somewhat overworked but always interesting story re-told to enforce and even more familiar thesis - that when the nameless child of an outcast mother is driven to crime, the renegade father is the guilty man."¹ The Guilty Man played 52 performances at the Astor Theatre in New York in 1916. In the same season another courtroom drama, in which happenstance and plot surprise were also important, had greater success; Just A Woman by Eugene Walter had a run of 136 performances.

The plot of Just A Woman is simple. It concerns a husband and wife, both social climbers, who live in Pittsburg. The husband becomes a powerful financier, and in the process grows tired of his wife. He attempts to shame her into a divorce by placing his lover in his home. The financier and his wife have raised a son; prior to the divorce trial we learn the husband wishes to keep the son. In the climactic trial scene the wife claims the son does not belong to the wealthy husband, therefore, he cannot claim him.

Just A Woman was generally praised, but particular attention was given to the play's trial by The New York Times and the New York Dramatic Mirror. The Times had this to say about the trial scene:

¹The New York Times, August 19, 1916, p. 7.

This turning of the woman comes at the end of the third act, as the climax of the play. It marks the end of the scene devoted to the divorce trial, a scene every moment of which is filled with acute, cunningly builded suspense and which ends with a violent, leathern-lunged outburst that is as melodramatically effective as any you would be likely to hear in an exhaustive tour of Broadway.¹

The New York Dramatic Mirror described the same scene in this manner: "His [the playwright's] court room scene, which formed this act, was powerful in its realism, its quality of suspense, its truthfulness to detail, and the plausibility with which its gripping climax was built up."² It is very likely that Just A Woman would not be acceptable to modern audiences; for example, the machinations of plot intended for surprise in this play have been used frequently in other stage plays, motion pictures, and television, and have become commonplace. The ending of the play, as the critics stated, was obviously an unexpected surprise in 1916. Today the ending might appear predictable.

A comment by Eugene Walter in Just A Woman deserves attention; it is the description of the Judge who presides over the divorce trial. The scene represents "a commonplace court room in Pittsburg, in Allegheny County, Pa."³ The

¹Ibid., January 18, 1916, p. 12.

²New York Dramatic Mirror, January 22, 1916, p. 8.

³Eugene Walter, "Just A Woman" (unpublished typescript version housed in The New York Public Library at Lincoln Center), Act III, p. 2.

Judge enters. He "is a young man about 33, representing what might be called the new progressive element in our Jurisprudence. [italics mine] As is the custom in Pa. he wears no gown, but is dressed in a dark sack suit."¹ It is difficult to know what playwright Walter had in mind in describing the Judge in this manner, unless he was equating the youthful appearance of the Judge with "the new progressive element in our jurisprudence." In any case, it indicates that Eugene Walter was trying to create a character for his play, that was not the stereo-typical image of the older, omnipotent, fatherly, classically garbed Judges, seen in so many other plays.

Another courtroom play concerning the problem of divorce was Edwin Milton Royle's The Unwritten Law. It was received unfavorably by both critics and audiences and ran only 19 performances at the Fulton Theatre in New York. The melodramatic plot involves a divorce case, out of which comes the murder of a rather unsavory ward politician by his lover, a Mrs. Wilson. Mrs. Wilson's husband claims that he is the killer.

When the case is called before the grand jury the prosecuting attorney permits a physician to try hypnosis on Mrs. Wilson, whose mind has become a blank. She then tells the entire story; and the attorney whispers to Wilson that the foreman has just said the verdict will be "the unwritten law."²

¹Ibid.

²New York Dramatic Mirror, February 12, 1913.

There is no such legal concept as "the unwritten law" in American jurisprudence, but apparently in the minds of many citizens, adultery by a party is grounds for "justifiable homicide" by the mate. Edwin Milton Royle's play about the theory of "the unwritten law" received comments of "unrelieved gloom"¹ and "acute misery"² by the critics. The use of hypnotism in the courtroom play was not a novelty to audiences in 1913, either. It was used deftly in Charles Klein's The Third Degree, to be discussed later.

The domestic courtroom plays heretofor discussed in this chapter, Common Clay, The Guilty Man, Just A Woman, and The Unwritten Law, were all produced in approximately a three year period, from 1913 to 1916. All of them may have had precursors in the plays of Clyde Fitch, one of which was a courtroom drama, The Cowboy and The Lady. The following comment about Clyde Fitch's work subscribes to this theory:

Mr. Fitch's distinctive contribution to our stage seems to me to lie in his power of seizing upon certain phases of city life which have to do with the prosperous commercialism resulting in a certain kind of domestic menage: the family well-to-do, pleasure loving, wonted to luxury, touched with the fever of getting and spending. With genuine observation, a sympathetic feeling for these types and an instinct for setting them in novel situations, Mr. Fitch has thus, within his limits, been a social historian.³

¹New York Times, February 8, 1913, p. 13.

²New York Dramatic Mirror, February 12, 1913.

³Richard Burton, 89.

The courtroom play, The Cowboy and The Lady, is in no way Clyde Fitch's best play. "The story is not particularly ingenious, nor is the development of the plot either facile or original. Yet there is some capital humor in 'The Cowboy and the Lady,' much of the characterization is clever, and some of the dialogue is smart."¹ The hero of the play is Teddy North who is in love with a Mrs. Weston. Mrs. Weston has a disreputable husband. Teddy finds a cause in protecting people from Weston, and in the process is accused of murdering him. He thinks Mrs. Weston committed the murder; therefore, he refused to defend himself. When the complications are straightened out, a happy ending is in view.

Strangely, The Cowboy and The Lady opened at the Duke of York's Theatre in London before it played the New York stage. Critic Max Beerbohm, writing for The Saturday Review, had conditional praise for the play; he found it a mixture of both comedy and melodrama, oscillating between the two types.² He praised Fitch's ability to make the changes from comedy to melodrama and from melodrama to comedy in "perfect naturalness."³ The English critic also used The Cowboy and The Lady as an opportunity to express his opinions about courtroom

¹The New York Times, December 26, 1899, p. 7.

²Max Beerbohm, The Saturday Review, June 10, 1899, p. 718.

³Ibid.

drama. His remarks on the subject follow:

A trial on the stage is simply a formal repetition of what the audience already knows. It is effective only when the audience cannot foresee the verdict. In a comedy-melodrama, one knows that the hero will finally be acquitted, and one is not much excited. Moreover, a murder-trial in Colorado seems to be a very poor, unassuming kind of business. One misses that which has often made the dulllest stage-trial impressive for us: the awfully measured dignity of the procedure in a French or English court. One tries in vain to think that anything very important can be decided in a bright little room furnished like a school-room, and one feels, anyway, that death would lose half its sting if sentence of it were passed by a good-humoured man in broad-cloth, seated at the teacher's desk and made up after the combined models of Brother Jonathan, Abraham Lincoln and Uncle Sam. Here, in fact, the local colour is against the play. In the other acts, however, the local colour is of great service. . .¹

A courtroom in Silverville, Colorado, would certainly seem contrasting to English courts familiar to critic Beerbohm; however, the play did succeed in New York, running 358 performances,² after failing in London. Regardless of his reservations about the play, Beerbohm did call The Cowboy and The Lady "capital entertainment."³ Historically, The Cowboy and The Lady is one of a number of cowboy plays that enjoyed

¹Beerbohm, The Saturday Review, 718.

²Burns Mantle (ed.) and Garrison P. Sherwood (ed.) Best Plays of 1899-1909 (New York: Dodd, Mead and Company, 1944), p. 358.

³Beerbohm, The Saturday Review, June 10, 1899, 719.

popularity around 1900. The popularity of cowboy stories of the American Western life portrayed on the motion picture and television screens since 1900 is well known. As a courtroom play, Margaret Mayorga says The Cowboy and The Lady "is a vivid and interesting Western melodrama, thoroughly well constructed, and with an especially dramatic moment when the lady in the witness stand is compelled to confess her love for the cowboy hero."¹ It should be noted that this praise for the play's construction was not shared by The New York Times. The following scene is the one to which Mayorga refers; the similarity between this scene and the scene from Common Clay above is easily recognizable, particularly in the use of stage directions:

Mrs. Weston

I! - I - convict him? (She becomes wild, hysterical.) The man is innocent! If I convict him, let me swear again every word I have spoken is a lie! (Jury bus. She sinks into the witness chair, her face buried in her arms, sobbing aloud.). . .

Judge

. . .Are you aware of the meaning of perjury, Madam, and of its punishment?

Mrs. Weston

(Controlling her sobs and rising) I would rather be punished for perjury than convict an innocent man!.. . .

Judge

(Raps for order) Silence! Silence! (The public is quiet. The Judge motions to the Attorney to continue.)

¹Mayorga, 208.

Attorney

(To Mrs. Weston) That night you found North above the dead body of your husband you did not think he had killed him?

Mrs. Weston

He himself had sworn to his innocence ---

Attorney

But at the scene of the murder and beside the body - the supreme test - he confessed his guilt. (To the Judge) Your Honor, I am finished with the witness. (He sits.)

(Judge motions to Teddy. Mrs. Weston turns and looks timidly, pleadingly to Teddy, distressed at what she has already said, wishes his forgiveness, while she dreads her future answers. Teddy rises slowly, as if dreading the ordeal. He does not look at Mrs. Weston until he has risen, then he slowly turns and faces her - they look into each other's eyes a moment, then Teddy drops his and takes a long breath.)

Teddy

Mrs. Weston, you just now said you believed in my innocence?

Mrs. Weston

Absolutely!

Teddy

(Affirmatively) But your evidence was true, all the same? (She nods affirmative.) Only your belief in my innocence is so great that you thought perjury justifiable if necessary to save my being unjustly condemned?

Mrs. Weston

(Very low voice) Yes---

Teddy

(Very embarrassed) I must now ask you an awful embarrassing question. There is an opinion in the court that isn't so much absolute belief in my innocence as love for me

that has influenced you in my behalf. The only way to properly disabuse their minds is for me to ask you a question outright, and you will speak the truth, won't you?

Mrs. Weston

Yes.

Teddy

(Desperately - very slowly) Mrs. Weston, do you love me? (Music pp.)

Mrs. Weston

(Surprised, afraid) The truth? I am to speak the truth?

Teddy

Yes, on your oath, the truth.

(A short pause. Mrs. Weston looks into Teddy's eyes, and the love hitherto concealed wells up into her own. Music very piano, "I love a lovely girl, I do.")

Mrs. Weston

(Slowly) Yes, I love you better than all the world!

(Jury bus. General movement from the public and Jury. Attorney nods his head to the Jury, as much as to say, "I told you so." Teddy is oblivious of everything except Mrs. Weston's words; he has even forgotten that they were against his case. He makes a sudden movement of great surprise and looks at her, dumbfounded, unable to speak or even to breathe for a minute. She gazes back into his eyes - she, too, forgetful for a moment of her surroundings. The pause should be held as long as possible. Finally, Teddy makes a movement and gesture of not being able to comprehend it or realize it. . .)¹

With history on our side, Fitch's dialogue in The Cowboy and The Lady would seem stilted and overly melodramatic to the

¹Clyde Fitch, The Cowboy and The Lady (New York: Samuel French, 1908), pp. 102-104.

modern ear. Many of his more popular plays, particularly The Girl with the Green Eyes, The Truth, and The Climbers, have more subtle dialogue and all are social comedies, not melodrama. Perhaps this is because Fitch was actually unfamiliar with the American West, and was limited by this fact.¹ He was also writing for the special talents of the popular actor, "Nat" Goodwin, a task to which he was unaccustomed. Ordinarily, "one of Fitch's main merits was an extraordinarily quick and accurate observation of the details of daily life. His outlook was spontaneous and fresh; he went to life itself for his materials; he saw and reproduced directly, with no suggestion of the second hand."² The Cowboy and The Lady, unfortunately, was written "second hand," a factor certainly to have affected the results.

Though The Cowboy and The Lady was not one of Clyde Fitch's best works, the popularity of the play is not to be dismissed. His skill in telling a story, his broad character portrayals, and his ability to construct exciting plot situations, attracted audiences. Playwrights of his time, and some to follow, found him a direct influence; it was pointed out earlier that the domestic courtroom plays produced between 1913 and 1916 have striking similarities to the plays

¹Quinn, A History of the American Drama from the Civil War to the Present Day, Volume One, 274.

²The Bookman, October, 1909, p. 136.

of Clyde Fitch. Burton's comment seems to sum up the contribution of Fitch: "'The Cowboy and The Lady,' agreeable though it be, may stand for an illustration of the made-to-order drama to which Fitch too often yielded. It would be foolish and unfair to depreciate the excellence of character drawing and finish of dialogue with which this playmaker has enriched his social pictures."¹

The other domestic plays of the period in which the courtroom scenes are the high points, are A Grand Army Man and Young America. Both of these plays are sentimental pieces concerning the misfortunes of youth, and both are simple tales about ordinary people.

A Grand Army Man was written by David Belasco, Pauline Phelps, and Marion Short. David Belasco's contributions to the theatre fill volumes. His most important contributions to playwriting are acknowledged to be collaborations,² though A Grand Army Man is not an outstanding work. Pauline Phelps and Marion Short are practically unknown. Their collaboration with David Belasco resulted in a play called "a model of simplicity. . . . In plot there is little variation from the ordinary experiences that befall most people, especially

¹Burton, 90.

²Quinn, A History of The American Drama From the Civil War to the Present Day, Volume One, 198.

people in a small community, and the characters differ not at all from characters to be found in any rural town north of Mason and Dixon's line."¹

The theme of A Grand Army Man concerns paternal love and the results of the thoughtfulness of youth. William Winter describes the plot as follows:

The chief character, Wes Bigelow, is a veteran of the Grand Army of the Republic. He has never been married. In youth he has loved a girl, but has not won her, and she has become the wife of one of his comrades. Years have passed, and the American Civil War has occurred. That comrade has been killed in battle, the widow has died: but she has left a son, that comrade's boy, and Bigelow has adopted and reared him. The substance of the play is his experience with the fortunes of that ward. . . .

The boy, Robert, has been intrusted with money, the property of the Grand Army Veterans, and, instead of placing it in the bank, as directed to do, he has used it in speculation, and lost it. . . the veteran. . . is. . . broken by the conflict between the sense of shame and the struggle of affection. . . the case comes to trial, before a judge who, privately, is hostile to Bigelow, and measures are taken to insure conviction. . . The old soldier makes an impassioned, pathetic appeal to the court, but the hostile magistrate cannot be appeased. Robert is convicted and is sent to prison for one year. A little time passes, and Robert's sweetheart, the daughter of the malicious judge, leaves her father's abode and seeks refuge with Bigelow and the kind old woman who keeps house for him. Robert is pardoned, at the intercession of the veteran's military comrades, and he comes home, to his guardian and his love, on New Year's Day.²

¹New York Dramatic Mirror, October 26, 1907, p. 3.

²William Winter, The Wallet of Time (New York: Moffat, Yard and Company, 1913), pp. 182, 184-185.

The New York Times review of the play directed attention to "an intensely moving scene in the courtroom, where the boy, Robert, breaks down before the tribunal, and is led away, leaving his father, who makes violent outcry against the sentence."¹ A Grand Army Man attracted audiences for 149 performances at the Styvesant Theatre (later the Belasco) in New York. To a large degree, the play's popularity was probably due to the acting of David Warfield, a popular actor of the time who excelled in sympathetic roles.² He also played similar roles in two other David Belasco plays, The Music Master, in collaboration with Charles Klein, and The Return of Peter Grimm. "All of these plays embody broadly sentimental themes, at times 'weepy' ones, but themes indicative of one kind of drama which an American audience understands."³

Audiences were also attracted to the sentimental thesis and charm of Young America, by Fred Ballard. This "half-humorous, half pathetic little drama of the children's court"⁴ was based on a series of stories by Pearl Franklin, in which the leading character was a Mrs. Doray. The characters of Mrs. and Mrs. Doray in Young America were created

¹The New York Times, October 17, 1907, p. 9.

²Ibid.

³Mayorga, 218.

⁴The New York Times, August 30, 1915, p. 7.

by actors Otto Kruger and Peggy Wood. The author, Frederick Ballard, was another pupil of George Pierce Baker at Harvard.

Young America oozes with sentiment and the genuine humor of folksy characters; there is no question as to its intended effect. For example, in the Samuel French acting version of Young America, a suggestion is made as to the use of a dog in the play. The note reads: "The dog in this play need not be a trick dog. Any dog that will lie still when told will suffice. The homlier the dog, the better."¹ (italics mine). This note indicates that some sentimental value was placed on the idea of using a homely dog, for the story of the play primarily concerns an undernourished, barefooted, likeable boy of fifteen years, Art Simpson, who has a dog named Jasper. Another scene, at the end of Act One, exemplifies how the author deftly constructed scenes to enhance the tender and sentimental values. The passage to follow also shows how these values were heightened by a theatrical custom of the time, for it was traditional in the American theatre before World War I for actors to take bows following any of the act breaks preceding the final curtain. We enter the scene just after Jim Reuter and Nels Larsen, two policeman, have caught young Art Simpson stealing chickens from the

¹Frederick Ballard, Young America (New York: Samuel French), p. 5.

Dorays' henhouse:

Reuter

. . .Grab that dog, Nels! Come on! (Larsen grabs dog and starts to drag him to door.
Dog fights him.)

Mrs. D.

Mr. Larsen, please, please don't hurt that dog.

(Business until dog is quiet) Mrs. Reuter, isn't there some way to prevent this poor boy being sent to the reform school?

Reuter

. . .Prevent it! Reform schools are built for just such little bums as him. (to Larsen) Hang on to that dog, Nels!

Art

. . .What are you going to do with that dog?

Reuter

His license ain't been paid and I'm going to put him in the dog pound, that's what I'm going to do with him. Come on. . .

Art

(Pulling back and facing Larsen) You let my dog alone, he ain't hurting you.

Reuter

Come on, come on!

Art

(Tugs with all his might to get away from Reuter) You let my dog alone. Let him alone. (with a violent wrench he frees himself from Reuter, rushes down to Larsen and begins beating him as hard as he can with both fists on the back. Larsen holds on to the dog's collar with one hand and with the other hand tries to ward off the boy's blows) Let him alone, I tell you! Let alone! (Reuter grabs Art by the back of the neck and shakes him)

Mrs. D.

Stop! You stop hurting that boy!

Reuter

(without stopping) I'll learn him to strike an officer! . . .

Mrs. D.

(tries to pull Reuter's hand from Art's collar)
Stop, you're hurting him, you're hurting him!
Stop, I say!

Art

(as Reuter drags him off stage) Jasper!
Jasper! I want my dog! I want my dog!
(Marjorie, Mrs. King, and Billy Coombs [neighbors and townspeople] rush out, followed by Reuter, dragging Art, followed by Mr. and Mrs. Doray. Nels Larsen fights and tussles with Jasper until they reach the door, then flings him back into room, exits quickly, and slams door shut. The dog is left on stage alone jumping up at door and barking. Patrol effect off rear.)

Curtain

(2nd Curtain. Dog barking. Patrol effect in distance)

(3rd Curtain. Children lined up in front and company at back)

(4th Curtain. Company in front and children lined up at back)

(5th Curtain. Jasper alone)¹

The New York Times called Young America "effective propaganda for the children's court, . . .real pathos and genuine drama."²
It was also called ". . .peculiarly moving"³ and a "brimful of sentiment without one drop of treacle. . ."⁴

¹Ballard, 49-50.

²The New York Times, August 30, 1915, p. 7.

³New York Dramatic Mirror, September 1, 1915, p. 8.

⁴The New York Times, August 30, 1915, p. 7.

Seven courtroom plays produced between 1899 and 1916 have been discussed. All of them are similar, in that they appear to have been written with the competitive commercial market in mind. "During the season of 1895-1896, the Theatrical Syndicate was formed. From that time. . . , the theatre suffered from a wrong emphasis placed on the word 'commercial', and from a wrong estimate of. . . what the public wants."¹ The period in the American drama covered by the seven plays discussed, was dominated by the desire for box-office success. For reasons mentioned earlier, Common Clay is the most important courtroom play of the period portraying domestic problems, and this play "shows that even Harvard's Workshop 47 used to uphold the box-office pattern."² Calculated plots, wherein the climax comes when the real parent of an illegitimate child is suddenly revealed, can only be considered superficial playmaking; we find this kind of plot maneuvering in both Common Clay and The Guilty Man. The Unwritten Law, concerning divorce and adultery, also touches only the surface of the subjects. Marital problems, with murder as a by-product, are the subjects of The Cowboy and The Lady; an uneven mixture of melodrama and comedy makes this Clyde Fitch play disappointing. A Grand Army Man and Young America, both of which concern the

¹Moses, 351.

²Ibid., 419.

paternal affection for children, result in sentimental pieces designed for the commercial theatre.

Despite the individual shortcomings of the seven domestic courtroom plays, the plays collectively hold some significance; in them we see American playwrights during this seventeen-year period, seeking to find meaning in the subject matter of domestic problems and relationships. Soon after World War I, these same subjects receive more dignified treatment in the plays of Zona Gale, Owen Davis, George Kelly, Sidney Howard, and others. Perhaps Cleves Kinkead, Clyde Fitch, and Frederick Ballard helped pave the way for post-World War I dramatists with a show of promise in the treatment of domestic problems in their courtroom plays.

A Rural Folk-Comedy

Only one courtroom play produced between the Civil War and World War I, Back Home, can be classified as a rural folk-comedy. Back Home, by Bayard Veiller, is a courtroom play which deals sympathetically with the abuses of child labor in cotton mills; its main appeal, however, is its leading character, Judge Priest. Back Home is based on magazine stories by Irvin S. Cobb, popular American humorist of the day. The character creation by Cobb, Judge Priest, was later to be popularized again on the screen by the famous Will Rogers. The play, Back Home, ran only 16 performances, but received

moderate acclaim.

The story of Back Home concerns a crusading writer from the North who investigates child labor conditions in Judge Priest's Southern district. During the investigation the writer gets into a fight with a local bully, and kills him. A lengthy trial is held. The writer is found innocent, mainly because the Southerners in the court discover the convicted man has Southern ties! Judge Priest reacts to this discovery in this way:

. . .I've always maintained that Robert E. Lee was the greatest general that the world has ever seen, but at the same time, I've got to admit that Ulyses [sic] S. Grant was considerable of a fighter. As I grow older, I look back a good deal, but I ain't so old to admit that these here United States is a considerable of a success. . .¹

The New York Dramatic Mirror praised the play's trial scenes,² but The New York Times found the same scenes "plodding."³ The Boston Transcript said "the trial would be impossible anywhere outside the theatre and the pages of the Saturday Evening Post. . ., but in both it makes savory entertainment."⁴ However, in the 1915 season, when good-humored and folksy plays

¹Bayard Veiller, "Back Home" (unpublished typescript version housed in The New York Public Library at Lincoln Center), Act III, p. 47.

²New York Dramatic Mirror, November 20, 1915, p. 8.

³The New York Times, November 16, 1915, p. 13.

⁴Boston Transcript, October 12, 1915.

appeared frequently on Broadway, audiences did not respond to Back Home.

Violent Crime

Unlike the languishing, sentimental qualities of Back Home and Young America, another kind of courtroom drama attracted audiences and critical acclaim between 1879 and 1914, that of the serious melodrama in which the main story line is precipitated by violent crime. Four such plays are discussed in this chapter.

The most important play of the period in which violent crime is a principal factor is Elmer Rice's¹ On Trial. Rice received commendation for his work, particularly for "telling his story backward, from effect to cause. . ."² by the use of the "flashback." In the best interests of discussion, the following description of the story, in logical sequence by Clayton Hamilton, is presented:

A profligate induces an inexperienced young girl to spend a night with him at a road-house, accompanied by a woman who is already married to the profligate. The villain runs away, and the

¹In 1914 when On Trial was first produced, Elmer Rice was writing under the name of Elmer L. Reizenstein, his real name. For an interesting and amusing comment about the name change, see: Elmer Rice, Minority Report: An Autobiography, (New York: Simon and Schuster, 1963), p. 164. The name, Elmer Rice, is used by the writer for the purpose of this study, however, quoted materials in this study describing On Trial in 1914, use Reizenstein.

²Clayton Hamilton, "Chronological Sequence in the Drama," The Bookman, XL (October, 1914), p. 182.

girl is taken home by her father. Shortly afterwards, her father dies; and some years later, the girl meets and marries an honourable man. A daughter is born to them and they develop a very happy home. It appears that the heroine was justified in concealing from her husband the misfortune that had befallen her before she met him. But the husband meets the profligate in the business world, is befriended by him, and even borrows money from him. This money he repays in cash; but the profligate takes advantage of the accidental renewal of acquaintance with the heroine to force her to yield to him again, under threat of allowing the past iniquity to be exposed. The husband, discovering the recent intrigue, seeks out the profligate and shoots him dead. A few moments before the shooting, the private secretary of the profligate has stolen from the latter's safe the cash that had just been paid him by the murderer; and it therefore appears to the police that robbery was motive for the murder. The husband seizes on this circumstantial evidence to shield his wife and child from scandal. He confesses himself guilty of murder for the sake of robbery, and asks only to be sent to the electric-chair. But the court insists on assigning counsel to defend him; and the defendant's lawyer, by calling the wronged wife to the stand, makes clear the real motive for the shooting. The private secretary of the dead man is also called as a witness; and when the defendant's counsel succeeds in forcing him to confess that it was he who had rifled the safe and that this robbery had had no connection with the murder, the jury agree at once in acquitting the defendant.¹

On Trial is written in a prologue, three acts, and an epilogue, consisting of eleven separate scenes. The scenes alternate between the courtroom and various other interior settings. All of the scenes located outside the courtroom, take place, in

¹Hamilton, The Bookman, XL, 181-182.

time, prior to the action in the court. Rice accomplished this by the clever use of "flashback" technique. The following transition, from the Prologue to Act One, serves as an example of how the technique was utilized; Mrs. Trask, the widow of the murdered man, is on the stand being questioned by Gray, the District Attorney:

Gray

Mrs. Trask, are you the widow of Gerald Trask?

Mrs. Trask

Yes Sir.

Gray

How long were you married to Mr. Trask?

Mrs. Trask

Almost fifteen years.

Gray

Do you remember the night of June 24th?

Mrs. Trask

Indeed I do.

Gray

Where were you on that evening?

Mrs. Trask

I had been dining out with friends.

Gray

What time did you arrive home?

Mrs. Trask

About half-past nine.

Gray

Now, Mrs. Trask, I want you to tell to the court and jury everything that occurred after you arrived home.

Mrs. Trask

Just as I entered my home the telephone in the library rang.

Lights out - Curtain

ACT ONE

Scene: Trask's library. . .

At rise of curtain, the telephone rings, Mrs. Trask enters. . .and goes to phone.

Mrs. Trask

. . .Hello! Yes--yes--this is 182 River. No, Mr. Trask is not in. . .¹

Unanimous praise by the critics was given to Rice for his skillful ability in constructing On Trial. The Nation said: "The novelty of the representation consists in the manner in which the story is unfolded to the audience."² Everybody's Magazine praised the "manner of construction."³ and Current Opinion found On Trial to be a

. . .startling application of the moving-picture method to the regular drama. The boldness and thoroness [sic] with which the idea was carried out on the stage of living actors, the manner in which the mechanical difficulties are faced and solved, and the dramatic tradition of time and sequence defied and disregarded, brings success to this stunning experiment.⁴

¹Elmer Rice, "On Trial," Famous Plays of Crime and Detection, comp. Van H. Cartmell and Bennett Cerf (Philadelphia: The Blakiston Company, 1946), pp. 237-238.

²The Nation, XCIX (August 27, 1914), p. 260.

³Everybody's Magazine, XXXI No. 5 (November 14, 1914), p. 702.

⁴"First Guns of the Dramatic Season," Current Opinion, LVII No. 4 (October, 1914), p. 249.

It should be remembered that the motion picture in 1914 was still a relatively new medium of entertainment; however, by this time the "flashback" or "cutback" was an accepted motion picture technique. With On Trial, audiences apparently recognized and approved of the innovation for the stage. The Nation explains the significance:

The audience was evidently not displeased with this, as who should be whose dramatic conceptions have been formed by cinema sketches wherein, as every one knows the present easily melts into past dreams and past experiences! In this respect "On Trial" is significant. It may indicate a growing influence of the cinema upon other drama, and a very wholesome influence. The chief hope is that by so wholesale a throwing over of the visual dramatic standards there may in time result a Reductio ad absurdum, together with a return to the limitations of true art.¹

With a perspective of several years on the values of On Trial, Quinn wrote on the influence of the "flashback" in the play:

The result on the stage was certainly striking and the principle on which it was based has been adopted in several plays since that time. When On Trial was first produced, the prophecy was freely made that it would revolutionize play writing, but it has not done so. The "cutback" was of course suggested by the moving picture and the moving picture can produce the effect so much more easily than the play that dramatists have usually wisely left the field to their rival.²

In his autobiography, Rice explains how he became interested in writing On Trial in "flashbacks:"

¹The Nation, XCIX, 261.

²Quinn, A History of The American Drama from the Civil War to the Present Day, Vol. II, 110.

. . .I happened to remember an artical in The Bookman by its dramatic critic, Clayton Hamilton, who was a disciple of the famous Columbia University drama professor, Brander Matthews. . . In his article he suggested writing a play that went backward in time - that is, in which each successive act antedated the preceding one. I found it an idea worth exploring. But I soon concluded that any play that, so to speak, ended before it began must inevitably be anticlimactic, a difficulty that Hamilton, for all his technical knowledge, had ignored. Further examination of the formula convinced me that it could be effective only if the play gave the appearance of moving backward, while actually it moved forward. For the resolution of a situation, which is the essence of drama, must be achieved progressively, not retrogressively.¹

Two other examples of courtroom plays, to be discussed later, using the "flashback" technique are Time Limit!, a play of the Korean War by Ralph Berkey and Henry Denker, and Capponsacchi by Arthur Goodrich and Rose A. Palmer.

The construction of On Trial received praise, while the play, in general, was criticized for its ordinary story. The story was described as "nothing new,"² "not. . .timely or. . .novel,"³ and "trite."⁴

The appeal of On Trial as a courtroom play is related to the unique construction in this respect: information necessary to resolve the trial is withheld from the audience

¹Rice, Minority Report: An Autobiography, 103.

²The Nation, XCIX, 260.

³Hamilton, The Bookman, XL, 181.

⁴Everybody's Magazine, XXXI, 702.

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by the use of the "flashback;" this gives On Trial distinction as a departure from the usual chronological manner in which a story on the stage is told. The New York Times also found distinction in the manner in which Rice created the environment of a criminal court. The critic said:

Mr. Reizenstein has done. . .in a stage courtroom that which is remarkably life-like, and at point after point the play is the better and the more vivid because a keen observation has brought in some of the little things which make a courtroom interesting to those who go to one to hear the stories told there.

. . .he has reproduced with singular success the very manner of our courtroom.¹

On Trial, Elmer Rice's first produced play, opened in New York when Rice was only twenty-one years old. Since On Trial, he has had a distinguished career in the theatre. He became interested in playwriting when he was a law clerk in his cousin's firm in New York. In 1912 he graduated from New York Law School with a degree of LL.B. cum laude, though he never practiced law.² His days as a law student significantly affected his playwriting, however, for in On Trial, The Adding Machine, Counsellor-At-Law, and Judgment Day, trials and lawyers are major subject matter. Judgment Day is a courtroom play and will be discussed in Chapter Four. Of On Trial, the author himself wrote in 1963:

¹The New York Times, August 20, 1914, p. 11.

²Rice, Minority Report: An Autobiography, 78-97.

Steeped in the drama of the Greeks and Shakespeare, of Ibsen, Shaw, Galsworthy, Hauptmann, Schnitzler, and Synge, I could not understand all this acclaim. To begin with, On Trial broke no rules of dramatic technique. . . On the contrary, it followed a murder trial straight through. If the witnesses had simply recited their stories in the usual manner, it would not have occurred to anyone that there was a departure from normal progression. The gimmick - as it would be called today - was that the testimony was visualized. But these enactments carried the story forward, as every scene in a well-constructed play must.¹

Robert Hogan's recent work, The Independence of Elmer Rice, is an incisive study of the works of Elmer Rice. Hogan places On Trial in historical perspective with the following statements:

Scrutinizing the play today, one finds it difficult to discover what was impressive. The characters are only theatrical stereotypes; the dialogue is flat and undistinguished. However, the American stage in 1914 was both imitative and lowbrow, and Rice's manner of telling his story was for the times startling and unique. His most usual story is made engrossing by his effective arrangement of the plot, and this feature of the play remains effective still. On Trial was not only the first noteworthy experiment of the modern American drama, but also it really was an effective piece of stage carpentry.

.....
This structure succeeded in disguising the triteness of the story and made for an engrossing piece of theatre. It was a remarkable achievement for a man so young to handle so excellently such a complicated arrangement, and the play deserved its success. It was good entertainment as well as,

¹Rice, Minority Report: An Autobiography, 121.

for its time, a technical tour de force.¹

Preceding On Trial by five dramatic seasons is another courtroom play, that also appealed to audiences because of its novel presentation; The Third Degree also concerns a violent murder out of which the plot develops. The novelty of the play, in 1909, grew out of a situation in the First Act, in which the hero of the play, Howard Jeffries is psychologically tortured by lengthy and intense questioning by a police captain. This questioning takes the form of a trial. In a kind of hypnotic and weakened state, Jeffries repeats the confession the captain has formulated for him. This procedure to elicit confessions and statements, portrayed number of times on the stage, screen, and television, since 1909, is known as "the third degree."

Charles Klein wrote many successful plays between 1900 and 1910. He wrote plays of contemporary life in America. His plots include the story of a Supreme Court Judge and his battles with financial magnates; conflicts of capital and labor; and, the embezzlement of money by attempting to commit a person to an insane asylum. Quinn says of Klein's work: "These plays are all theatrically effective but they do not stand the test of analysis."² Quinn includes The Third Degree in his comment.

¹Robert Hogan, The Independence of Elmer Rice, (Carbondale: Southern Illinois University Press, 1965), pp. 18, 19-20.

²Quinn, A History of the American Drama from The Civil War to the Present Day, II, 104.

The critics in 1909 generally qualified their praise. For example, The Nation felt the play advanced "the art of technical construction,"¹ but added, "it never rises above the dignity of melodrama."² The Forum found it "interesting melodrama,"³ and referred specifically to the "third degree" scenes as "the best piece of work that Mr. Klein has ever done."⁴ Current Literature praised the same scenes as "one of the most startling experiments in melodramatics."⁵

The Third Degree played 168 performances in New York, and enjoyed several road companies. The audiences in 1909 may have found it a fresh and picturesque look at the underworld in the City. They may also have found the play's "realistic" touches absorbing; for example, in one scene Klein's stage directions call for a hot iron plate and a pot of cold water, in order to obtain a boiled-over milk effect. A note in the script reads: "This plate must be kept hot, so that when the water is poured on it, the hissing sound is distinctly

¹"Drama," The Nation, LXXXVIII No. 2275 (February 4, 1909), p. 122.

²The Nation, LXXXVIII, 122.

³"Pleasant and Unpleasant Plays," The Forum, XLI (March, 1909), p. 219.

⁴The Forum, XLI, 220.

⁵"The Third Degree - Klein's Realistic Dramatization of a Modern Inquisition," Current Literature, XLVII No. 4, (October, 1909), p. 427.

heard - and the steam seen by the audience."¹ Audiences in 1909 were unaccustomed to this kind of realness, and may have led the critic for The Forum to say that The Third Degree was "naturally written."² He added: "The Third Degree is not an important play because it isn't about anything which is of serious significance to humanity. But it does. . .tell an interesting story with theatric skill."³

Receiving less favorable notice than The Third Degree and On Trial, are three more courtroom plays of the period, in which murder plays an important part. The Confession, Nancy Stair, and The Silent Witness, all have murder trials in them.

The Silent Witness, by Otto Hauerbach, produced in 1916, is a conventional melodrama about a girl named Helen Hastings who becomes pregnant by a college student. On the eve of their wedding the college student is "killed" in a fire. Helen moves to Colorado to raise her son. Years later, Helen and her son Bud, their name now changed to Morgan after the boy's father, become involved in a murder case. Bud has accidentally killed a boy in a fight and is accused of murder. Into the play comes State Prosecutor's assistant, Richard

¹Charles Klein, The Third Degree (New York: Samuel French, 1908), p. 85.

²"Pleasant and Unpleasant Plays," The Forum, XLI (March, 1909), pp. 219-220.

³The Forum, XLI, 220.

Morgan. In a recognition scene between Helen and Richard, we discover he is the father of Bud. Somehow he had escaped death in the fire. He finds evidence of his son's innocence, and the boy is acquitted after an impassioned plea to the jury.

Audiences viewing The Silent Witness most certainly would have been reminded of the surprise endings of Common Clay, Just A Woman, and The Guilty Man, had they seen any of the other plays. The Silent Witness was called "a sentimental, wabbly, and sometimes amusingly naive melodrama,"¹ by The New York Times.

The Confession, by James Halleck Reid, is another murder story, with morality and the Church also factors in the plot. The story concerns a priest who, after hearing the confession of a murderer, learns that his own brother has been accused of the crime. He is obligated to his vows to the Church, therefore, he cannot reveal the identity of the murderer. He almost sees his brother hanged without being able to save his life. The Confession had some popular appeal for it "kept the majority of women in tears."²

Nancy Stair, adapted from Elinor Macartney Lane's novel of the same name by Paul M. Potter, takes place in the latter part of the eighteenth century. The heroine, Nancy Stair,³ is loved by Danvers Macgregor. A Duke also loves

¹The New York Times, August 11, 1916, p. 7.

²Ibid., March 14, 1911, p. 11.

³Incidentally, Nancy Stair was a poetess whose work was sometimes attributed to Robert Burns.

her, but Nancy Stair is infatuated with, and engaged to, Danvers. The Duke is killed in a duel with Danvers. After a trial it is learned that a cousin of Nancy's shot the Duke. All is forgiven.

The New York Times described the courtroom scenes in Nancy Stair in this manner: "Every inch of space is crowded with people who conduct themselves as boisteriously as people at stage trials usually do, but who provide a lively and colorful picture for all that."¹ The New York Dramatic Mirror found the play a "heterogeneous mass. . .and general hodge podge. . ."² Nancy Stair had a run of only twenty-nine performances.

Politics and Big Business

Nancy Stair, The Confession, and The Silent Witness are three courtroom plays that did not add significantly to the American drama; nor as courtroom plays are they particularly outstanding. Another group of plays, however, can be considered important because of their subject matter of politics and big business, and because the subject matter itself grew out of the headlines of the times in which they were written. As in the last group of plays discussed, the individual plays in this group do not contribute significantly

¹The New York Times, March 16, 1905, p. 9.

²New York Dramatic Mirror, March 25, 1905, p. 16.

to the drama.

An incident in New York politics was probably the source for James C. Barcus' play, The Governor's Boss. Eight months before the play was produced in New York City, the State of New York had, seen developments in its politics, that resulted in the impeachment of the Governor, William Sulzer. Governor Sulzer was accused of many indiscretions and improprieties in office. For example, he ostensibly used money contributed to his campaign fund to buy shares of Big Four Railroad stock. Governor Sulzer, after impeachment, was removed from office.¹ Nannes, in Politics in the American Drama, says "the impeachment was political, brought about by the machines to save their powers."²

In the play, The Governor's Boss, the Governor is accused of being controlled by a political boss. The governor, however, is true to his office. He is almost removed from office by impeachment, but everything ends happily for him when evidence of the boss's crooked dealings are made public.

The Governor's Boss ran sixteen performances on Broadway. The author, James S. Barcus, was a "former Senator in a

¹Developments in Governor Sulzer's impeachment and removal from office may be followed in The New York Times from August 15, 1913, to the end of that year.

²Casper H. Nannes, Politics in the American Drama, (Washington, D. C.: The Catholic University of American Press, 1960), p. 72.

Western State."¹ His dramatization, growing out of the incidents of the Sulzer impeachment, was found "poor and uninteresting."² The Sulzer impeachment "contained many dramatic possibilities. This effort of former Senator Barcus, we regret to say, does not bring out these possibilities."³

Political "bossism" is also the subject for The Last Resort, by George Scarborough. The hero of this play is nominated for Governor while serving sentence in jail for contempt of court. He is later elected; all ends happily in "this voracious chronicle."⁴ Though The New York Times called it "a dramatization of big-type headlines. . . and . . . scare-head melodrama,"⁵ the New York Dramatic Mirror only recognized it for its attempt to show the corruption of some state officials. The following statements are from the latter paper's review of the play.

The Last Resort, lacking in the essential points of refinement in the art of playwriting, is a bitter impeachment of the integrity of the judiciary, presented with a direct view to sensational effects. . . Members of the Appellate Court are represented as the veriest scoundrels,

¹The New York Times, April 15, 1914, p. 13.

²Ibid., April 15, 1914, p. 13.

³New York Dramatic Mirror, April 15, 1914, p. 12.

⁴Clayton Hamilton, "Emotional Contagion in the Theatre," The Bookman, XXXIX (April, 1914), p. 146.

⁵The New York Times, March 3, 1914, p. 9.



and no mitigating circumstance is introduced to divest them of the odium of the most unscrupulous subserviency to the dictate of self-interest and political prostitution.

.....'

The play has the earmarks of hasty craftsmanship at the hands of an opportunist writer wishing to profit by the interest in current events. The audience is constantly reminded of certain recent political occurrences in the State, and the author points a direct finger at various well-known personages.¹

The Last Resort had the same length of run as The Governor's Boss, playing sixteen performances.

Corruption, but in the business world, is also the subject in another courtroom drama of the period, as seen in The Mills of the Gods by George Broadhurst. The main story concerns two men, James Clarke and Frederick Payton, who are brought to trial for embezzlement. Clarke confesses, and, by doing so, implicates Payton. Both are sentenced but Clarke eventually escapes from jail. He goes to Pennsylvania where he becomes manager of a glass works. Years later Payton appears and blackmails Clarke. Clarke is awarded a pardon because of his "good" life. Payton's fate is uncertain.

Although the trial scenes were found to be interesting,² the author was "hampered by too close observance of

¹New York Dramatic Mirror, March 4, 1914, p. 6.

²The New York Times, March 5, 1907, p. 9.

certain laws of dramatic construction. . ."¹ The New York Times corroborates this impression by calling The Mills of the Gods a ". . .drama of the good, old-fashioned sort, with the hero and the villain very plainly labeled at every stage of the proceedings, and the issues never in any sort of doubt."² In 1934 a motion picture based on The Mills of the Gods was released; it received moderate acclaim by Time magazine.³

Special Talents

The final two plays to be discussed in this chapter almost defy categorizing, unless they could be called "entertainments" designed for special talent. They were both written between 1884 and 1891. The first, Fred G. Maeder's Captain Mishler (1884), was designed for the special comedy talents of Gus Williams, a popular farceur of the day. It was not seen as a good vehicle for Williams, however.⁴ It was looked upon as a farcical piece,⁵ but the following description of the play in the New York Dramatic Mirror implies it was written with a mixture of styles:

¹New York Dramatic Mirror, March 16, 1907, p. 3.

²The New York Times, March 5, 1907, p. 9.

³Time, December 24, 1934, p. 22.

⁴New York Dramatic Mirror, May 31, 1884, p. 2.

⁵The New York Times, May 27, 1884, p. 6.

The story is tinged with melodramatic exaggeration and is replete with sensational episodes. The Captain is the hero. An adventurous rascal, Edward Warker, deserts his wife and child and they find shelter and protection with the good-natured, kind-hearted police official. Warker murders and robs a man at Fleetwood Park. A good young man, Frank Tracey, is falsely accused of the crime, but at the trial Warker is shot through the court-room window, and dying, established the other fellow's innocence by confessing his own guilt. The Captain is rewarded for his devotion and fidelity by the hand of the murderer's widow, and all ends happily.¹

There is no available record as to how long Captain Mishler attracted audiences; advertisements for the production in New York, however, appeared occasionally throughout the summer of 1884.

The other play for which labeling is difficult is Hoss and Hoss, by Charlie Reed and William Collier. In Hoss and Hoss, a variety show company appears before a judge and defends itself by performing various acts. The critics were unfavorable; for example, it was called ". . .one of the non-descript formless [sic] farces. . .sometimes very funny, and sometimes very stupid."² The New York Dramatic Mirror said: "Hoss and Hoss will stick in our memory as one of the dullest performances we have sat through at a Broadway theatre."³ The audience for opening night was much more unkind; a singing

¹New York Dramatic Mirror, May 31, 1884, 2.

²The New York Times, November 3, 1891, p. 4.

³New York Dramatic Mirror, November 7, 1891, p. 2.

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quartette, for example, was hissed,¹ and "the occupants of an upper box persisted in throwing wads of roses at almost every performer."² The length of run for Hoss and Hoss is undeterminable.

We have examined twenty-two courtroom plays, produced professionally between 1884 and 1917. Between the end of the Civil War and the 1880's, a number of plays included scenes in courtrooms, but the action in the courtroom was not sufficient length to be included as a significant part of this study. A predominance of plays with short scenes is generally attributed to the desire of audiences of the post-Civil War period, who wanted quick changes in dramatic action and numerous settings for the diversified action.

Of the plays discussed, it is doubtful that any of them would be accepted by modern audiences, with the possible exception of On Trial by Elmer Rice and Giles Corey, Yeoman by Mary E. Wilkins. On Trial, written in 1914, would possibly be appealing today to those who enjoy well-constructed melodrama designed mainly to entertain. Giles Corey, Yeoman might stand reviving because of its historical motif of the Salem witch trials, and because the language of the play is so similar to the dialect of the 17th century America, that a

¹Ibid.

²Ibid.

contemporary American playwright might approach the subject matter in the same manner. In fact, Arthur Miller's The Crucible, written on the same subject and in the patois of early America, has been a popular play in America since its first performance in 1953.

In general terms, the twenty-three courtroom plays produced professionally in America between 1884 and 1917 collectively reflect: an increased use of native material by American playwrights; an emphasis by American playwrights upon American speech, characters, and setting; deft technical skill by American playwrights in the use of the resources inherent in the theatre; and, some excellence in playwriting which can be labeled as precursory to the more definitive works by playwrights in the years between 1918 and 1966.

CHAPTER IV

THE AMERICAN COURTROOM PLAY BETWEEN THE
FIRST WORLD WAR AND THE PRESENT DAY

Introduction

Between World War One and 1966, the American drama can be divided into three main periods. The first period (1917-1930), includes the years of America's role in the First World War, the post-World War One period, and the 1920's. This era ends just following the Stock Market crash of 1929, which marked the end of post-war prosperity and the beginning of the biggest depression in American history. From World War One to the Depression, American drama became more entrenched in realism, saw an insurgent art theatre affect its product, and found a number of playwrights recognized as important literary figures throughout the world.

The second period begins with the Depression in 1930 and ends with the close of World War Two in 1945. During and following the Depression, American dramatists became caught up in the social and political changes taking place on the American scene; this resulted in a number of plays of social criticism. During the years of World War Two, social drama

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gave way to conventional escapist fare.

The final period embraces the time span from 1945 to 1966. Remindful of the vivid crimes of World War Two and the fear of atomic destruction for Mankind, playwrights following the war became interested in the themes of Man's identity, and the importance of the individual in contemporary society. Arthur Miller, Tennessee Williams, William Inge, Robert Anderson, all emerged as prominent writers during this period; all wrote on themes of Man's identity, loneliness, and alienation. In the approximate years from 1955 to 1965, experimentation in American drama also took place in New York's off-Broadway theatres.

In all the periods from World War One to the present day, homespun, folksy comedies were produced on the American professional stage. Conventional melodramas constructed primarily for entertainment, amusement, and mass appeal, also appear in the three periods. In intent and often in presentation these comedies and melodramas do not differ too much from those that appeared frequently on Broadway before World War One, which at the time was "smugly indifferent to artistic and social forces threatening its own complacency. . ."¹

At the time America entered World War One in 1917,

¹Edmond M. Gagey, Revolution in American Drama (New York: Columbia University Press, 1947), p. 1.

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the play-goer in New York would very likely seek a play with a well-known theatrical personality, and one which would be lacking in significant depth and meaning. The theatre of the time was a world of make-believe and escape. The World War, however, had a sobering effect on America, Americans, and American drama. Elmer Rice, one of the leading playwrights at the time, describes the change:

The old concept of a sanguine and peace-loving country minding its own business and cultivating its own garden in a wide, rich land, securely sheltered by two vast expanses of ocean, was no longer tenable. The whole world was in a state of upheaval and a startled and unprepared American suddenly had a sword thrust into its hand and found itself cast in the role of the savior of humanity - a boy sent to do a man's work! Old behavior patterns and prejudices had to be discarded; new responsibilities and attitudes had to be assumed; growing pains, headaches and heartaches had to be endured. America, suddenly conscious of its vital individuality and its high rank in the global hierarchy, swelled with justifiable pride and with a new sense of power. History affords ample evidence that at such moments in a nation's career the national genius finds expression not only in vigorous action, but in the arts. The time was already ripe for the assertion of American creativity; the war accelerated the process.¹

The World War also accelerated a native dramatic literature, that was creative and intrinsically related to the national life. The "new" drama had actually begun as early as 1915, when a group of amateurs formed the Washington Square

¹Elmer Rice, The Living Theatre (New York: Harper and Brothers, 1959), p. 120.

Players and produced the first play by America's most respected playwright, Eugene O'Neill.¹ O'Neill's work has achieved lasting prominence all over the world, as well as in America. Led by O'Neill, American playwrights at the end of World War One began to voice a vigorous plea for imagination and poetry in the drama. Some of them, their names now commonplace in American dramatic history, became prominent; Sidney Howard, Maxwell Anderson, Paul Green, and Robert Sherwood, to name a few, all became significant playwrights following the first World War. This group wrote on various subjects, but a serious intent prevailed in their plays. Edmond M. Gagey, in the following passage, discusses the attitudes of the American playwright following World War One.

At the start the postwar playwrights shared the spirit of disillusioned questioning that pervaded the fiction and poetry of the "lost generation." The typical attitude was negative, critical, often cynical. In drama it generally took the form of debunking the pretensions and ideals of middle-class culture. All kinds of problems - social, ethical, psychological, religious, political - aroused dramatic comment. The general trend was from disillusion to reform and from reform to propaganda.²

The writers of comedy for the American stage, also tended to change their attitude toward their work following

¹Joseph Wood Krutch, The American Drama Since 1918, (New York: George Braziller, Inc., 1957), p. 3.

²Gagey, 121-122.

the First World War. Though sentimental and romantic comedy tenaciously held the stage after 1918, sophisticated comedy began to take the place of the more romantic pieces. Rachel Crothers, Philip Barry, and S. N. Behrman were the principal writers of sophisticated or high comedy. Other comedies written during this period, however, were more traditional and lacked sophistication. Lightnin' (1918), by Winchell Smith and Frank Bacon, for example, takes the form of a character study, in which the leading character, Lightnin' Jones, is reminiscent of Solon Shingle and Rip Van Winkle. Another unusual kind of play, popular during this period, was the melodramatic comedy. Chicago (1926), by Maurine Watkins, and The Front Page (1928), by Ben Hecht and Charles MacArthur, both examples of the melodramatic comedy, almost completely lack in understatement; they take the form of satirical burlesques. Chicago satirizes the Chicago courts; and The Front Page, a newspaper story, ridicules politics in the same city.

The courtroom play from World War One to 1930 also reflected the changing times in America. Fifteen courtroom plays were produced during this period; eight are serious plays and seven are comedies. Among the serious courtroom plays only three held the stage for any significant length of time. They are: The Woman in Room 13 (1919), by Samuel Shipman and Max Marcin; Caponsacchi (1926), by Arthur Goodrich

and Rose A. Palmer; and, The Trial of Mary Dugan (1927), by Bayard Veiller. The Woman in Room 13 and The Trial of Mary Dugan are conventional melodramas, similar to the popular melodramas produced in the pre-World War One era, but more realistic in detail. Caponsacchi, on the other hand, is a romantic costume play based on Browning's The Ring and the Book. Capon-sacchi's Broadway run of 296 performances attests to the growth in audience maturity after the First World War, for it is a verse play, a form that is not often popular with Broadway audiences. Of the remaining five serious courtroom plays, only Appearances by Garland Anderson, offers any change from earlier courtroom drama; Appearances is the first American courtroom play to be concerned with the plight of the American Negro.

The seven comedies of the period are led by Lightnin', which enjoyed a Broadway run of 1,291 performances. For audiences in 1918, Lightnin' had unsurpassed drawing power. Another comedy, Ladies of the Jury (1929) proved to be a moderate success because of the popular appeal of its "star," Mrs. Minnie Maddern Fiske.

In general terms, the courtroom play between World War One and 1930 seems to have held on to the traditions of the past to a greater degree than the larger body of American drama. Negativism and cynicism are at a minimum in the

courtroom plays of this era; this is in contrast to the prominent playwrights of the day, O'Neill, Howard, Anderson, and Sherwood. Nor is the courtroom play of this period generally preoccupied with Freud, a desire to preach or spread propaganda, or any of the social and ethical problems of the time that are reflected in many of the plays of the period. The courtroom comedies and melodramas of this era tend to mirror the prosperity and good times of "The Roaring Twenties."

America's economic situation in the early 1930's, initiated by the stock market crash of 1929, was the worst in American history. The theatre was hit hard by this debacle; audiences waned, and many theatres had to close their doors. Probably the most significant development in American drama to come out of the Depression was the number of plays written on the social issues of the day. The plays of the outstanding American playwrights of the 1930's reflect a concern with the social and political issues raised by the economic conditions of the country. The works of Clifford Odets, John Howard Lawson, Maxwell Anderson, Elmer Rice, S. N. Behrman, Paul Green, Irwin Shaw, Lillian Hellman, and Robert Sherwood, all writing plays about social issues during the 1930's, give this decade of American drama particular significance. Some of the common themes which these outstanding playwrights were writing about during the thirties were: social injustice, anti-war,

anti-fascism, rebellion, Americanism, and racial injustice. The playwrights during the thirties were socially and politically committed, and their political commitments were generally more to the left of center than to the right of center. In the following passage, Gerald Rabkin describes the rise and fall of the politically committed plays between the mid-thirties and the Second World War:

. . .one might place the high-point at the mid-decade, 1934-36. This period saw the major production of the left-wing Theatre Union and the Marxist New Theatre League (which produced, among other short works, Odets' Waiting For Lefty and Irwin Shaw's Bury the Dead); the Group Theatre's productions of the work of the decade's most important young dramatist, Clifford Odets; the Theatre Guild's productions of such plays as Wexley's They Shall Not Die, Sherwood's Idiot's Delight and the leftist revue, Parade (1935); the production on Broadway of such dramas with social themes as Dead End, Winter set, and The Petrified Forest; and the International Ladies' Garment Workers Union's socially satiric revenue, Pins and Needles. . .

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Despite the major theatrical event of the latter part of the decade, the unprecedented Federal Theatre Project, the record reveals that the period from 1938 to 1941 represents a general decline in social, and, in particular, left-wing drama. . .several of the . . .playwrights who had moved left because of the initial impact of the Depression had found reason to be disenchanted with the intransigence of the radicals. Anger at the manifest failure of capitalism gave way to apprehension at the imminence of war, and the mood at the end of the thirties was unquestionable less socially aggressive than at the mid-decade. . . Survival was soon to be the only basic social question, and the spirit of political commitment

which dominated American drama in the 1930's was largely dissipated by the entry of America into the second World War.¹

Drama of social and political commitment was manifest in four courtroom plays of the nineteen-thirties, three of which concern racial injustice and one, Judgment Day (1934), being an anti-fascist play by Elmer Rice. It was inspired by the burning of the German Reichstag in February, 1933. Of the three plays concerning racial injustice, two were written about an actual case of a group of Negro boys on trial for murder in Alabama; the incident is commonly known as The Scottsboro Case. The two plays written about this case were They Shall Not Die by John Wexley and Legal Murder by Dennis Donoghue, both produced in 1934. The other play dealing with racism is The Trial of Dr. Beck by Hughes Allison; this play was produced by the W.P.A. Federal Theatre Project in 1937.

Five other courtroom plays were produced professionally during the nineteen-thirties; all of them are seemingly conventional melodramas ordered for audiences who did not wish social dramas. The only melodrama, which audiences attended for any length of time, however, is The Night of January 16 by Ayn Rand. Indicating perhaps the seriousness of the times, there were no comedies which were also courtroom plays produced

¹Gerald Rabkin, Drama and Commitment (Bloomington: Indiana University Press, 1964), pp. 32-34.

in America during the nineteen-thirties. The outstanding comedies written during this period by American playwrights, however, showed a further development from domestic comedies and comedies about marital problems, both types seen in abundance prior to the nineteen-thirties, to a more sophisticated comedy of manners. Very often these comedies of manners involved marital problems, but the milieu of the characters was generally more aristocratic, educated, and cultured, than in the plays written prior to this time.

During the period between 1940 and 1945, primarily the years encompassing World War Two, American audiences and American playwrights were very much aware of the American scene; many of the new plays during this period reflected an America of bygone days. The premiere of Oklahoma! in 1943, set in Indian Territory before the turn of the twentieth century, led the way. Oklahoma! and other musical comedies provided escapist fare for American audiences during the war. The war-time comedies, excluding musicals, included Joseph Kesslring's farce, Arsenic and Old Lace, and the sophisticated The Voice of the Turtle, by John van Druten. Like the period of 1930 to 1940, the war years did not see any courtroom play with comic intent.

The American drama was not without its serious side during the early part of the nineteen-forties; for example, a

number of anti-fascist plays were produced. Lillian Hellman's Watch On The Rhine, Maxwell Anderson's Candle in the Wind, and John Steinbeck's The Moon is Down, outstanding anti-fascist plays, mirrored the virtues of American democracy as opposed to the evils of fascism.

Three courtroom plays were produced on the professional stage between 1940 and 1945, all of them serious, and two of them clashing somewhat with the trends of wartime escapist drama. For example, According to Law (1944), a one-act play by Noel Houston, concerns racial injustice to the Negro. Furthermore, Pick-Up Girl (1944), by Elsa Shelley, is a serious study of wartime juvenile delinquency. Signature! (1945) by Elizabeth McFadden is more standard fare; it is a conventional murder melodrama set in 1856. Of the three, Pick-Up Girl is the only one to receive acclaim by either audiences or critics.

The end of World War Two, in 1945, brought newcomers in playwriting to prominence in America; also, by this time, the propagandist left-wing drama, like the economic depression became a thing of the past. Some of the outstanding newcomers, who eventually gained international reputation, were Tennessee Williams, Arthur Miller, Arthur Laurents, and William Inge. The most distinguished of these are Tennessee Williams and Arthur Miller. Williams plays primarily deal with the inner psychological life of his leading characters. Miller's

characters are usually the victims of an undesirable social system.¹ This fact is brought out in Miller's courtroom play, The Crucible.

Playwrights who became known during the nineteen-twenties and nineteen-thirties also continued to produce plays following the Second World War. The plays of Lillian Hellman, Elmer Rice, and Clifford Odets, for example, still attracted audiences.

World War Two itself was the subject for many plays after 1945. For example, war is the subject of the Rodgers and Hammerstein musical, South Pacific; the Thomas Heggen and Joshua Logan serio-comedy, Mister Roberts; and John Patrick's comedy about Okinawa's post-war problems, Teahouse of the August Moon. A serious side of the war is represented by Arthur Laurents' Home of the Brave, in which the theme of anti-Semitism is dramatized; Command Decision, a story of the upper levels of the military in war by William Wister Haines; and, The Caine Mutiny Court Martial by Herman Wouk, another military story of command and decision during war. The Caine Mutiny Court Martial is the only courtroom play in the World War Two setting.

In all periods of American drama, American history of the distant past has also been an important factor in

¹Krutch, 326.

providing subject matter for stage plays. Indirectly, World War II possibly stimulated the writing of another courtroom play, The Andersonville Trial by Saul Levitt. This play is about the trial of Henry Wirz, Commandant of the Andersonville, Georgia, prison, during the American Civil War. Wirz was tried for military crimes against the United States, but the play is oriented toward his "crimes against humanity." The Andersonville Trial could serve as a grim reminder of the Nazi concentration camps during World War Two. During this period also, The Story of Mary Surratt (1947) by John Patrick is also based on an incident in American history. Mary Surratt was accused of taking part in the conspiracy that led to the assassination of President Abraham Lincoln. Another example would be The Gang's All Here by Jerome Lawrence and Robert E. Lee, a play about President Warren G. Harding's administration following World War One.

There have also been instances where historical events have produced plays almost immediately. Four historical events between 1945 and 1966 produced plays, some of them important, by American playwrights. The first event was the "Cold War" which developed between the United States and the Soviet Union following World War II. Sidney Kingsley's adaptation of Arthur Koestler's Darkness At Noon (1951) is an attack on Stalinist Russia; Premier Stalin was Russia's principal

political figure during the "Cold War." The Korean War, the second important historical event during this period, produced the play, Time Limit! by Henry Denker and Ralph Berkey, a story mainly concerning a young American officer's trials and decisions in a prisoner-of-war camp. The third historical event stimulating playwriting was the Communist purge in America in the mid-fifties, led by Senator Joseph McCarthy of Wisconsin. This event led to two plays: The Crucible by Arthur Miller, though written about the Salem, Massachusetts "witch-hunt" of 1671, was inspired by developments during the Communist purge in the nineteen-fifties; and, Sol Stein's Shadow of My Enemy, a dramatization of the Alger Hiss-Whittaker Chambers case, a perjury trial which was the result of an accusation of Communist affiliation against a member of the United States State Department. The fourth historical event from which plays were inspired during this period, and the most recent, is the "Negro revolution" in America. Three plays concerning the problems of the Negro American will serve as an example; all of them are written by Negroes. Louis Peterson's Take A Giant Step is the story of an adolescent Negro boy growing up in a New England town; A Raisin in the Sun by the late Lorraine Hansberry, is about a Negro family in Chicago and their decision to move to a white neighborhood; and Blues For Mr. Charlie by James Baldwin, is a story of racial violence in Mississippi.

Blues For Mr. Charlie, Darkness at Noon, Time Limit, The Crucible, and Shadow of My Enemy, are all courtroom dramas inspired by historical events taking place during, or just prior to, the time in which they were written. Current events have played an important part in courtroom drama since the Second World War. Topical subjects have also been given an exclusive position of importance in the development of American drama, in general, since World War Two. Alan Downer, in Fifty Years of American Drama, however, questions the importance placed on the immediacy in modern drama. He says:

Immediacy is a virtue, but it is not necessarily all the virtues of drama. . . It is questionable whether even the ablest of the . . . realists have achieved universality in reflecting a world so full of chaos and contradiction. Yet universality does not cease to be desideratum, at least for the critics, and it has led many a playwright on an exhausting and generally fruitless quest. The more successful of these playwrights have taken one of two roads: they have gone back to the beginnings to folk material, where manners were simpler and there was less differentiation between peoples; or they have sought the way of expressionism, creating a special, unique world for their action where everyday distinctions in manners and belief need not be appealed to. Both ways, of course, are eventually the way of poetry, of the completely creative use of the material available to the playwright.¹

Since World War Two the American drama has been in a period of change, in which plays of numerous types and modes

¹Alan S. Downer, Fifty Years of American Drama (Chicago: Henry Regnery Company, 1951), p. 75.

have been produced. Downer's statement above points to the two principal ways in which the modern playwright chooses his material. The urge by some playwrights to go back to folk material is apparent in a number of plays produced in recent years on the American stage. We find it in Tad Mosel's adaptation of James Agee's novel, All The Way Home; Carson McCuller's The Member of the Wedding; Thornton Wilder's The Matchmaker (and the musical, Hello, Dolly! based on it); and, another musical, The Music Man, by Meredith Willson. It is also evident in the outstanding courtroom play, Inherit the Wind, by Jerome Lawrence and Robert E. Lee. These are just a few examples of plays in which a return to folk materials by their authors is evident; the characters in these plays are similar to those found in earlier American drama, though the cultural patterns of the characters in today's plays may differ somewhat from those of the past.

In recent years, from approximately 1953 to 1963, the urge for dramatists to express themselves in the "special and unique" world mentioned by Downer, found utterance in the small off-Broadway theatres, mostly located in the Greenwich Village area of New York City. For the most part, the plays produced here during this time were less conventional and more experimental than the plays produced on the larger stages on Broadway. A few new playwrights, directors, and performers

came out of the off-Broadway movement of this ten year period, but no new courtroom play emerged from it.

Courtroom plays did appear from another approach to dramatic literature, however, for since World War Two, American dramatists have adapted many of their plays from other literary forms. During the nineteen-fifties, this practice was prevalent. Judith Crist summarizes the practice in the following statement:

It was. . .an age of adaptations and an original play was a rarity during several seasons. Only five of the eight Pulitzer plays and four of the ten critics' dramatic choices were original works rather than adaptations. Plays and musicals were made out of best-selling novels, auto-biographies, movies, television plays, collections of short stories and essays and even a comic strip.¹

Five courtroom plays, written between 1951 and 1963, are adapted from other forms of literature. For example, Arthur Koestler's novel, Darkness at Noon, is the source for Sidney Kingsley's play with the same title; Herman Wouk adapted his own novel, The Caine Mutiny, for the stage; and, Henry Denker adapted a portion of Louis Nizer's non-fiction book, My Life in Court, into A Case of Libel. The novel, the short story, and the non-fiction book, all serve as sources for courtroom plays during this period.

¹ Judith Crist, "Were the '50s Fabulous? Let's Check the Program," New York Herald Tribune, January 3, 1960, IV, p. 1.

The theme that has dominated American drama since the Second World War has been the theme of Man's loneliness and his alienation from the world in which he lives. This theme's revelation in modern drama is best expressed in the following passage:

The causes of loneliness as portrayed in American drama vary from a personal to a social basis, several being a result of both. In an age in which man is considered only partly responsible for his actions - his heredity and environment being inescapable deterministic factors - it is not strange that perhaps the only personal classification is that of the failure of a love affair. Personal failure, as well, however, is made out to be far more an individual responsibility than a social matter. Homelessness and the conflict of the spiritual with the material represent the forces of society and the individual about equally. Socio-economic conditions put emphasis upon the social and economic causes rather than upon personal accountability. Abnormal family relationships presuppose a certain fatalistic concept in that the individual cannot choose the family into which he is born. There is something of the same inevitability about the loneliness of the hero, whom chance, heredity, and the times in which he lives thrust into the isolation which goes with deification.¹

The theme of loneliness and alienation can be found, to some degree, in Arthur Miller's The Crucible and Darkness at Noon by Sidney Kingsley, though political machinations are also very important in these courtroom plays. The alienation theme is more evident in The Deadly Game by James Yaffee and

¹Winifred L. Dusenbury, The Theme of Loneliness in Modern American Drama (Gainesville: University of Florida Press, 1960), p. 208.

Blues for Mr. Charlie by James Baldwin, both courtroom plays written since 1963.

What has taken place in the American drama since World War One can be generalized, with the danger of understatement, in the following comments: first, a number of American playwrights of excellence, many of whom have achieved international recognition, emerged during this period; secondly, the foreign play showed much less influence during this period, in comparison to the periods preceding World War One; thirdly, the social drama took place following both World War One, the Depression, and World War Two, the conventional Play dominated all three periods.

The Plays

Comedies and Folk Plays Concerning Domestic Problems

Although the First World War brought about a spirit of change in the American drama and the native playwright of prominence began to emerge from the new insurgent theatre, some playwrights, and indeed audiences, continued to welcome the homely sentiment of the characters so often portrayed in folk and domestic comedies. This was evident as early as 1918 with the production of Lightnin', and as recently as 1956 with the production of The Ponder Heart. The leading characters in both of these courtroom comedies remind us of Solon Shingle in The People's Lawyer and Judge Priest in Back Home, with

their slow speech and easy-going manner.

Between the end of the First World War and 1966, five domestic and folk comedies, that are also courtroom plays, were produced professionally in America. There was also one revival--Lightnin', which was revived in 1938. No play in this study, and very few in the history of the American theatre, received more audience acclaim than did the first production of Lightnin' by Winchell Smith and Frank Bacon, which opened at the Gaiety Theatre, August 26, 1918, and ran 1,291 consecutive performances. On its closing in 1921, The Nation had this to say about its history at the Gaiety Theatre:

The withdrawal of "Lightnin'" from the Gaiety Theatre last week marked the close of the most astonishing "run" that a dramatic work has had in the history of our own or any other stage. More than twelve hundred consecutive performances of the play were given and its owners have already reaped a profit of nearly two millions. It is safe to predict that road companies and stock performances and eventually screen versions will carry knowledge of the play to the remotest parts of the country and increase the wealth of both of the managers and of the author and chief actor, Mr. Frank Bacon, whose sudden rise to fame and fortune during the seventh decade of his life savors of both the fairy tale and the dime novel. We may well ask once more: What manner of play achieved this fabulous success? There can be but one answer: a shoddy and preposterous bit of melodrama.¹ But

¹From about 1900 to the close of World War One, dramatic critics often used the word melodrama to describe a play in which sentimentality and exaggerated characters and action played upon the surface emotions of the audiences. The use of the word by the critics at that time did not necessarily mean the play was serious in intent. Today we would use the word "corn" or "hokum" to describe the same plays.

it is necessary to add that in the center of this melodramatic action stands a character, Lightnin' Bill Jones, who represents human values of a delightful sort. He is worthless and lovable, unpractical, and knowing only in the needs of the heart. He lies and he guzzles. The sweetness of his nature carries him through. He did not reform and yet won the public heart. In the admiration elicited by such a character there is a good deal of moral sanity, tolerance, and kindliness. And since precisely these qualities have not recently shone among us, the success of "Lightnin'" may be regarded by the sociologist as wholesome and important.¹

Lightnin' is a humorous potpourri in which plot is subservient to character and anecdote. The play has all the ingredients for popular favor, however. For example, there are two lawyers who are scoundrels, a gallant young hero who fools the scoundrels at the risk of losing his girl friend, and there is Lightnin' Bill Jones, who is finally reconciled with his wife after she has started divorce proceedings. There is "hokum" in the scenery concept for the play, also, for the Calivada Hotel, the setting for the first act, sits half in Nevada and half in California, proposing problems for those seeking divorces in Nevada. To some degree, the long life of Lightnin' on the stage can be attributed to these ingredients. Following its first performance in New York one critic recommended the play "to anyone who wants a good hearty laugh because whether you are sad. . .or weary. . .the play. . .is

¹The Nation, CXIII (September 7, 1921), p. 253.

going to make you forget all about it and give you a few hours of genuine amusement such as you have not experienced for many a long day."¹ Another critic, recognizing its commonplace story and characters, remarked that Lightnin' ". . .probably does not contain a single situation which is dramatically new, yet it is doubtful of three plays presented during the season will approach it for sheer entertaining power."² The same review also called attention to the complications and amusing incidents that take place in the Reno courtroom. It said:

. . .here all the various sides of the plot are thrashed out - a railroad claim against the young lumberman, the divorce action of Lightnin's wife (encouraged, of course, by the desperate villains, who hoped thereby to obtain the woman's property without her husband's signature.) and also the divorce case of the comedy relief lady, who presently marries the Judge.

All of this is covered with such an amount of genuine humor that one is well into the second act before it is discovered that it is merely the same old figures of rural melodrama which are being paraded again.³

Another reason for Lightnin's popularity was the acting ability of Frank Bacon. Bacon had been struggling in the theatre for about forty years, but success did not come to him until the production of Lightnin'. Furthermore, it was Frank Bacon who wrote the play originally, under the title of The

¹New York Dramatic Mirror, September 7, 1918, p. 361.

²The New York Times, August 27, 1918, p. 7.

³Ibid.

House Divided;¹ this interest in the play was as both actor and playwright. The Outlook judged Frank Bacon's performance as Lightnin' Bill Jones in this way:

A notable illustration of that type of drama in which one character dominates is "Lightnin'". In this play Frank Bacon. . .continues to delight, thousands of playgoers. Like Joseph Jefferson in "Rip Van Winkle". . .so in "Lightnin'" the man is the play. . .the attractiveness is in the gentle sweetness, the deliberate utterance, and the unforced humor that belong to the actor's personality. Frank Bacon as he appears in private life has little need of "make-up" to become the "Lightnin'" of the stage. Around the character, to be sure, are grouped odd and amusing incidents, situations, and people. But the play depends for its appeal, not on construction or dramatic tensity, but on the drawling, slow-moving irresponsible, but altogether lovable and kind-hearted "Lightnin'". The play is wholesome and its fun is contagious; its dramatic art is not high, but its entertaining quality is irresistible.²

During its run with Frank Bacon in the leading role, President Woodrow Wilson saw Lightnin' three times. He later wrote to John Golden, the producer, for a copy of the exact words of an anecdote about a swarm of bees Lightnin' Bill tells in the play.³ It is told in the first act when Bill, slightly drunk, is approached by a sheriff from Nevada.

Sheriff

You look as if you've had enough.

¹John Golden, "Lightnin' Set to Strike Twice," The New York Times, September 11, 1938, X, p. 2.

²"Three Plays," The Outlook, CXXVI (September 29, 1920), p. 182.

³Golden, 2.

Bill

Oh, I don't want it for myself, it's just sociability. I don't drink.

Sheriff

Don't tell me that. You're a booze fighter. . .

Bill

No, I ain't - I'm an Indian fighter.

Sheriff

Is that so?

Bill

Yes, that's so. Did you ever know Buffalo Bill?

Sheriff

Yes, I knew him well. (Bill turns, takes a good look at him.)

Bill

I learned him all he knew about killin Indians. . . Did he ever tell you about the duel I fought with Settin' Bull?

Sheriff

Settin' Bull?

Bill

He was standin' when I shot him. I never took advantage of nobody, not even an Indian.

Sheriff

Say, you got a bee in your bonnet, ain't you?

Bill

What do you know about bees?

Sheriff

Not much, do you?

Bill

Yes, I do - I know all about 'em. I used to be in the bee business. Why, I drove a swarm of bees across the plains in the dead of winter. And never lost a bee. Got stung twice.

. . .I got enough.¹Sheriff

Not all of Lightnin' is intended, however, to be humorous; there are some scenes in which some pathos come through. The following speech, by Mrs. Jones when she realizes she cannot divorce Bill, serves as an example:

No, Judge! Please don't give me a divorce if you can help it. Please, Judge - I don't want it. I didn't know what I was doing. They said it was the only way I could take care of Bill and myself in our old age - but they was just telling me lies. (Goes to Bill. Turns.) Bill, I've done you a wrong, and I can't blame you if you never look at me again - but I didn't mean to, Bill - I - didn't mean to and if you'll forgive me and take me back - I'll try all my life to make up for it - will you? Will you, Bill? . . .²

The humor and pathos also appealed to London audiences in 1925, with Horace Hodges in the role of Lightnin' Bill Jones.³ The boisterous Western courtroom scenes and the Americana inherent in the play apparently did not prevent Londoners from being attracted to Lightnin'. Earlier, it was pointed out that for these same reasons, Londoners did not accept Clyde Fitch's The Cowboy and the Lady. This may not be a fair comparison however, for The Cowboy and the Lady did not succeed

¹Winchell Smith and Frank Bacon, "Lightnin'", S.R.O., comp. Bennett Cerf and Van H. Cartmell (Garden City: Doubleday and Company, Inc., 1944), p. 450.

²Ibid., 479.

³"Lightnin' Strikes London," The Literary Digest, LXXXIV (March 14, 1925), p. 31.

in America either.

Lightnin' was revived in 1938 with Fred Stone in the role of Lightnin' Bill and again produced by John Golden. The revival's critical acclaim was excellent. Time magazine said: "Wave after wave of purest hokum sweeps across the stage, but so candidly that nobody minds."¹ Most of the New York Post's review was dedicated to Fred Stone's performance, comparing it favorably with that of Frank Bacon; with eighteen years intervening, between the first production and the revival, it said of the play in 1938:

The play itself was never much of a play. It was hokum made palatable by the shrewdness of its broad humorous touches. It was hokum aided by the sure-fire merits of the second-act courtroom scene. It was hokum redeemed by the appeal of its characterization of Lightnin' Bill Jones. But it was good hokum because it gained its desired effects. A good hokum it remains to this day for precisely the same reasons.²

Theatre Arts Monthly called Lightnin' in its revival "authentic Americana,"³ and made the claim that it "creaked less than is usually the case when an old vehicle is drawn out of the coachhouse to accommodate a new star."⁴ Incisive

¹Time, XXXII (September 26, 1938), p. 39.

²New York Post, September 15, 1938.

³Rosamund Gilder, "We've Got the Song," Theatre Arts Monthly, XXII (November, 1938), p. 777.

⁴Ibid., 774.

critic Wolcott Gibbs, writing for The New Yorker, put the revival of Lightnin' into an interesting perspective with the following comment:

Reasonably, "Lightnin'" should have reflected the desperate gaiety of a nation at war. It should have been nervous and defiant, a thin crackle of wit over the terrible rumble of the guns. Actually, I am embarrassed to say, it was (and still is) as healthy and guileless as a nice old horse. Ushering in the Second World War, as its original ushered out the First, the revival. . . goes on about the silliness of the Nevada divorce laws (divorce was still the national joke in 1918; prohibition didn't come along for another year). . .¹

The 1938 revival of Lightnin' was not greeted by audiences as well as it was by the critics, for its run lasted only 54 performances.

Two years following the closing of Lightnin's record run of over two thousand performances, appeared another play on the Broadway stage, This Fine-Pretty World, by Percy Mackaye, in which the plot elements and character relationships are similar to those in Lightnin'. This Fine-Pretty World, similar to the revival of Lightnin', received considerable attention and praise by the critics, but did not enjoy a long run.

The prototype of Lightnin' Bill in This Fine-Pretty World is Beem Sprattling, a born dreamer whose imaginative lies get him into a great deal of trouble, including seventeen

¹ Wolcott Gibbs, "So Let It Be With Bacon," The New Yorker, XIV (September 24, 1938), p. 28.

jail sentences. His biggest trouble comes when he testifies that he had illicit relations with a lady of the town, whose husband wishes to marry a younger girl. Beem's perjury gets him a jail sentence, which he prefers to responsibility, for in jail he can daydream.

This Fine-Pretty World was written by Percy Mackaye, the son of a popular playwright, Steele Mackaye. At the time Percy Mackaye wrote This Fine-Pretty World, he was also a well-known playwright, particularly as the author of The Scarecrow, a dramatization of a story by Nathaniel Hawthorne.

This Fine-Pretty World takes place in the Kentucky mountains in the nineteen-twenties. It was written as a result of a fellowship in drama and poetry which Percy Mackaye received from Miami University in Oxford, Ohio, located less than forty miles from the Kentucky border.¹ In writing This Fine-Pretty World, Mackaye had a specific design in mind.

That design was to interpret (in plays and poems) certain native American backgrounds of our national life, far from the life of cities, through personal observation of their natural and human characteristics. These mountain backgrounds, conserving distinctive qualities of pioneer traditions which have deeply influenced our character and destiny as a people, are comprised in the east within the range of the Appalachians. . .

.....

¹Percy Mackaye, This Fine-Pretty World (New York: The Macmillan Company, 1924), p. XIII.

But an even richer vein of folk life, only half discovered, imminently menaced but not yet wholly devastated by the inexorable machine of modernism, still held its hidden lure in the mountains southward - especially beyond the hundred-mile wall of Pine Mountain, in Kentucky. Some day I hoped it might be my lucky lot to adventure there, on the rugged trail to the still serene heart of my own people with the script of a pilgrim-dramatist in my belt-strap.¹

The reasons for the failure of This Fine-Pretty World were inherent in Mackaye's design. The play might have had better success if it had not been for Mackaye's penchant for authenticity. Quinn explains;

He became so charmed with the linguistic survivals of Elizabethan English which he found unspoiled or quaintly rearranged on the lips of the mountaineers, that for the first fifteen minutes the audience was barely able to follow the play. Dialect, after all, is in literature usually artificial, and on the stage it is a dangerous experiment unless a compromise is effected between the real speech of the people represented and the normal language of the theatre.²

Carl Van Doren, writing for The Nation, agreed with Quinn,³ but The Dial found the language "not restricted and overworked . . .but immanent and racy. . .The effect on [the] spectator. . . is one of vitality. . .of buoyancy and beauty."⁴

¹Ibid., pp. XIII-XIV.

²Quinn, A History of the American Drama from the Civil War to the Present Day, II, 37.

³Carl Van Doren, "Drama," The Nation, CXVIII (January 16, 1924), pp. 68-69.

⁴"Briefer Mention," The Dial, LXXVI (March, 1924), p. 290.

As an example of Mackaye's expression of Kentucky mountain dialect, the following scene from the play is presented, in which Beem Sprattling is asked to repent for his wrong ways. The characters in the scene are identified as follows: Squire Cornet conducts the court, Arminty is Beem's wife, Dug Cheek is a sheriff, and Gillie and Maggie Maggot are the husband and wife about whom Beem has perjured himself.

Squire Cornet

Mr. Defendant, so please ye to rise. . .The Jury has spoke, Sir. Hit now becomes for me, as Jedge, to pass sentence on ye. But first-offly - you bein' the most reg'lar dependablest customer of this-yer court - I wants to swap ye a word acrosst the counter. Friend Beem, Uncle Fiddler thar has named ye a novice. So ye are, but ye're an old hand at hit! Lemme see, Dug: how many times is hit we's run him in?

Dug Cheek

Seventeen, Sir, last countin'.

Squire Cornet

Hit's a raresome score, Beem; but I'd counsel ye, this heat, to close-out the runnin', and set tight on the champeenship till ye're challenged. Your leetle woman thar backs me up on that; don't ye, Miss?

Arminty

Jist as how Beem says, your honor.

Squire Cornet

Then, Beem, I counsels ye for to say Repintance. Give me back that word, my boy, and hit maht go a long ways toward shortin' your rent in the Pen-house. Yis; evenly hit maht loosen ye also-gither. . .So answer he up! I's holdin' the balancers, weighin' hit - your sentence. What's the word on the tip-scale? Is hit Repeat, or Repint?

Beem

. . .Your honor - Minty - friend meebors - hit becomes for me to answer yan text. . .And seein' how hit's my funeral we's celebratin', I's jist step us on the grave-box.

(Mounting the cedar box, he glances down at it and dreamily.)

Yis! Thar's nye soldier foundation I could pulpitize hit on, only lackin' a windin'-sheet. -A windin'-sheet. . .Your honor - and Gilly! - Veestions I onct war harborin' of a dream-bone, an eye-bladder, and a wisdom-tooth. But they-all is parentheetical. Repeat, or Repint! That's my text now. . .Which-a-one will I do, you honor? I'll do them both! I'll repeat all I's did in the sperrit of Huly-Bible repintance.
.....

Gilly Maggot, I made of ye a Pharaoh in Egypt; I could a-shet ye of your sins, but ye'd liever git shet of your wife. - Well, and now are ye shet of her? Nah, Gilly; the law has ye by the guts. You, Maggie! - I creationed ye in beauty, - the likes of Rachel by the well, - The likes of the love-lady of Solomon: The eyes of ye maht have been doves, but ye'd liever they war peckin' hens - Well, Maggie, peck away! . . .Minty! - O Minty! - Evenly you is onrepintant. You and me, us mought have supped on wild honey from the lily-bushes of life; but you knows hit, Minty - whenever I reminds ye of lillies, you allers lures me to a smitch o' bacon! . . .Your honor, - gentlemen! - what's I to do with ye all? Repintance? - Yis! But, your honor, hit's you-all must foller me to Repintance: - I follers the Oninvisible and the Onbeheerd-of! . . .

Squire Cornet

Dug, that tallies Eighteen. . .¹

As mentioned earlier Beem decides to go to jail, for jail to him is a fine and pretty world where he can sit and

¹Mackaye, 180-182.

dream the rest of his life. Thus, the play ends with the "hero" of the play refusing to accept life's responsibilities. This unusual ending of This Fine-Pretty World may have disappointed audiences in 1923, for it ran only thirty-three performances.

Somewhat akin to Mackaye's Beem Sprattlin is Uncle Daniel Ponder, the leading character in The Ponder Heart, a courtroom play adapted from a Eudora Welty story by Joseph Fields and Jerome Chodorov. The Ponder Heart was produced in 1956 and ran 149 performances. Uncle Daniel is similar to Beem in that

. . .all he wants is that everybody should be as happy as he. This amiable trait involves him in so many tangles that those who love him most dearly are afraid they will have to commit him to a mental institution. Those who don't love him involve him in a murder trial that is as hilarious and cockeyed as a vaudeville sketch.¹

The story of The Ponder Heart centers on Uncle Daniel Ponder and his marriage to Bonnie Dee, a backwoods salesgirl. The Southern town in which the couple live feel the marriage is a mismatch. Uncle Daniel, however, does not; he lavishes gifts on his bride from money left to him by his father. The marriage of several months is not consummated; when the time comes, however, Bonnie Dee runs away from the older uncle Daniel. She returns, only to die of fright during a thunder storm. The citizens of the town, however, suspect she was

¹The New York Times, February 2, 1956, II, p. 1.

murdered. Uncle Daniel is charged for her murder and brought to trial. The truth of how Bonnie Dee died, however, is finally brought to light, and Uncle Ponder is finally found not guilty.

One of the charms of Uncle Daniel is that he cannot deal with the world's realities,¹ a trait also found in Beem Sprattlin, and to a degree, Lightnin' Bill Jones. While Uncle Daniel's charm, particularly in the courtroom scenes, brought positive comments from the critics, it was the totality of the final act that received the widest acclaim. Richard Watts, Jr., critic for the New York Post, did not favor the play until the final act, which is the trial of Uncle Daniel Ponder. The following is a portion of Watt's critique:

The utter nonsense of the courtroom procedure, with Uncle Daniel's simple innocence throwing a bright light on honesty on the proceedings, is quite enchantingly entertaining.

It is not merely that the contrast between the candid simplicity of the man on trial and the despairing attempt at courtroom gravity is pleasantly satirical, although it assuredly is. It is also that the play thereupon develops an endearing quality of wild and imaginative humor that is not far from irresistible. There is no bothering with suspense. You never have any doubt that Uncle Daniel is going to be acquitted with acclamation. But in the process there is so much sheer fun that it will be hard to take a courtroom play seriously for a long time.²

¹The New York Times, February 17, 1956, p. 14.

²Richard Watts, Jr., New York Post, February 17, 1956.

A brief scene from the final act will serve as an example of the courtroom action. The situation in the following excerpt is self-explanatory:

Uncle Daniel

Judge Waite, did you hear that? . . . Well, I've heard 'bout everything there is to hear, an' I don't believe my ears. Imagine me doin' a mean thing like that, murderin' my sweet little Bonnie Dee. (He starts to witness table and picks up his hat.) . . .

Judge

. . . Daniel! Where are you goin'? Come back here!

Uncle Daniel

. . . Judge Waite, this is no reflection on you, but I just can't stay here an' listen to crazy talk. Judge, your Honor, I'm leavin' off.

Judge

Daniel, you can't leave off.

Uncle Daniel

I just haven't got the heart to stay. . . .

Judge

You can't go leavin' your own trial!

Uncle Daniel

Well, I had been lookin' forward to it, but the way it's goin' I might as well not be here. Just send me word how it comes out. (He starts out again.)

Judge

I know, but Daniel as a courtesy to me, since I'm the Judge, I'm pleadin' with you to sit down and bear with us.

Uncle Daniel

(Turns back slowly) Puttin' it that way, your Honor, I'll naturally have to stay. . . Gentle-men of the Jury, you know me all your lives -

Now I ask you, do you think I could do a mean thing like that? Just answer me yes or no, off the record.

Judge

(Bats gavel) Daniel, you can't address the jury! You can' address anyone!

Uncle Daniel

Now, Judge Waite, don't get yourself all worked up. It isn't good for you. I'm just tryin' to make my point. . .¹

Perhaps the scene above is part of what prompted Brooks Atkinson to say that "the play does not hold the characters up to ridicule. It respects their loyalty to the town and to each other. Although they are temperamental, they are neighbors. Although the courtroom scene is uproarious, it is enchanting."² In a later commentary on the play Atkinson added:

Although the third act is funny, it sill manages to preserve the feeling of authenticity that makes Miss Welty's novel original. The local flavor seems genuine. Everybody present regards the trial as a show in which the style is as important as evidence; everybody participates, either as actor or audience. Despite the wildness of the humor, there is a note of veracity about the human responses. There is a note of veracity about the whole play, for that matter.³

Lightnin', The Fine-Pretty World, and The Ponder Heart are similar in folksy humor, and their intent to entertain

¹Joseph Fields and Jerome Chodorov, The Ponder Heart, (New York: Random House, 1956), 271-272.

²The New York Times, February 17, 1956, p. 14.

³The New York Times, February 2, 1956, II, p. 1.

without losing a sense of authenticity and honesty. The three are also similar as a form of domestic comedy; the action in each of them springs from marital problems of principal characters. Two other comedies of the period, The Judge's Husband (1926) by William Hodge, and Drink To Me Only (1958) by Abram S. Ginnes and Ira Wallach, also have domestic involvements as a plot circumstance. Neither one received acclaim though they do represent the kind of unpretentious farce-comedy which appears each season with regularity on the Broadway stage.

William Hodge's The Judge's Husband was first written under the title of The Kirby's;¹ Joe Kirby, Mrs. Judge Kirby, and Alice Kirby, their daughter, are the three principal characters. The plot complications begin when Joe Kirby is called out of town when his daughter becomes involved in a minor escapade. Kirby keeps this information from his wife, and complicates matters by allowing a rumor of his infidelity to his Mrs. Kirby to go unchecked. This leads to the courtroom where his wife, Judge Kirby, tries her own divorce case, with Mr. Kirby serving as his own attorney. The daughter, Alice, finally straightens things out by telling the truth of what happened. Two side issues involve local politics and Alice's sweetheart, who becomes incriminated when liquor is found in

¹William Hodge, The Plays of William Hodge (2 vols; New York: Samuel French, 1928), I, p. 5.

his car. The Judge's Husband was written during Prohibition; this incident in the play reflects the times in which it was written.

Playwright William Hodge was also a popular actor. In The Judge's Husband he played the part of Joe Kirby; in fact, he played roles in a total of seven plays he authored, but first became famous when he created the leading role in the The Man From Home (1913) by Booth Tarkington and Harry Leon Wilson.¹

The critic for The New York Times found The Judge's Husband a funny play, but due, to a large part, to Hodge's acting.² Prior to its opening in New York, a Boston critic referred to the play as "occasionally quite funny."³ The Judge's Husband ran 120 performances in New York City.

Drink To Me Only, a 1958 farce by Abram S. Ginnes and Ira Wallach, begins when a playboy, who has often been married, wings his current wife in the seat with a pistol after having consumed two quarts of whiskey. A defense attorney at the playboy's trial attempts to prove that one can be in possession of his faculties after having consumed two quarts of whiskey. The attorney offers proof by drinking the two quarts during the courtroom proceedings. He convinces the court that

¹"Hodge, Playwright, and Hodge, Actor," The Literary Digest, XCI (October 16, 1926), p. 321.

²The New York Times, September 28, 1926, p. 31.

³Boston Transcript, February 16, 1926.

he has a clear mind after consuming the two quarts; therefore, the defendant is found guilty because the jury is persuaded that he, too, knew what he was doing when he shot his wife.

Seven New York critics condemned the play for its inability to sustain a full evening of amusement.¹ Drink To Me Only was directed by a veteran of the theatre, George Abbott. It enjoyed seventy-seven performances.

Serious Plays Concerning Domestic Problems

The serious side of domestic problems also reached the stage as courtroom drama between the First World War and the present day, all of which are conventional melodrama. Seven plays of this type reached the professional stage during this period. None of them received outstanding acclaim by literary or dramatic critics, though two, The Trial of Mary Dugan (1927) by Bayard Veiller, and The Woman in Room 13 (1919) by Samuel Shipman and Max Marcin, attracted audiences.

The complicated plot of The Woman in Room 13 concerns a man whose wife divorces him for another man. The second husband engages the first husband, whom he has never seen,

¹Daily Mirror, October 9, 1958; Journal American, October 9, 1958; New York World Telegram and The Sun, October 9, 1958; Daily News, October 9, 1958; New York Herald Tribune, October 9, 1958; The New York Times, October 9, 1958; New York Post, October 9, 1958. These critical reviews were reproduced in: New York Theatre Critics' Reviews (27 vols. New York: Critic's Theatre Reviews, 1958), XIX, pp. 278-280.

and who has become a private detective, to watch over his wife during his forced absence from the city. The second husband actually suspects his employer of sending him away with the intention of taking advantage of his absence to see his wife. His suspicions are proven true, for the second husband does not leave town but rushes in on the anticipated rendezvous and kills the man. At the trial the jury frees the defendant in the name of "the unwritten law."

The Woman in Room 13 is similar to several melodramas discussed in Chapter Three, in which plots were of paramount importance. In The Woman in Room 13, however, the structure, according to a critic of the day, seems to be more plausible than the earlier melodramas.¹ The Independent called it "exciting melodrama,"² while C. Courtenay Savage, writing in The Forum, typed the play as "'popular' drama."³ The Woman in Room 13 was popular for 175 performances.

Eight years following the popular success of The Woman in Room 13 came the production of The Trial of Mary Dugan by Bayard Veiller, the author of Back Home, discussed in Chapter

¹New York Dramatic Mirror, January 25, 1919, p. 9.

²"The New Plays," The Independent, XCVII (February 1, 1919), p. 137.

³C. Courtenay Savage, "The Theatre In Review," The Forum, LXI (March, 1919), p. 375.

Three. The Trial of Mary Dugan was a much more successful play than Back Home. In fact, it is the most popular play with audiences among the nine domestic courtroom melodramas discussed in this chapter. The manner in which The Trial of Mary Dugan is told is considered more important than the "quadrally preposterous story."¹ Briefly, however, the story concerns a girl, Mary Dugan, who dances in the Follies, and who is brought to trial for the murder of the man to whom she has been mistress. Her relationship with the man was only in order to provide money for an education for her younger brother, a law student. He takes over during the trial as Mary's counsel, and exonerates his sister by proving the crime was committed by a left-handed person. Mary is right-handed. The real murderer is revealed as the first attorney for Mary's defense.

A novelty of the play is in the manner by which the intermissions, or act breaks, are managed. At the end of Act One the character of the Judge orders the courtroom cleared,² and at the end of Act Two he calls a recess.³ Bayard Veiller tells about how the design for detail went a step further in his autobiography, The Fun I've Had. He says:

¹Joseph Wood Krutch, "Oyez, Oyez, Oyez," The Nation, CXXV (October 12, 1927), p. 406.

²Bayard Veiller, The Trial of Mary Dugan (New York: Samuel French, 1928), p. 66.

³Ibid., 103.

In New York, Woods [Al Woods, the producer] re-decorated the National Theatre at which we played, and made it look as much as possible like the outside of a courtroom. The ushers in the theatre were all dressed as court attendants in police uniforms and when the play was going on, after an intermission, the attendants had been trained to cry "Court is now about to reconvene," instead of the usual cry in a New York Theatre, "Curtain going up."¹

The critic, Gilbert Seldes, approved of Veiller's cleverness in detail, particularly the way "in which court procedure was squeezed of its last drop of dramatic juiciness."² Another critic, Ralph Sargent Bailey, however, felt that Veiller counted too heavily on a few technical novelties.³

The assets and appeal of The Trial of Mary Dugan as courtroom drama are summed up, in the following statement, by Joseph Wood Krutch:

Mr. Veiller has chosen, to begin with, a novel form. His entire action takes place in the court room, the duration of the play is identical with the duration of the trial. . .and even the doorman swings a billy in order to promote the illusion. Reinhardt turned the theatre into a cathedral,⁴ why should not Mr. Veiller turn

¹Bayard Veiller, The Fun I've Had (New York: Reynal and Hitchcock, 1941), pp. 263-264.

²Gilbert Seldes, "The Theatre," The Dial, LXXXIII (December, 1927), p. 531.

³Ralph Sargent Bailey, "The Curtain Rises," The Independent, CXIX (November 12, 1927), p. 482.

⁴The reference is to Max Reinhardt, famous German director, who converted a theatre into a church for his production of The Miracle.

it into a supreme court? Such an initial conception is, however, only a beginning; the author's skill is far more impressively demonstrated in his working out of the idea, for not only has he taken full advantage of the dramatic opportunities naturally afforded by the form of a trial but he has, in addition, been remarkably fertile in devising all sorts of unexpected turns of events and in managing various surprising eruptions of action which might conceivably interrupt the formalized procedure of the court. Doubtless it is only in a judge's nightmare than any trial was ever marked by so many unusual incidents. . .; doubtless any decorum-loving judge who ever had the misfortune to preside over such a trial would, unless he were himself first carried shrieking to Bellevue [hospital], sentence all the parties concerned to be boiled in oil or to suffer whatever other penalty he could devise as a fitting punishment for proceedings so little in accord with the sacred atmosphere of the courtroom; but the important fact is that Mr. Veiller has made everything acceptable by the skill with which it has been handled and in particular by the sound melodramatic principle that if you can win the confidence of an audience by a reasonable beginning the limit to what it can be made to accept at the action proceeds is set only by the amount of tension which can be generated.¹

The beginning of the play, to which Krutch refers, is a detailed scene in which the courtroom slowly comes to life, as Veiller states, for fifteen minutes.² Attendants, reporters, clerks, and officials come into and go out of the courtroom during these fifteen minutes. Furthermore, sentence is passed on another case before the trial of Mary Dugan is presented.³

¹Krutch, The Nation, CXXXV, 406-407.

²Veiller, The Trial of Mary Dugan, 3.

³Ibid., pp. 3-10.

The situation in Veiller's Play is theatrical, but the courtroom is "treated with minute realism."¹

The Trial of Mary Dugan played 310 performances in its initial engagement in New York City, and since has become "one of the most popular of modern melodramas."² In reference to other performances of The Trial of Mary Dugan, Veiller describes the appeal of the play had in this manner:

We opened to a packed theatre, and the theatre in Golder's Green is one of the largest in England. Now the question there is, "Why?". . . The answer to that is very simple: for exactly the same reason that our first performance in Mamaroneck, in the state of New York, had been a sellout. It was a play about a murder trial - that is the whole secret.³

One of the five conventional melodramas remaining to be discussed, That's the Woman (1930), is also by Bayard Veiller. That's the Woman, as in The Trial of Mary Dugan, also concerns a murder trial. The story mainly concerns Richard Norris, who is accused of murder. He claims he was walking in the park at the time the murder was committed; however, it is suspected he was with his mistress at the time. His amorous affair proves to be true, and although Norris is acquitted, he is socially cesured. Veiller's leading characters in That's the Woman are all members of the top level of city society.

¹Gagey, 235.

²Ibid.

³Veiller, The Fun I've Had, 263.

Bayard Veiller ". . .has written more exciting plays and hokum more deftly obscured."¹ That's the Woman did not attract audiences, for it lasted but twenty-nine performances on the professional stage.

Scarlet Pages (1929) by Samuel Shipman and John B. Hymer, enjoyed a few more performances than That's the Woman, and reminded The New York Times critic of The Trial of Mary Dugan.² Scarlet Pages is about a night-club hostess who is forced to kill her foster father when he attempts to seduce her. An incestuous implication dominates the play until the night-club hostess discovers that she is an adopted daughter. The heroine of the play is a female attorney who gains acquittal for the night-club hostess. Clair Luce played the role of the hostess on the professional stage. The New York Times found the material in the play "old and garish."³

Another play of similar type is The Woman on the Jury (1923) by Bernard K. Burns. A plea for jury service for women prompted the writing of this play, for in 1923 women were not allowed to serve on juries in some states. However, the play was criticized for being crude and implausible.⁴

¹The New York Times, September 4, 1930, p. 27.

²The New York Times, September 10, 1929, p. 26.

³Ibid.

⁴The New York Times, August 16, 1923, p. 10.

The story concerns a woman, who, after a marital indiscretion, admits her guilt in the courtroom at the risk of her own happiness. The Woman on the Jury played seventy-seven performances on Broadway.

Marital indiscretion is also the cause for the dramatic problems developed in The Bellamy Trial by Frances Noyes Hart and Frank E. Carstarphen. The play is based on Mrs. Hart's novel, The Bellamy Trial; her collaborator, Frank E. Carstarphen was former Assistant District Attorney of New York City.¹ The plot of The Bellamy Trial springs from the murder of Madeline Bellamy, after which her husband and another woman are brought to trial. It is revealed that the murdered woman had a lover, and it is the lover's mother who finally confesses the crime. The Bellamy Trial was called "overburdened and monotonous"² and played sixteen performances.

The final courtroom play about domestic problems to be discussed is Deadfall (1955) by Leonard Lee. Deadfall is about a man who escapes from a murder he committed with the help of a lawyer. The widow of the man who was murdered, then succeeds in convicting the murderer of her husband of a murder no one has committed. Deadfall played twenty performances. It was reproved for being "literal and ponderous. . .with the

¹The New York Times, April 23, 1931, p. 28.

²Ibid.

tedious details of a court trial."¹

Twelve courtroom plays, produced between 1918 and 1955, in which a domestic relationship of some type is a principal plot concern, have been discussed. Other courtroom plays in this period have plots in which marital and domestic problems play a part; for the purpose of discussion, however, they seem to have a more important facet which places them in other categories. The courtroom plays about domestic problems, discussed above, include five comedies and seven serious plays. All of them are conventional plays primarily designed to entertain. Their entertainment value is their principal contribution to this study of courtroom drama. The intent of these twelve plays is in direct contrast to the next group of plays to be discussed, those in which social protest is the prime factor.

Social Protest Plays

Eight courtroom plays written between 1929 and 1964 are categorized here as social protest plays. One other play to be discussed later, The Crucible, includes strong elements of social protest; however, the playwright, Arthur Miller, had a predilection for the political mood of America in the early nineteen-fifties, which prompted the writing of The Crucible.

¹The New York Times, October 29, 1955.

It will be discussed in the context in which it was written. Six of the social protest plays to be discussed concern racial prejudice against Negroes, one concerns prejudice against Italian-American anarchists, and one is about juvenile delinquency during the Second World War.

Among the six courtroom plays concerning racial prejudice and the Negro, two received more attention from the critics. The first, They Shall Not Die by John Wexley, is based on an actual case in Scottsboro, Alabama, in which nine colored boys were convicted of rape. The trial is commonly called The Scottsboro Case. Playwright Wexley's declaration in They Shall Not Die is that the Scottsboro Negroes were sentenced to die when grave doubt as to their guilt existed.¹ He never mentions Scottsboro by name, but chooses "to follow actual events about as closely as it is possible without using the names of persons concerned."² The actual events started in March of 1931, when two white girls, a white man, and nine colored boys were taken off a freight train near Scottsboro, Alabama.³ The case

¹The New York Times, February 22, 1934, p. 24.

²Joseph Wood Krutch, "Drama," The Nation, CXXXVIII (March 7, 1934), p. 284.

³An interesting account of the Scottsboro case, including a timetable of events and several appendices, is found in a book written by Heywood Patterson, one of the central figures of the case who was brought to trial four times, and Earl Conrad; see, Heywood Patterson and Earl Conrad, Scottsboro Boy (London: Victor Gollancz, Ltd., 1950).

grew out of the charge that seven of the colored boys had raped the two white girls. The boys were brought to trial and convicted. A few days before they were to die in the electric chair, they received a stay of execution through the efforts of the International Labor Defense, whose attorneys appealed to the United States Supreme Court. On November 7, 1932, the Supreme Court handed down a decision setting aside the verdict of guilty and ordering a new trial; the decision was based on the grounds that the boys did not have adequate counsel at the trial.¹ A second trial was granted for which Samuel Liebowitz, New York criminal lawyer, was retained for the defense. Two days before the second trial of Heywood Patterson, one of the defendants, a complaining witness reversed her testimony that she had been raped. Nevertheless, Heywood Patterson was convicted again, and eventually a third time with a death sentence imposed. The Supreme Court reversed the decision again on April 1, 1935.² A new trial was arranged, and Heywood Patterson was convicted again and sentenced to seventy-five year's imprisonment. The other boys also received sentences, but later four of them were freed and the charge dropped. Eventually all were paroled.

¹Ibid., 290.

²Ibid., 290-293.

In the play the prototype for lawyer Leibowitz is Nathan G. Rubin. He could be called the hero of the play.¹ As in real life the play begins with the alleged attack, and follows the case through the first trial, the first Supreme Court decision, and to the second trial. The play ends with the jury retired for a decision, and lawyer Rubin declaring that he will see that justice prevails. The main difference between the facts of the case and the play concerns one of the two girl accusers. The character in the play repudiates her testimony, as in the real life case, but playwright Wexley added a love interest between her and a character representing a traveling salesman.

They Shall Not Die was praised by the critics. Stark Young said the play "makes for a good deal of direct, raw theatre. . ."² The Nation carried a lengthy commentary on the play, in which Joseph Wood Krutch reflects on its value as social drama. A portion of his comments follows:

. . .Mr. Wexley. . .suggests. . .that his purpose is to make the most direct assault possible upon the feelings of his audience and the most direct appeal for the active participation of its members in the public protest against the execution of four Negroes convicted of rape in an obviously prejudiced court. . .The case is as plain as a case could be, and hence fact seems to support

¹Time, March 5, 1934.

²Stark Young, "Three Serious Plays," The New Republic, LXXVIII (March 14, 1934), p. 130.

him when he states an issue in the clear black and white of the partisan unwilling to admit that a case may be seen from more than one angle. But this is not all, for Mr. Wexley, unlike many authors of similar plays, is as sure of his methods as he is of his conviction, and he has stuck with admirable persistence to a direct presentation of events accompanied by only a very small minimum of argument or interpretation. He does, to be sure, make very clear his intellectual attitude upon one issue. The defense is right in insisting that the case shall not be tried merely on the basis of the abstract justice due to four individuals; it must be seized upon as a concrete illustration of that struggle between classes which only occasionally reveals itself in so dramatic a form. Perhaps, indeed, Mr. Wexley begs the question as he does not often do when he makes the representative of a society for the improvement of colored people so obviously a hypocrite and a tool. But by far the greater part of his play is given over to scenes, often painfully vivid, of direct and brutal narration. There is no psychological subtlety, almost no character drawing. . . Neither is there any attempt to present a novel interpretation or even to see any deeper into a situation than others have seen before. But Mr. Wexley's conviction seems to be that nothing of the sort is necessary and that the facts of the newspaper, are all that is required. Some "social plays" are debates and some are orations. Some even take refuge in the symbols of "expressionism" in an effort to get beyond mere fact. But "They Shall Not Die" is none of these things. It does not wish to get beyond fact. It is essentially a newsreel and effective in the newsreel's fashion.

.....

In conclusion it is hardly worth while for me to return to the doubts which I have expressed. . . concerning the claims of such plays to a consideration from the critic of art as distinguished from the advocate of social reforms. Certainly the terms which one must select for the praise of this one are not those which one would usually find most applicable to most great plays. One must content oneself with saying that it treats an important

event, that it vividly recounts certain incidents in the news, that it certainly provides a thoroughly uncomfortable three hours. One then concludes with the hope that it will do good. If a play of which only those things can be said is a great play, then "They Shall Not Die" is great.¹

Professor Quinn disagrees with Krutch and disapproves of the play for some of the same reasons Krutch praised it. The essence of his appraisal is in the following statement:

Wexley has yet to learn that facts are not what matters; it is the impression of truth. But the great defect of the play lay in the lack of an individual character in which the injustice is centered. The Negroes who are unjustly convicted are not individualized and though an attempt is made to center attention upon the lawyer for the defense, it is not easy to transfer sympathy on the stage, for the attorney is not in danger.²

Gagey writes that "for a general audience Wexley probably weakened his case by overstatement - the usual defect of outright propaganda."³ The criticism by Burns Mantle also claims an overstatement by Wexley, but Mantle chose it as one of the best plays of the 1933-1934 drama season.⁴ Further, Time magazine said:

¹Krutch, The Nation, CXXXVIII (March 7, 1934), pp. 284-285.

²Quinn, A History of the American Drama from the Civil War to the Present Day, II, 297.

³Gagey, 156.

⁴Burns Mantle, ed., The Best Plays of 1933-34 (New York: Dodd, Mead and Company, 1934), p. 203.

A better playwright than most polemicists Playwright Wexley lost his temper in They Shall Not Die. Yet somehow his journalistic vehemence does not ruin the play. Handsomely mounted by the Theatre Guild and fervently acted by an enormous cast, it succeeds in its purpose to arouse opinions and emotions on a controversial subject.¹

The comments and criticisms above attest to the controversy and significance of They Shall Not Die. In order to demonstrate the quality of the writing in the play, and, perhaps show Wexley's approach to his subject matter, the final scene of the play is presented here. The scene takes place after the jury has retired to render a decision. After the jury is off stage, a sound of raucous laughter comes from the jury room. Rubin and Rokoff, the defense attorneys, react in dismay and astonishment. Rubin speaks first:

Rubin

If the court please. . . I have seen and heard of many strange and crazy things in my time, but I have never heard anything like that. . . in there. (He gestures toward jury room.) But I'm not through yet. Let them laugh. . . let 'em laugh their heads off. . . this case isn't ended yet. . .

Rokoff

(rises and stands at Rubin's side) - No. . . and our fight isn't ended either. . .

Judge

(rapping his gavel) - This. . . is out of order. . .

¹Time, March 5, 1934, p. 40.

Rokoff

(continuing over the interruption) - You have the jurisdiction to stop us in this court. . .but there are hundreds of thousands of men and women meeting in a thousand cities of the world in mass protest against the oppression and ownership of man by man. . .and over them, you have no jurisdiction. . .

Rubin

(inspired and fired by Rokoff) - No. . . we're not finished. We're only beginning. . . I don't care how many times you try to kill this negro boy. . .I'll go with Joe Rokoff to the Supreme Court up in Washington and back here again, and Washington and back again. . .if I have to do it in a wheelchair. . .and if I do nothing else in my life, I'll make the fair name of this state stink to high heaven with its lynch justice. . . these boys, they shall not die! The laughter from the jury room dies down. Court and audience stare at him with eyes and mouths agape. . .)

The Curtain Falls¹

They Shall Not Die was produced by The Theatre Guild and starred Claude Rains as Nathan G. Rubin. Its total number of Broadway performances was sixty-two.

Another play about the Scottsboro case, Legal Murder, was also presented in 1934. Legal Murder was written by Dennis Donoghue, who is not an acclaimed playwright. The critic for Billboard qualified his praise in this manner:

Legal Murder may be no great shakes as a play, but the fire and force and sincerety of its pleading give it a heady emotional value

¹Mantle, 255.

which, as a play, it really misses. It is propaganda, granted. But the situation about which it propagandizes is so legitimately dramatic in itself that even this highly anti-propaganda reporter doesn't mind.¹

The New York Times was highly critical, claiming value for the Scottsboro case as a subject for drama, but dismissing Legal Murder because ". . .the characters speak in the traditional fashion of the vaudeville stage, and no one appears quite real."² Legal Murder played a total of seven performances on the Broadway stage.

The second courtroom play, concerning injustice toward the Negro, which received considerable recognition from the reviewers, is Blues For Mister Charlie by James Baldwin. Blues For Mister Charlie, produced in 1964 on the professional stage, is the most recent courtroom drama in this study. Its author, James Baldwin, is a noted novelist and essayist and is a prominent spokesman for the Negro in the civil rights movement in America. Baldwin, a Negro, has received many awards for his writing, including a Certificate of Recognition from the National Council of Christians and Jews. He dedicates Blues For Mister Charlie "to the memory of Medgar Evers, and his widow and children, and to the memory of the dead children

¹Eugene Burr, Billboard, February 24, 1934.

²The New York Times, February 16, 1934, p. 16.

of Birmingham.¹ Mr. Evars and the Birmingham children, to whom Baldwin refers, were all Southern Negroes who were ostensibly murdered as a result of racial prejudice in the American South.

What the play means to Baldwin is set down in notes preceding the printed script. He explains that the germ of the play was based somewhat on the murder of a Negro boy who was murdered in Mississippi, and the aftermath, during which the murderer was brought to trial, acquitted, and then proceeded to sell his account of the murder to a popular magazine.² Baldwin's reaction to the murderer, and what the incident means to him as material for drama, is as follows:

But if it is true, and I believe it is, that all men are brothers, then we have the duty to try to understand this wretched man; and while we probably cannot hope to liberate him, begin working toward the liberation of his children. For we, the American people, have created him, he is our servant; it is we who put the cottle-prodder in his hands, and we are responsible for the crimes that he commits. It is we who have locked him in the prison of his color. It is we who have persuaded him that Negroes are worthless human beings, and that it is his sacred duty, as a white man, to protect the honor and purity of his tribe. It is we who have forbidden him, on pain of exclusion from the tribe, to accept his beginnings, when he and black people loved each other, and rejoice in them, and use them; it is we who have made it mandatory - honorable - that white father should deny black son. These are grave crimes

¹James Baldwin, Blues For Mr. Charlie (New York: Dial Press, 1964), p. ix.

²Ibid., xiv.

indeed, and we have committed them and continue to commit them in order to make money.

The play then, for me, takes place in Plaquetown, U.S.A., now. The plague is race, the plague is our concept of Christianity; and this raging plague has the power to destroy every human relationship.¹

Blues For Mister Charlie concerns the human relationships among the Black and the White in a small town in the South. "Mister Charlie," we are told in the play, is a Negro term for any white man.² The racial conflict in the story is precipitated by the murder of Richard Henry, a Negro. The story of how his murder came about is told as part of the past in "flash-back" scenes while the scenes in the present include the funeral of Richard Henry, and the trial of the murderer, Lyle Britten. The major characters are introduced to us in the beginning. There are three in number: Parnell is a sympathetic white man who loves and befriends the Negro while trying to live in a white community; Richard Henry is a pastor's son, who has lived in the North, and returns home to the South an embittered trouble-maker; and, Lyle Britten is an arrogant, ignorant, bigoted Southern white man.

Following the introduction of the characters in the first act, Baldwin proceeds to use the "flash-back" technique in a kind of free form. It is at this point, says critic

¹Ibid., xiv-xv.

²Ibid., 40.

Walter Kerr, that the play takes the following turn:

. . .playwright Baldwin veers away from the airtight pyramid he has been building. It is not. . . the free structure of the play that diverts him. That structure is free, indeed, leaping from a death to the days that have preceded it with the sudden audacity of a jump-cut in a film, and making room during the final court-room sequence for each of the witnesses to act out in soliloquy the special heritage of hate he brings with him. . .

What happens to halt the thrust of the dramatic indictment? Mr. Baldwin overwrites and he writes around. Having lifted his angry, candid, declaiming voice, he cannot cut off its sound when the point has been made. Again and again we have given assent to an argument or been alerted by an image. Almost without fail, the author adds lines that will diffuse what has stirred.¹

Howard Taubman, of The New York Times, praised Baldwin's work, calling it a "play with fires of fury in its belly, tears of anguish in its eyes and a roar of protest in its throat."²

An example of Baldwin's protest, which also encompasses his statement about Christianity, referred to earlier, is in a speech by Richard Henry's father, Meridian, a Negro minister.

He says:

I'm a Christian. I've been a Christian all my life, like my Mama and Daddy before me and like their Mama and Daddy before them. Of course, if you go back far enough, you get to a point before Christ, if you see what I mean, B.C. -

¹New York Herald Tribune, April 24, 1964. Reproduced in: New York Theatre Critics' Reviews, XXV, p. 277.

²The New York Times, April 24, 1964. Reproduced in: New York Theatre Critics' Reviews, XXV, 278.

and at that point, I've been thinking, black people weren't raised to turn the other cheek, and in the hope of heaven. No, then they didn't have to take low. Before Christ. They walked around just as good as anybody else, and when they died, they didn't go to heaven, they went to join their ancestors. My son's dead, but he's not gone to join his ancestors. He was a sinner, so he must have gone to hell - if we're going to believe what the Bible says. Is that such an improvement, such a mighty advance over B.C.? I've been thinking, I've had to think - would I have been such a Christian if I hadn't been born black? Maybe I had to become a Christian in order to have any dignity at all. Since I wasn't a man in men's eyes, then I could be a man in the eyes of God. But that didn't protect my wife. She's dead, too soon, we don't really know how. That didn't protect my son - he's dead, we know how too well. That hasn't changed this town - this town, where you couldn't find a white Christian at high noon on Sunday! The eyes of God - maybe those eyes are blind - I never let myself think of that before.¹

Meridan's feeling of alienation from God and the questioning of his life-long beliefs, may serve as one example of the discontent or anger that has appeared frequently in the American drama since World War Two. Although the social issues are the same, this kind of questioning does not appear in They Shall Not Die, produced in 1934. Baldwin's pessimism is evident in the courtroom scenes. From the beginning of the play, he makes his audience aware that the stage is constantly divided between Whitetown and Blacktown.² As the witnesses

¹Baldwin, 38.

²Ibid., 1.

are brought to the stand during the trial, the characters representing Blacktown and Whitetown act as a kind of "chorus," each group reacting as a racial entity and commenting the way they feel about the witness. In the following scene, Parnell, the sympathetic white man in the community who tries to bridge the gap between the racial groups, takes the stand; Whitetown and Blacktown comment:

Whitetown

Here comes the nigger-lover!
But I bet you one thing - he knows more about
the truth in this case than anybody else.
He ought to - he's with them all the time.
It's sad when a man turns against his own
people!

Blacktown

Let's see how the Negro's friend comes through!
They been waiting for him - they going to
tear his behind up!
I don't trust him. I never trusted him!
Why? Because he's white, that's why!¹

Blues For Mister Charlie was praised for "its attempts to paint the country's current racial strife with contemporaneity,"² and bringing "eloquence and conviction to one of the momentous themes of our era."³ The play's primary weakness was found to be a lack of mastery of the "flash-back"

¹Ibid., 109.

²Henry Hewes, "A Change of Tune," Saturday Review, XLVII (May 9, 1964), p. 36.

³The New York Times, April 24, 1964. Reproduced in: New York Theatre Critics' Reviews, XXV, 278.

technique.¹ Blues For Mister Charlie played 148 performances on the Broadway stage.

Proceeding Blues For Mister Charlie chronologically, but not receiving the attention given it or They Shall Not Die, are three more plays based on injustice toward the Negro. The first is Appearances (1929) by Garland Anderson, which was praised for its high motives but denounced heavily for being "naive and amateurish. . ."² Another critic praised the trial in the play as "crudely effective throughout,"³ but rebuked the plot as "uninteresting and often incoherent."⁴ The author of the play, Garland Anderson, is a Negro and at one time was a bellboy, like the leading character in the play. The story of the bellboy in the play centers on an accusation of assault against him by a white woman. The boy is brought to trial, but is eventually vindicated. The bellboy's plight, and the way the play is resolved, are both expressed in the following speech he addresses to the theatre audience at the end of the play:

¹ New York Post, April 24, 1964. Reproduced in: New York Theatre Critics' Reviews, XXV, 279.

² Wilfred J. Riley, Billboard, April 13, 1929.

³ Gilbert Wakefield, "Two Odd Numbers," The Saturday Review of Politics, Literature, Science and Art, CXLIX (March 15, 1930), p. 324.

⁴ Ibid.

If a black bell-boy with not much schooling could imagine himself a playwright; that by believing and working he could write a play that was interesting and entertaining enough to hold an audience, it would prove to the world beyond the shadow of a doubt that any man can do what he desire to do, can become anything he desire to be. For you are characters that I have dreamt.¹

In 1925 Appearances played twenty-three performances on the Broadway stage; it was revived in 1929 and played twenty-four performances. It also appeared in a London theatre and received criticism there, similar to that received in New York.²

In 1937, another Negro playwright, Hughes Allison, produced a work concerning a murder trial of a Negro doctor called The Trial of Dr. Beck. The production of this play was a result of the Federal Theatre project, formed in 1935 to provide employment from Depression relief rolls for professional theatre people.³ The Trial of Dr. Beck first played in a number of cities in New Jersey, before performing in New York for four weeks.⁴ The following description of the play's premise is provided by Brooks Atkinson, writing for The New York Times:

¹Garland Anderson, "Appearances," (Unpublished work on microfilm housed in The New York Public Library, New York City.)

²Richard Jennings, "The Theatre," The Spectator, CXIV (March 22, 1930), p. 474.

³Hallie Flanagan, Arena (New York: Duell, Sloan and Pearce, 1940), p. 253.

⁴Ibid., 393.

Some one has murdered the black wife of sepia Dr. Beck, an eminent Harlem physician, and for some considerable time it looks as though he were the culprit. He is known to have a fondness for colored gals with light complexions. In a scientific book, not yet published, he has advised his brethren to marry the lightest complexions they can discover, hoping eventually to eliminate the ace of spades from the Negro race. . .The murder was committed out of frenzied love. Quite a scandal.¹

Atkinson further commented in his review that he would advise young playwrights to keep their action out of the courtroom, for "the etiquette of the court room is a sore destroyer of the enjoyment of crime on the loose. The sight of a good crime is much more elevating than a complicated discussion of it by advocates and witnesses."² New York audiences were attracted to only twenty-four performances of the play; however, a production in New Jersey received a slightly more favorable response by both audiences and critics.

The final social protest play concerning the Negro discussed in this chapter is a one-act play entitled According to Law (1944) by Noel Houston. This was a curtain-raiser to a longer play called A Strange Play by Patti Spears.

According to Law received acclaim by The New York Herald Tribune as social drama;³ in addition, the New York Post

¹The New York Times, August 10, 1937, p. 22.

²Ibid.

³New York Herald Tribune, June 2, 1944. Reproduced in: New York Theatre Critics' Reviews, V, p. 180.

called it a "bitter, ironic indictment. . .";¹ and, further, the New York World Telegram found it earnestly and honestly written. . ."² On the other hand, the New York Journal American criticized it for being "pretty much of a run-of-the-mill propaganda play."³ It is possible According to Law would have achieved more success had it not been a curtain-raiser to A Strange Play, which was condemned by the critics. Both plays ran one performance.

Six plays concerning racial injustice toward the American Negro have been discussed. All of them were called social dramas by the critics and commentators. Chronologically, the first play in the group is Appearances, which was produced in 1925 and the last is Blues For Mister Charlie, produced in 1964. Each era, of the larger period from 1918 to 1966, is represented by a courtroom drama of social protest that is based on the plight of the American Negro. One of these plays was produced between the World War One and the Depression; three were produced during the Depression or post-Depression eras; one was produced during World War Two; and, one was

¹New York Post, June 2, 1944. Reproduced in: New York Theatre Critics' Reviews, V, p. 180.

²New York World Telegram, June 2, 1944. Reproduced in: New York Theatre Critics' Reviews, V, p. 181.

³New York Journal American, June 2, 1944. Reproduced in: New York Theatre Critics' Reviews, V, p. 180.

produced during recent times. This reflects, in part, a awareness of the playwright of the specific social problem of the Negro. Because Appearances, The Trial of Dr. Beck, and Blues For Mister Charlie are written by Negroes, it also reflects the Negro playwright's awareness of the problem.

Another social protest play, The Advocate (1963), by Robert Noah, concerns itself with the prejudice against two Italian-American anarchists who are the prototypes of Nicola Sacco and Bartolomeo Vanzetti, who died in the electric chair as a result of a controversial court decision. History now calls the incident, trial, and aftermath, the Sacco-Vanzetti case. Robert Noah's courtroom play about the case is preceded by other plays based on the Sacco-Vanzetti incident. For example, Maxwell Anderson's Gods of the Lightning (1928) reached Broadway only a year following the execution of the men in 1927. Another play by Maxwell Anderson, Winterset (1935), also concerns the Sacco-Vanzetti case. Neither of Anderson's plays is a courtroom drama by the definition in this study.

The advocate in Noah's play is a lawyer who decides to defend the two men because he doubts the fairness of the trial. His prototype may be the now well-known judge, Michael A. Musmanno,¹ who defended Sacco and Vanzetti. However, all

¹The account of Judge Musmanno's personal association with Sacco and Vanzetti may be found in two books: Michael A. Musmanno, Verdict! (New York: Macfadden-Bartell Corporation, 1963) and Michael A. Musmanno, After Twelve Years (New York: Alfred A. Knopf, 1939).

the characters in the play with the exception of Sacco and Vanzetti are disguised from their real life counterparts.

The Broadway critics generally agreed that the Sacco-Vanzetti case did not get the dramatic treatment it deserves with The Advocate.¹ Walter Kerr argued that the atmosphere of bigotry that condemned the two men is not adequately presented on the stage.² Critic Richard Watts, Jr. thought the play "suffers from lack of sustained power."³ However, Watts accepted the play as social drama "as a reminder of something that shouldn't be forgotten."⁴ Howard Taubman generally summarizes the critics' feelings about the play with the following statement:

At best, "The Advocate" is a flawed document rather than a drama with fresh insights. But if Sacco and Vanzetti were convicted and electrocuted for their beliefs rather than any misdeeds, as most students of their history now believe and as many people passionately believed in the nineteen-twenties, it is salutary for each generation of Americans to be asked to confront their ghosts.⁵

¹New York Journal American, October 15, 1963; The New York Times, October 15, 1963; New York Mirror, October 15, 1963; New York Post, October 15, 1963. Reproduced in New York Theatre Critics' Reviews, XXIV, pp. 238-241.

²New York Herald Tribune, October 15, 1963. Reproduced in New York Critics' Reviews, XXIV, p. 238.

³New York Post, October 15, 1963. Reproduced in New York Critics' Reviews, XXIV, p. 238.

⁴New York Post, October 15, 1963. Reproduced in New York Critics' Reviews, XXIV, p. 241.

⁵The New York Times, October 15, 1963. Reproduced in New York Critics' Reviews, XXIV, p. 240.

The Advocate is unconventional in form because, although some scenes are played in a regular sequence, others make "a break from reality into space - timeless and where necessary, out of context."¹ An example of a change from the real life case, which also provides for an illustration of the play's social comment, is the famous words written in a letter by Bartolomeo Vanzetti. In the play he speaks his thoughts in the courtroom, as follows:

If it had not been for this thing, I might have lived out my life talking at street corners to scorning men. I might have die, unmarked, unknown, a failure. Now we are not a failure. This is our career and our triumph. Never in our full life could we hope to do such work for tolerance, for justice, for man's understanding of men as now we do by accident. Our words. . . our lives. . .our pains. . .nothing. The taking of our lives. . .lives of a good shoemaker and a poor fish-peddler. . .all! That last moment belongs to us. . .that agony is our triumph.²

The Advocate found a large television audience, taped simultaneously with the stage performance,³ but attracted Broadway audiences for only eight performances.

The final courtroom play of social protest discussed in this chapter is Pick-Up Girl (1944) by Elsa Shelley. Pick-Up Girl was produced during the Second World War when juvenile delinquency, the subject of the play, became apparent

¹Robert Noah, "The Advocate," Theatre Arts Monthly, XVVII (November, 1963), p. 35.

²Ibid., p. 57.

³Ibid., p. 35.

as a serious sociological condition. It takes place entirely in Juvenile Court, and could possibly be called a case history in juvenile delinquency. It is the story of fifteen-year-old Elizabeth Collins, who is arrested when caught in bed with a man in his forties. Her story to the court is pathetic; she has been left alone by working parents to make a living for herself. She has been forced to do menial tasks for food and clothing. A girl friend has taught her sexual promiscuity, and she has become diseased with syphilis. At the end of the play the judge sends her away to be cured. The title of the play refers to Elizabeth's introduction to promiscuity, for her girl friend induces her to "pick-up" a sailor on the street. The dialogue below exemplifies how Elizabeth's plight is related in the play. In this scene the judge is asking her about her experience with men at parties. The Mr. Elliott referred to, is the man with whom Elizabeth is arrested at the beginning of the play. The following scene takes place about mid-way in the play:

Judge

How about these older men who used to come there? Did they give you money?

Elizabeth

Sometimes. They said we should always ask 'em for money if we needed it.

Judge

Is that why you let them get familiar with you?

Elizabeth

I didn't let them get familiar with me. They were fun, that's all. They used to buy us ice cream and cake, an' this an' that. They were free spenders. And Mr. Elliott was nice. He said I could call him Alex the first time I met him.

Judge

And then he asked you for a date at your house?

Elizabeth

Yeah. But they all work fast when they meet up with a military objective.

Judge

A "military objective" - ?

Elizabeth

Yeah. . .that means a girl they'd like to date.

Judge

. . .Uhuh. . .How about the fellers who came to the parties. How old were they?

Elizabeth

About my age, most of 'em.

Judge

Fifteen - !

Elizabeth

(nodding) They get wolfish awful early.

Judge

And the girls - how many of you were there, usually?

Elizabeth

About five, six.

Judge

Tell me the names of the other girls. We want to get hold of them. (Elizabeth is silent) They need our help. You'd be doing

them a favor.

Elizabeth
(shaking her head) I wouldn't wanna tell
on them.¹

Critic Wolcott Gibbs, writing in The New Yorker, commented that "Miss Shelley's social purpose obviously does her credit, but, as a playwright, she is florid, conventional, and. . .a little innocent."² The New York Times agreed that it is a play in which the practice falls considerably short of the intention."³ On the other hand, Life magazine praised Pick-Up Girl for its dedication to a serious theme,⁴ and Robert Garland, critic for the New York Journal American, said: "It's the most effective trial play I've ever seen, with the possible exception of The Trial of Mary Dugan."⁵

The reviews were generally more favorable than unfavorable, though the critics regretted that the author did not offer "any solution for the curbing of the evil exposed."⁶

¹Burns Mantle, ed. "Pick-Up Girl," The Best Plays of 1943-44, New York: Dodd, Mead and Company, 1944), pp. 338-339.

²Wolcott Gibbs, "A Pamphlet Comes To Town," The New Yorker, XX (May 13, 1944), p. 44.

³The New York Times, May 4, 1944. Reproduced in New York Theatre Critics' Reviews, V, p. 196.

⁴Life, XV (June 12, 1944), p. 69.

⁵New York Journal American, May 4, 1944. Reproduced in New York Theatre Critics' Reviews, V, p. 197.

⁶Mantle, The Best Plays of 1943-44, 315-316.

However, Pick-Up Girl apparently had some following, for it played 198 performances in New York. It was produced by Michael Todd.

The courtroom plays, which are also social protest plays, examined above, mirror the interest of playwrights between the First World War and the present day in serious subjects for courtroom drama. It also shows playwrights' interest in the courtroom play as polemic. It is interesting to note that five of the eight social protest plays discussed are based either on actual court cases or on the personal experiences of the playwright. The exceptions are According to Law, The Trial of Dr. Beck, and Pick-Up Girl. Pick-Up Girl is based on a number of case studies researched by Elsa Shelley.¹

Plays Concerning Politics

Courtroom plays concerning politics also appear in the American drama during this period. It is true that there is strong social protest in some of the plays about politics produced during this period; however, a dominant political story, concerning either state politics in America, or a political ideology of great scope, such as Communism, is the basis on which these plays are written. There are five plays of this kind produced in a twenty-three year period between

¹Ibid., p. 315.

1934 and 1957.

The first courtroom play in the group in which the political mode is apparent is Elmer Rice's Judgment Day, the basis for which is a series of historical incidents beginning in 1933. Adolf Hitler became German Chancellor on January 30, 1933; shortly thereafter the German Reichstag building, in Berlin, was destroyed by fire. It is believed the fire was set by Nazis. A Dutch communist, Marinus van der Lubbe was found guilty of setting the fire and was beheaded January 10, 1934, in Leipzig.¹ The others tried with van der Lubbe were acquitted.²

Judgment Day takes place in a "court of justice in a capital city of a country in Southeastern Europe."³ Rice goes to great length in the play declaring that the setting of the play is not Germany; however, the play is clearly a bitter attack on Hitler's Naziism. The story is about the trial of three members of the People's Party who are brought before the High Court; they have been accused of attempting to assassinate the Dictator of the country. Many of the principal

¹Luman H. Long. The World Almanac and Book of Facts (New York: New York World-Telegram Corporation, 1966), p. 208.

²Time, November 13, 1933.

³Elmer Rice, Seven Plays (New York: The Viking Press, 1950), p. 294.

witnesses are members of the National Party, which is the opposition party to the three defendants. All but one of the judges presiding at the trial are pressured into a verdict of guilty for all the defendants, after which the Dictator enters the courtroom only to be met with revolt, and is killed by a gunshot. The assassination occurs in the final few seconds of the play.

Rice's ending in Judgment Day is made stronger than the actual facts of the case, with the judgment of guilty for the defendants; the Nazi party was not secure politically in 1933, and under pressure from all over the world the Nazis freed all but Marinus van der Lubbe. On the other hand, Rabkin in Drama and Commitment and Atkinson in The New York Times, agree that the actual facts of the case were more dramatic than Rice's play.¹ It should be remembered that Judgment Day was produced approximately a year and a half following the firing of the Reichstag. This may have led Time magazine's critic to comment: "This sharply written melodrama suffers from one defect: real news events, when literally recreated in the theatre, tend to sound like burlesques."² Quinn maintains "Rice does not understand. . .that if you make oppression so brutal and above all so stupid, audiences cease to

¹Rabkin, 252, and The New York Times, September 23, 1934.

²Time, September 24, 1934.

believe in it."¹ Judgment Day had its effect, however, as reported by Rabkin in the following comment:

Judgment Day was an effective weapon against Naziism. Scheduled productions in France and Holland were cancelled at the insistence of the Hitler government, and in Norway performances were prevented by rioting by the Norwegian Nazis. Rice's indictment was obviously strong enough to arouse fascist ire.²

Judgment Day played ninety-four performances in New York in 1934.

The next courtroom play dealing with politics, appearing seventeen years later, is Sidney Kingsley's Darkness at Noon, which was produced in 1951. Sidney Kingsley began his playwriting career during the Depression with plays of social criticism. With Men in White he wrote a melodrama concerned with the professional duty of physicians while under the stress of emotional conflict. Underprivileged children and the social problems of New York's East Side are the subjects of his play, Dead End. During World War Two he produced The Patriots, which dramatizes America's birth. Following the Second World War he wrote an indictment of the injustices of some police practices with Detective Story.

Darkness At Noon is an adaptation by playwright Sidney Kingsley of Arthur Koestler's novel of the same name.

¹Quinn, A History of the American Drama from the Civil War to the Present Day, II, 263.

²Rabkin, 252.

The novel and the play deal with the same characters; the same story is primarily about a man named Rubashov, who is an aging member of the Communist Party and, as a result of a shift in political policy in Russia, finds himself in prison in 1937, accused of being a conspirator by the new leaders. Rubashov is tortured into confessing acts of sabotage and conspiracy of which he is innocent, and finally, he is executed for these reasons by the new regime. This story is underlined by Rubashov's searching examination of his personal political beliefs. This is accomplished through "flash-backs." Playwright Kingsley explains:

The action of the play oscillates dialectically between the Material world of a Russian prison during the harsh days of March, 1937, and the Ideal realms of the spirit as manifested in Rubashov's memories and thoughts moving freely through time and space.¹

Kingsley's idea for form is so incorporated into the play, that scenes from the past and present are presented on the stage, at times, simultaneously. Rubashov's trial is presented in two ways; one, informally he is questioned by a political interragator; and, two, he is brought before a formal People's Court.

When Darkness At Noon first appeared as a play in

¹Sidney Kingsley, Darkness At Noon (New York: Random House, 1950), p. 2.

New York, its political concept received praise, but the play itself met with mixed comments. Harold Clurman said:

I am confident that most people who hear about "Darkness at Noon" approve of its politics; I am certain that disenchanted leftists, who once looked to Moscow for miracles, will be fascinated by the play's point, which is that the rigid, materialistic functionalism of those misguided humanists, the old Bolsheviks, has led logically to the inhuman brutality of the later Soviet leaders.¹

Clurman, however, denounced the play, as follows:

Being a man of the thirties, Kingsley also has a penchant for liberal social preachment. He has, however, no psychological insight, no poetic eloquence, no capacity to convey the quality of any inner state. He has pieced "Darkness at Noon" together from the surface of Koestler's novel. . . . The total impression is that of cardboard operatics, reminding one both of our old anti-Nazi war films and the propaganda plays of the early Roosevelt era.²

Clurman's feelings about the play were, however, in the minority. Wolcott Gibbs found the play to be "an unusually distinguished piece of work."³ Six of seven New York newspaper critics praised Darkness At Noon without serious reservation,⁴

¹Harold Clurman, "From Lorca Down," New Republic, XXVI (February 5, 1951), p. 23.

²Ibid.

³Wolcott Gibbs, "Moscow and Madrid," The New Yorker, XXVI (January 20, 1951), p. 54.

⁴New York Herald Tribune, January 15, 1951; New York Post, January 15, 1951; Daily News, January 15, 1951; New York World-Telegram, January 15, 1951; New York Journal American, January 15, 1951; Daily Mirror, January 15, 1951. Reproduced in New York Theatre Critics' Reviews, XII, 1954, pp. 388-391.

and one had qualified praise.¹ All of them agreed the play's political statement is important. As an example of how Darkness at Noon serves as a grim reminder of torture and confession to uncommitted crimes at the hands of a new Soviet government, the following scene from the play is presented. Moreover, it also serves as a reflection of a specific time of political history, that of the removal of the old Bolsheviks in the Soviet Union of the nineteen-thirties to make way for a new regime. The interrogator in the scene to follow, Gletkin, represents a new Soviet who has no patience with logical questioning, but favors brutality as an argumentative tool. Gletkin reads the charges against Rubashov:

Gletkin

. . . "Enemy of the people, Nicolai Semonovitch Rubashov, you are charged with being a counter-revolutionary in the day of hostile, foreign governments; of having, at the instigation of their agents, committed such acts of treason and wreckage as to cause vital shortages - undermining the military power of the U.S.S.R. You are also charged with having incited an accomplice to attempt the assassination of the Leader of the Party. . . "You've heard the charges? You plead guilty?"

Rubashov

. . . I plead guilty to have fallen out of step with historical necessity. I plead guilty to bourgeois sentimentality. I plead guilty to having wanted an immediate alleviation of the Terror, and extension of freedom

¹The New York Times, January 15, 1951. Reproduced in New York Theatre Critics' Reviews, XII, 1954, p. 389.

to the masses. (The Secretary who is writing this in shorthand smiles contemptuously. Rubashov glances at her) Don't be cynical, young woman. . . I now realize fully that the regime is right and I am wrong. The times demand a tightening of the dictatorship; any sentimental aberrations at the present moment in history could become suicide. In this sense can you call me a counter-revolutionary, but in this sense only. With the insane charges made in the accusation I have nothing to do. I deny them categorically.

Gletkin

Have you finished?

Rubashov

I have finished.

Gletkin

Wipe your lips then. They're slimy with lies. Lies! Lies! Vomit! (He snatches a thick dossier off the desk, and cracks Rubashov across the face with it.) The statement you have just made is vomit. Enough nobility! Enough posturing! Enough strutting! What we demand of you is not high talk, but a full confession of your real crimes!

Rubashov

(. . . breathing hard, biting back the indignation, fighting for control) I cannot confess to crimes I have not committed.¹

It was mentioned earlier that Rubashov is finally tortured into confessing. At the end of the play he is led out of his prison cell to his execution by Gletkin.

In the original production of Darkness at Noon in New York, Claude Rains played the role of Rubashov, and Jack Palance that of Gletkin. It played 186 performances.

¹Kingsley, pp. 91-92.

The political statement in Darkness at Noon, discussed above, is more straightforward and obvious than the political statement in The Crucible (1953) by Arthur Miller, who is generally recognized as one of America's most important playwrights. He became interested in playwriting while a student at the University of Michigan where he won an Avery Hopgood Playwriting award. The first play to give him recognition was All My Sons (1947). This was followed by the highly acclaimed Death of a Salesman (1950), an adaptation of Henrik Ibsen's An Enemy of the People (1951), A Memory of Two Mondays (1955), A View from the Bridge (1955), After the Fall (1963), and Incident at Vichy (1964).

In The Crucible, Arthur Miller has written a drama based on an historical incident in 1692; but at the same time and on a different level of understanding, he has written a drama linking a modern political incident with the episode in 1692. This historical event in 1692, discussed in Chapter Three with the examination of the play, Giles Corey, Yeoman, began when careless fabrications were made by a few young women in Salem, Massachusetts. These fabrications, accusations of witchcraft, led the usually decent society in Salem to hanging its citizens on hearsay evidence. The contemporary political incident referred to, began in 1950 when United States Senator Joseph McCarthy of Wisconsin said in a speech

that he had a list of government employees who were members of the Communist Party. McCarthy's accusations grew, led to lengthy hearings by a Senate committee, and eventually resulted in McCarthy's censure by the Senate.

Out of all the turmoil the word "McCarthyism" was coined to symbolize the views and actions of the Senator. To his adherents "McCarthyism" stood for the fight to save America from communism; to his foes it meant an insidious and dangerous form of slander. At any rate the word has become a part of language, the meaning depending upon who is interpreting it.¹

The Crucible was first presented in January of 1953, when the controversy over "McCarthyism" was at its peak. Arthur Miller explains the relationship between The Crucible and the modern events in this manner:

It was not the rise of "McCarthyism" that moved me, but something which seemed much more weird and mysterious. It was the fact that a political, objective, knowledgeable campaign from the far Right was capable of creating not only a terror, but a new subjective reality, a veritable mystique which was gradually assuming even a holy resonance.²

The Crucible may be considered then, as an allegory which links the Salem witch trials with a political atmosphere of 1953 in America.

The story of The Crucible is similar to that of Giles

¹Nannes, 183.

²Arthur Miller, Arthur Miller's Collected Plays (New York: The Viking Press, 1957), p. 39.

Corey, Yeoman, with the principal exception that in The Crucible, the character of John Proctor is the center of the action, while in Giles Corey, Yeoman, Giles Corey is the leading character. In The Crucible, a young Salem girl, Abigail Williams, points a damning finger at some of the established citizens of the town. Her strange behavior, she says, is because they have cast a spell on her. Her story gains attention for her, eventually leading to her accusation of witchcraft against Elizabeth Proctor, the wife of John Proctor, for whom she is lustful. Hysteria sweeps Salem, and libelous accusations replace law and order. John Proctor is brought to an improvised court at the insistence of Deputy Governor Danforth.¹ Proctor is asked to defend his wife's name, which becomes one of the major turning points of the play, for the hearing is called to determine if Elizabeth Proctor is a witch. Abigail, who is present at the hearing along with the other accusers, begins to pretend she is obsessed with strange spirits. The scene develops as follows:

Abigail
(crying to Heaven) Oh, Heavenly Father,
take away this shadow! . . .

¹Deputy-Governor Danforth, with a Judge Hathorne, conducted the trials in Salem in 1692. Mary E. Wilkins, in Giles Corey, Yeoman, makes Hathorne a more important character than Danforth. On the other hand, Miller places more importance on Danforth. The point is technical, for the principal judge in both plays serves as prosecutor, and the results of hysteria and execution are the same. Incidentally, Miller prefers the modern spelling Hawthorne, rather than Hathorne.

Proctor

. . .How do you call Heaven! Whore! Whore! . . .

Danforth

. . .Man, Man, what do you -

Proctor

. . .It is a whore!

Danforth

(dumbfounded) You charge - ?

Abigail

Mr. Danforth, he is lying!

Proctor

Mark her! Now she'll suck a scream to stab me with, but -

Danforth

You will prove this! This will not pass!

Proctor

(trembling, his life collapsing about him) I have known her, sir. I have known her.

Danforth

You - you are a lecher? . . .

Proctor

. . .A man will not cast away his good name. You surely know that.

Danforth

(dumbfounded) In - in what time? In what place?

Proctor

(his voice about to break, and his shame great)
In the proper place - where my beasts are bedded.
On the last night of my joy, some eight months past. She used to serve me in my house, sir.
(He has to clamp his jaw to keep from weeping.)
A man may think God sleeps, but God sees everything, I know it now. I beg you, sir, I beg you - see her what she is. My wife, my dear good wife, took this girl soon after, sir, and put her out on the highroad. And being what she is, a lump of vanity, sir - (He is being

overcome.) Excellency, forgive me, forgive me. (Then, as though to cry out is his only means of speech left). She thinks to dance with me on my wife's grave! And well she might, for I thought of her softly. God help me, I lusted, and there is a promise in such sweat. But it is a whore's vengeance, and you must see it; I set myself entirely in your hands. I know you must see it now.¹

A few minutes after the scene presented above, another major turning point in The Crucible occurs. It is shortly after Proctor has told the court that his wife is an honest woman, that she cannot lie. It is when Danforth decides to call Elizabeth Proctor into the room in order to test the truth of John Proctor's admission. When Elizabeth is brought into the room, she has been told nothing of John's prior statements. Danforth questions:

Danforth

We are given to understand that at one time you dismissed your servant, Abigail Williams.

Elizabeth

That is true, sir.

Danforth

For what cause did you dismiss her? . . . You will look into my eyes only and not at your husband. The answer is in your memory and you need not help to give it to me. Why did you dismiss Abigail Williams?

Elizabeth

. . . Whe - dissatisfied me. . . And my husband.

¹Arthur Miller, The Crucible (New York: The Viking Press, 1953), pp. 109-110.

Danforth

In what way dissatisfied you?

Elizabeth

She were -. . .

Danforth

Woman look at me! . . . Were she slovenly? Lazy? What disturbance did she cause?

Elizabeth

Your Honor, I - in that time I were sick. And I - My husband is a good and righteous man. He is never drunk as some are, nor wastin' his time at the shovelboard, but always at his work. But in my sickness - you see, sir, I were a long time sick after my last baby, and I thought I saw my husband somewhat turning from me. And this girl -

Danforth

Look at me.

Elizabeth

Aye, sir. Abigail Williams -. . .

Danforth

What of Abigail Williams?

Elizabeth

I came to think he fancied her. And so one night I lost my wits, I think, and put her out on the highroad.

Danforth

Your husband - did he indeed turn from you?

Elizabeth

(in agony) My husband - is a goodly man, sir. . .

Danforth

. . .To your own knowledge, has John Proctor ever committed the crime of lechery? . . . Answer my question! Is your husband a lecher!

Elizabeth

(faintly) No, sir.

Danforth

Remove her. . .

Proctor

Elizabeth, tell the truth!

Danforth

She has spoken. Remove her!

Proctor

Elizabeth, tell the truth!

Danforth

She has spoken. Remove her!

Proctor

(crying out) Elizabeth, I have confessed it!

Elizabeth

Oh, God! . . .

Proctor

She only thought to save my name!¹

John Proctor is eventually hanged because he will not confess to the authorities that he knew witches in Salem.

"John Proctor's heroism consists in his refusal to lie. He does not regard the state as holy. To him only God is holy. He refuses to violate his relationship with God by making a dishonest relationship with the state."²

Gerald Weales sees John Proctor as the character "who shows most clearly Miller's attitude."³ Miller's idea in the play was to show the following:

¹Ibid., pp. 112-113.

²The New York Times, June 1, 1958.

³Weales, 11.

. . .the conflict between a man's raw deeds and his conception of himself; the question of whether conscience is in fact an organic part of the human being, and what happens when it is handed over not merely to the state or the mores of the time but to one's friend or wife.¹

The first production in New York The Crucible played 197 performances. Later in 1958, it was revived successfully and played 633 performances. The 1958 revival allowed critics to look at Miller's play from a more detached point of view, for it had been five years since the 'McCarthy era.' Brooks Atkinson viewed the revival in this manner:

To see "The Crucible" again. . .is to admire again the scope and principle of Mr. Miller's accomplishment. He has managed to compress into one evening the whole story as well as the intangible nature of a wild, maniacal event, give it rational order in the form of a play, explain the bewildering social organization of the theocracy of Massachusetts, establish standard of moral behavior and analyze motives.

.....

From the theatrical point of view, the collision between hostile forces is stirring. Since the conflicts the trial. . .dramatizes are ageless, since they are never resolved, completely in our day or any other, this raging climax has moral force as well as excitement. Mr. Miller has made a bold statement for truth.²

The Crucible was revived again in 1964 as part of a series of plays presented by The National Repertory Theatre,

¹The New York Times, March 9, 1958.

²The New York Times, June 1, 1958.

where it received unanimous acclaim from the newspaper critics.¹ Norman Nadel reflected on its political implications with the following statement:

In the beginning of the last decade, a sickness lay upon the land, and the sickness was called McCarthyism. During that time, justice was abused even in the name of the law. It had become honorable to accuse and even to confess, though merely to be accused was to face the penalties of guilt. Many good people, seeing this, were confounded, frightened and shamed.

So men hoped that someone would speak out against this evil, and among those who did speak out was a playwright, Arthur Miller. He found his parable not in fiction, but in an earlier sickness in the same land.²

Communism on the American scene is also the basis for A Shadow of My Enemy, written by Sol Stein, and produced professionally in 1957. It was originally written under the title of The Labyrinth and was first produced at Ford's Theatre in Baltimore, Maryland.³ The basis is what is commonly called the Alger Hiss-Whittaker Chambers case. In 1948 Alger

¹The New York Times, April 7, 1964; New York Herald Tribune, April 7, 1964; New York Journal American; April 7, 1964; New York World-Telegram and The Sun, April 7, 1964; New York Post, April 7, 1964; Daily News, April 7, 1966. Reproduced in New York Theatre Critics' Reviews, XXV, 1964, pp. 295-298.

²New York World-Telegram and The Sun, April 7, 1964. Reproduced in New York Theatre Critics' Reviews, XXV, 1964, 297.

³Sol Stein, "A Shadow of My Enemy" (unpublished typescript version housed in The New York Public Library at Lincoln Center).

Hiss, a former State Department official, was indicted for perjury after he had denied giving secret documents to Whitaker Chambers, a former magazine editor. Ostensibly, the secret documents were for transmission to a Communist spy ring. Hiss was eventually convicted and sentenced to prison.

Writing about his first play, A Shadow of My Enemy, author Stein attests to having written a political play, in which a story is told about "two close friends who betray each other, forcing one another to lie and deceive in such a way that their entire community is rocked."¹

A Shadow of My Enemy did not received acclaim by critics or audiences. For example, Variety found it to be "closer to the lawyer's brief than to crackling theatre."² The New York run lasted five performances.

Four courtroom plays have been discussed, in which the subject matter is precipitated by either world or national political machinations. One of the plays, Judgment Day, deals with the threat of Facism. Three of the plays deal with various incidences of Communism and its manifestations. A fifth courtroom play dealing with politics, Signature! by Elizabeth McFadden, discussed below, is concerned with the politics of the State of Virginia in 1856.

¹New York Herald Tribune, December 18, 1957.

²Variety, December 18, 1957.

Signature!, produced in 1945, is adapted from a short story by Melville Davisson Post entitled Naboth's Vineyard. The story is of a brutal murder in Virginia that is committed by a judge. The accused, a young hired hand and his sweetheart, are brought to the judge's own courtroom to be tried. The guilty judge is finally exposed. It is discovered the reasons behind the murder are intertwined with the judge's political ambitions. The guilty judge is finally exposed, who during the play, is considered for the nomination of Governorship of his commonwealth. Signature! was not accepted as a substantial theatre piece by any of the newspaper critics.¹ It played two performances.

Plays Concerning War and the Military

We have seen that the "cold war" struggles between the Soviet Union and the United States following World War Two, and the conflicts between Communism and the Free World, were the fundamental bases for four of the five courtroom dramas involving politics discussed in this chapter. "Hot wars," and the military, too, are the subjects for courtroom drama produced during this period of discussion, although the First

¹New York Journal American, February 15, 1945; New York Newspaper PM, February 15, 1945; New York Times, February 15, 1945; New York Herald Tribune, February 15, 1944; New York World-Telegram, February 14, 1945; New York Daily News, February 15, 1945; New York Post, February 15, 1945; New York Sun, February 15, 1945. Reproduced in New York Theatre Critics' Reviews, VI, 1945, pp. 264-266.

World War yielded no courtroom plays about that war. Therefore, three plays, all of them produced since the Second World War, fall into this category. It should be noted that many of the plays discussed in this chapter, including the three plays about war and the military, take on historical or semihistorical aspects. The historical and semihistorical courtroom plays discussed in this chapter are greater in number, than those discussed in Chapter Three, and the historical aspects of the plays in the more recent period seem to take on a variety of meanings, thus dictating more groupings of plays. Furthermore, within the group of the three plays about war and the military in this chapter, there are three different wars involved. The plays in this group are The Caine Mutiny Court-Martial (1954) by Herman Wouk, which concerns the Second World War; Time Limit! by Henry Denker and Ralph Berkey (1956), which concerns the Korean conflict; and, The Andersonville Trial (1959) which concerns the Civil War, but the moral issues of responsibility in prisoner-of-war camps it deals with are contemporaneous.

The Caine Mutiny Court-Martial, which played 405 performances on the Broadway stage, is an adaptation by Herman Wouk of his celebrated novel, The Caine Mutiny. The story is one of the United States Navy in the Second World War. It mainly concerns Lieutenant Stephen Maryk, who is brought to court-martial proceedings with the accusation that he led a

mutiny against his superior officer, Lieutenant Commander Philip Francis Queeg, the Captain of the destroyer-minesweeper Caine. The mutiny, having taken place during a typhoon in the Pacific, was led by Maryk, who during the storm, seized control of the ship after deciding that Queeg was mentally unbalanced. The trial is a sifting of the evidence of the mutiny before a naval court. Lieutenant Maryk is defended by Lieutenant Barney Greenwald. Maryk, Queeg, and Greenwald are the central figures of the play. In addition, Lieutenant Thomas Keefer serves as antagonist in the play as the character who has talked Maryk into the mutiny. Greenwald makes a powerful and convincing case against Queeg as an incompetent, a coward, and a possible psychiatric case. Maryk is acquitted because Queeg's conduct has clearly proved to the court that he was unworthy of holding his position as captain.

In a final brief scene, the only one not taking place in the courtroom, Wouk makes the moral point of his play. Wolcott Gibbs gives the following description of the final scene:

The . . . final scene, at a dinner to celebrate . . . Maryk's acquittal, is only slightly anticlimactic. Greenwald, who had been reluctant to take the case in the beginning, is drunk now and denounces Keefer as the real culprit in the whole miserable affair, since it was he who drove Maryk to doubt Queeg and so, eventually, to destroy him. To Greenwald, Queeg, no matter how incompetent, or even unbalanced, he may be,

is a hero in that he represents the Regular Navy, which stood as the country's only defense when we went to war. He feels particularly strongly about this because he is a Jew and very conscious of Goring's expressed intention of melting his old mother down into a bar of soap. Queeg is a martyr, he says, and Maryk is only a scape-goat; Keefer, the cold-blooded opportunist and spiritual noncombatant, who used his friend as an instrument of vengeance and then ran out on him at the trial, is the man who should have been made to suffer. He ends his tirade by tossing a glass of wine contemptuously into Keefer's face.¹

The final scene was the only portion of the play not completely accepted by the critics. For example, it seemed to John Mason Brown that ". . . Wouk changed his mind before finishing his story. In his anxiety to be fair to the regulars in the Army and the Navy who made Hitler's defeat possible by doing dull peacetime duty, he suddenly asks us to forgive the Queeg he has proved beyond doubt to be unfit for command."² The basic question of the play, then, is whether the law of command in the military should prevail. Specifically, the question is whether the authority in the United States Navy to preserve the defense of the country should be honored at any cost. While the question is never resolved in the play, the issues of responsibility in the military are made quite clear.

¹Wolcott Gibbs, "In Defense of Captain Queeg," The New Yorker, XXIX (January 30, 1954), p. 70.

²John Mason Brown, "Operation Bligh," Saturday Review, XXXVII, No. 6 (February 6, 1954), p. 27.

The critics praised the New York production of The Caine Mutiny Court-Martial, which was directed by Charles Laughton, and had among its performers,¹ Henry Fonda, John Hodiak, and Lloyd Nolan. The New York Times called The Caine Mutiny Court-Martial "all theatre in every detail. . .But Mr. Wouk's. . .drama has one other quality. It is sincere. Mr. Wouk is trying to tell the truth. That is the thing that gives it distinction."² The theatrical value of The Caine Mutiny Court-Martial as courtroom drama is pointed out by Eric Bentley in the following statement:

Herman Wouk. . .has a gift for crisp dialogue unsurpassed by any of our regular writers for the theatre. He has an excellent story to tell, and, in the confrontation of counsel with witnesses, has an exactly appropriate vehicle for his story. We receive each new witness with keen expectancy, follow his replies greedily, laugh over his foibles, applaud at his exit, start over with renewed expectancy at the next arrival, hear with pleasure or indignation what counsel has to say. . . the march of exits and entrances, questions and answers, attacks and counterattacks, is admirably theatrical.³

A brief example of Wouk's dialogue during a confrontation with a witness is presented in the following scene, in

¹Incidentally, the original New York production listed an actor named Jim Bumgarner among its cast, as a member of the court who has no lines in the play. Jim Bumgarner is now known as James Garner, a popular motion picture actor.

²The New York Times, January 22, 1954.

³Eric Bentley, "Cpt. Bligh's Revenge," New Republic, February 15, 1954), p. 21.

which Allen Winston Bird, M.D., Lieutenant, U.S.N.R., is brought to the stand as a witness for the prosecution. Lieutenant Commander Challee is the prosecuting attorney. Following his testimony that he believes Queeg to be sane and capable of his duties, Bird is cross-examined by Greenwald. The following is an excerpt from the cross-examination:

Greenwald

Doctor, you have special training in Freudian technique?

Bird

Yes.

Greenwald

In the Freudian analysis is there such a thing as mental illness?

Bird

Well, there are disturbed people and adjusted people.

Greenwald

But disturbed and adjusted correspond roughly, don't they, to the terms sick and well as laymen use them? . . . Doctor, would you say Commander Queeg suffers from inferiority feelings?

Bird

Yes, but they are well compensated. . . Well, let's say a man has some deep-seated psychological disturbance. He can compensate by finding outlets for his peculiar drives. He can never adjust without undergoing psychoanalysis.

Greenwald

Has Commander Queeg ever been psychoanalyzed?

Bird

No.

Greenwald

He is, then, a disturbed person.

Bird

Yes, he is. Not disabled, however, by the disturbance. (Smiles.) . . .

Greenwald

. . . Doctor, did you note any peculiar habit Commander Queeg had? Something he did with his hands?

Bird

Do you mean rolling the steel balls?

Greenwald

Yes, describe the habit, please

Bird

Well, it's an incessant rolling or rattling of two marbles in his hand--either hand.

Greenwald

Why does he do it?

Bird

His hands tremble. He does it to still his hands and conceal the trembling. It makes him feel more comfortable.

Greenwald

Why do his hands tremble?

Bird

The inner tension. It's one of the surface symptoms.

Greenwald

Does this rolling motion have significance in Freudian analysis?

Bird

It's an obvious sexual symbol, of course. Now, as to the precise meaning, I--

Challee

. . . How far is this totally irrelevant technical discussion going to be pushed?¹

¹Herman Wouk, "The Caine Mutiny Court Martial," Best American Plays Fourth Series 1951-1957, ed. John Gassner (New York: Crown Publishers, Inc. 1958), pp. 459-460.

In possibly the most pivotal scene of the play, Commander Queeg takes the stand in the second act and is shown to be a mumbling, paranoid personality, because of which he must depend on rattling two steel balls he carries in his pocket.¹ Queeg is obviously a man who has been broken by the pressures of war and of command.

The pressures of command and responsibility in war are also a key factor in a second courtroom play about the military, Time Limit! by Henry Denker and Ralph Berkey. Time Limit!, was produced in 1956, approximately a year and a half following the end of the war in the Republic of Korea. The action of the play alternates between a Judge Advocate's office in the United States, and a prisoner-of-war camp in Korea. The scenes in the camp are treated as "flashbacks," which dramatize the facts brought out in a military investigation taking place in the Judge Advocate's office. Most of the action of the play are question-and-answer sessions that take on the form of a trial, though no formalized court procedures are held. At the end of the play a court martial is planned; we are left with the impression at this point that the court martial proceedings will be much like the investigation we have just seen during the length of the play.²

¹Ibid., 471.

²Henry Denker and Ralph Berkey, "Time Limit," Theatre Arts (April, 1957), p. 57.

The story of the play is about the investigation of Major Harry Cargill, who is brought to the office of Judge Advocate William Edwards. Cargill has admitted he betrayed his fellow-Americans by lecturing to them on the evils and weaknesses of capitalism. He has admitted cooperating with the Chinese forces by confessing to them his part in germ warfare against them. Judge Advocate Edwards studies the facts and the testimony concerning the case, and becomes suspicious of Cargill's admission. At the end of the play we realize that Major Cargill has been telling the truth, and that he is technically a traitor. However, we also learn that he has confessed to the enemy after considerable torture, and to protect the lives of the men in his command. The questions and moral issues proposed by the play are significant. They are:

Is it treason to forestall Communist massacres by agreeing to propaganda collaboration? Is it just to apply to cases of apparent defection a code of honor based on the assumption that the enemy's code is the same? Should the whole career of a soldier be judged by the one moment when he cracks? Aren't the years in which he behaved like a hero worth anything?¹

One point of view that attempts to answer the questions proposed is given by Major Cargill as he confronts Major General Joseph Connors, Commanding Officer of the Army Post on which the investigation is being held. It is also learned

¹The New York Times, February 5, 1956.

that Cargill was a prisoner-of-war with the General's son, and that young Conners broke under the stress of torture, and was murdered by his fellow prisoners. Cargill defends himself as follows:

Cargill

. . .but if in the last month. . .or the last week. . .or even the last minute, the pressure gets too great and he breaks, then he's branded forever. Well, there ought to be a time limit because you can't ask a man to be a hero forever. It isn't fair!

General

Major, there's no defense for treason!

Cargill

I wouldn't use words like treason, if I were you. And I wouldn't set myself up to judge anybody--not till I had first picked the lice out of my skin with my own fingers--or felt the rats at night--or lain in a damp hole for days till every inch of me crawled. Don't be a hero on somebody else's time, General. Don't ever hate a man for what he does under pressure. Your son was a hero, General. Yes, sir, I give you my word. Hundreds of days he was a hero. On only one day did he break. My God, don't all those other days count for anything? Did he lose his standing in the human race because he broke on that one last day? They didn't understand--so they killed him--but at least they had a reason--to save their lives. What's your reason, General? A set of rules--a code? Well it's not enough! Because you don't have a code that fits a man to face them--your code doesn't have all the answers. Not by a damn sight. . . .General, what would you do?--you're in a prison camp and nobody breaks for months and months--then all of a sudden, one day a man does break. And his own men kill him for it. And the Commander of the camp is furious. Because they've robbed him of the one victory he's been able

to achieve. So he calls in the ranking officer and says, "All right, I have reached the limit of my patience. Either you cooperate or I try all eighteen men for murder and have them killed." What would you do, General? I want an answer! What the hell would you do? Stand fast? Let them all be killed? Maybe that's the answer for heroes. Well, I was no hero. To me eighteen men--their wives--their families--they seemed important. They still seem important. How many lies for a man's life? I don't know. I just gave them everything they wanted. Everything.¹

General Connors, in the following speech, gives his answer to Cargill. The essence of the ideas in the play are, for the most part, taken in by the two speeches presented here. The General speaks:

. . .Major Cargill, you asked me a question and you at least deserve an answer. I'm speaking to you now as one soldier to another. In that prison camp, you came face to face with a choice that has tortured every military leader who ever had to live with his conscience. The decision involving the life or death of his men. You're a sensitive man, Major. A humane man. I sympathize with that man. But you're also a soldier, and as a soldier, you have failed, just as my son failed. You talk to me of eighteen men. Multiply that by hundreds--by thousands. Try carrying that weight on your shoulders. Try sleeping with the cries of those wives and children in your ears. I've done it, Major. Every wartime commander has done it. Because at times it's got to be done. It's brutal, it's heartbreaking, but until a better world is built, it's got to be done. . . .²

¹Denker and Berkey, 57.

²Ibid.

Time Limit! was praised by the critics, mainly because of the issues it presents and questions it asks. The issues became important to playwrights Denker and Berkey, while they were watching a television interview with General William F. Dean, who had been a prisoner-of-war in Korea. General Dean suggested on the show that "there might be a point where even the best man succumbs to torture and pressure."¹ The moral and mental queries of the play are summarized by Brooks Atkinson, writing for The New York Times, in the following statement: "If the issues involved were not so disturbing, Time Limit! might look like an entertaining theatre piece. But the issues are pertinent and painful and difficult to resolve. Time Limit! gives them a trenchant theatrical statement."²

Time Limit was produced on Broadway by The Theatre Guild and played 127 performances. It was later made into a motion picture.

The final courtroom play concerning the military, The Andersonville Trial by Saul Levitt, also proposes an important question often asked during a war. The question is: Does an officer in the military have a moral duty to refuse orders he regards as indecent and inhuman moral conduct? This question was important during the trials of military prisoners

¹The New York Times, February 5, 1956.

²Ibid.

following the Second World War. Playwright Levitt chose to ask the question in the framework of an event that took place in the American Civil War. The Andersonville trial was held before a U. S. military court in Washington, D. C., in August of 1865, four months after President Lincoln was assassinated. The defendant in the trial was Henry Wirz, who had been superintendant of the Andersonville, Georgia, prison, where 40,000 Union soldiers lived in constant need of shelter and food. Fourteen thousand of them died. The Andersonville Trial recounts the miserable conditions of the prison. Levitt does not change the names of the characters for the play, thus maintaining some historical accuracy.¹

Don Ross, in the New York Herald Tribune, reports the playwright's comments on the play's relevance to recent times:

Saul Levitt, who entered Buchenwald as a combat correspondent for "Yank," when, as he said, the ovens were still warm, has written about the trial of Capt. Henry Wirz. . .

Signal Corps photographs of 1865 show Andersonville to be much the same as the Nazi camps, Mr. Levitt said the other night--the emaciated walking dead, the piles of corpses, the shallow mass graves. "So they weren't Jews, they were Federal soldiers," he said.²

While the arguments, verdict, and characters in the play are historical, the playwright heightens the tensions of

¹For a complete account of the trial of Henry Wirz see: U.S., Congress, House, Trial of Henry Wirz, 40th Cong., 2d Sess., House Doc. 23 (Washington: U.S. Government Printing Office, 1868).

²New York Herald Tribune, December 27, 1959.

the trial by condensing what was a lengthy trial to a two and a half hour drama. The historical figure of Captain Henry Wirz in the play, as in real life, is sentenced to hang. He was the only man tried and executed as a war criminal following the Civil War. The court refused to allow his excuse that he was only following orders and, therefore, was not responsible. In more recent times, the twenty-two Nazi leaders who were convicted of war crimes by an International Tribunal in Nuremburg, Germany, in 1946, were refused the same excuse. As recent as 1960, former Nazi SS General, Adolf Eichmann, who also offered the same excuse, was tried for playing a major role in the murder of millions of Jews during World War Two. Eichmann was hanged for his crimes against humanity in 1962.

Early in the play Wirz defends himself on the basis that he was not personally responsible for the conditions that resulted in the death of thousands of Federal prisoners. The Judge Advocate, one of the principal characters, turns to the moral issues of the case, after failing to prove conspiracy. A number of witnesses are brought to the military court to testify that the conditions of the prison at Andersonville were brutal and inhumane. After helpless and prideful protests, Wirz is found guilty and sentenced to death.

Some of the critics found The Andersonville Trial too theatrically contrived. For example, the New York Herald

Tribune alludes to the play's "showy craftsmanship."¹ The

New York Times commented on the same factor this way:

. . .this column felt that the theatre was triumphing over truth by being ingenious, showy and planned. There was something hollow about the conclusion--actors confronting one another, not men caught up in the mysteries of a debate about morals.²

On the other hand, the virtues of The Andersonville Trial were also apparent in the notices. The Christian Science Monitor shows, in the following excerpt from its commentary, a liking for the drama:

In his first Broadway play, Saul Levitt has employed the familiar form of the courtroom drama for a stirring debate over moral issues. "The Andersonville Trial," based on a dubious incident in American military jurisprudence, serves Mr. Levitt for a theatre work in which both the judges and the judged are placed under the scrutiny of a searching observer. From such dispassionate documents as transcripts and the Congressional Record, Mr. Levitt has composed a sharply focused, emotionally charged legal proceeding.³

The Andersonville trial as a dubious incident, is corroborated by author Levitt in the following comment he made for the New York Herald Tribune:

"I hated this Wirz," Mr. Levitt said.
"There was nothing redeeming about him. But

¹New York Herald Tribune, January 10, 1960.

²The New York Times, December 31, 1959.

³The Christian Science Monitor, January 2, 1960, p. 5.

he was treated so unfairly. It was one of the most illegal trials imaginable. It violated every Constitutional right the guy might have had. . . .The trial was filled with politics.¹

Historian Rutman concludes that Wirz's trial "is a tragedy. It is that of a man hurried to his death by vindictive politicians, an unbridled press, and a nation thirsty for revenge."² There is evidence, then, that the assassination of Lincoln influenced the outcome of the trial of Henry Wirz. It is shown in the play, as the trial documents also indicate, that Wirz did not have the strength of character to disobey his superiors. Wirz's pathetic weakness is manifest in the following speech of his from the play:

. . .Simply-- I could not disobey. I did my duty as I saw it. I have made that clear. But you badger me. Which however way I explain it, it will not do for you--and you badger me--you badger me! I have made it clear that I had to keep order there. To keep the record monthly of the number of prisoners including those escaping--to report that to . . . the War Department--and you badger me. It has been made clear-- . . .To prevent them for escaping--to report in writing the attempted escape--that was my responsibility. Isn't that clear? . . .It was overwhelming and I had to find ways and means to block those escape attempts--that was my duty. It was solely on my head. . . .³

¹New York Herald Tribune, December 27, 1959.

²Darrett B. Rutman. "The War Crimes and Trial of Henry Wirz," Civil War History, Volume VI, Number II (June 1960), p. 118.

³Saul Levitt, The Andersonville Trial (New York: Random House, Inc., 1960), p. 116.

The clash of military and moral principles in The Andersonville Trial is similar to the military and moral principles presented in the Nuremburg trial and the trial of Adolf Eichmann; these modern overtones give the play added dimension.

The Andersonville Trial was directed for Broadway by Jose Ferrer, and had among its cast, George C. Scott and Herbert Berghof, who played the role of Henry Wirz. The Andersonville Trial played 179 performances on Broadway.

The three courtroom plays with military motifs examined in this chapter are similar in some respects. All three concern the problems of decision in a trying wartime situation. All three concern the trial of an officer, rather than an enlisted man. They also point to moral issues involved in military command where the safety of men is concerned. None of the moral issues presented is actually resolved; however, this did not prevent the plays from receiving critical praise or from attracting audiences.

Plays Concerning Aspects of American Law

The subject of jurisprudence itself also serves as material for courtroom drama. Eight courtroom plays, produced between 1920 and 1963, are concerned with various aspects of American law. Three plays which deal with jury duty are discussed first. They are not discussed chronologically according to their professional productions, but according to their

acclaim and length of run.

The most popular courtroom play with audiences which concerns jury duty is Night of January 16 by Ayn Rand. The popularity of the play is mainly predicated on a theatrical trick or "gimmick" built into the structure of the play. The appealing trick is that when the spectators buy tickets for a performance of Night of January 16, they are offered the chance of serving on the play's jury. The selected jurors are given a seat on the stage, and sit in a jury box there throughout the performance. Late in the play they retire backstage for a vote and, ultimately, a verdict. Regardless of their vote, an ending is prepared for either a verdict of guilty or a verdict of not guilty. If the defendant is convicted, a new trial is asked and the judge grants it; if the defendant is found not guilty, the judge criticizes and berates the jury for a bad decision.

At the time The Night of January 16 was first produced in New York in 1935, women were ineligible for jury duty in New York State. On opening night in New York some prominent men were called out of the audience to sit on the play's jury, among them being Jack Dempsey, heavyweight boxing champion of the world, and Edward J. Reilly, a Brooklyn, New York, attorney who failed to get an acquittal for Richard Bruno Hauptmann, the alleged kidnapper of Colonel Charles A. Lindberg's baby.

Furthermore, during the run of the play on Broadway each male jury member received a three dollar fee for his duties for the night.¹

The story of the play is the trial of Karen Andre, who is on trial for the murder of her boss and lover, financier Bjorn Faulkner. Faulkner had wished to marry another for money. We also learn that a man's body with a bullet hole through it had fallen through the Faulkner penthouse. Karen Andre is put on trial for the killing. The questions in the case are: Was Faulkner murdered?; did Faulkner commit suicide?; and, was the body really Faulkner's? Because of the novelty of the play, as explained above, these questions remain unimportant, for they are never resolved. Furthermore, outside the entertainment value of Night of January 16, the most significant factor about the play seems to be Miss Rand's cursory concern about the responsibility of a jury.

An item in Theatre Arts Monthly said that "The Night of January 16 is really not a play; it is a game It seems pretty foolish in a theatre."² The New York Times called it "routine theatre with the usual brew of hokum."³

¹Time, XXVI (September 30, 1935), p. 22.

²Edith J. R. Isaacs, "Theatre Ballot-Box," Theatre Arts Monthly, XIX (November, 1935), p. 823.

³The New York Times, September 17, 1935, p. 26.

The Spectator, in criticizing the play, had some interesting, if not humorous, statements to make about the requirements of acting in courtroom drama:

The trial-scene, expanded into three self-consciously realistic acts, might hold us; but the plot is so intricate, the characters so wooden, and the juridical technique so exotic that good, or at least interesting, acting is needed to compel our attention. This is a "strong" play; and "strong" plays can often make do with mediocre playing. The Night of January 16th [sic] cannot, and for this reason. All the acting is done from the witness-box (apart from the rival attorneys who besiege it and from the sporadic brief interpolations). And of a character in the witness box, the audience must know whether he or she is a good actor acting badly on purpose, or a bad actor acting badly because he cannot help it, or an actor trying to act like a good actor acting badly on purpose. This is complicated, but if you work it out it gives you most of the essential criteria.¹

Night of January 16 was produced by A. H. (Al) Woods, the producer of The Trial of Mary Dugan. Night of January 16 played 262 performances on the Broadway stage. In recent years, its author, Miss Ayn Rand, has become a prominent contributor to American literature; among her works are The Fountainhead and Atlas Shrugged.

Jury responsibility is also treated in Ladies of the Jury by Frederick Ballard, the author of Young America which was discussed in Chapter Three. Ladies of the Jury is a

¹Derek Verschoyle, "The Theatre," The Spectator, (October 9, 1936), p. 582.

satirical comedy in which the leading character is Mrs. Livingston Baldwin Crane, a Daughter of the Revolution and a rich person of consequence in Rosedale, New Jersey, the scene of the play. During the trial Mrs. Crane, who has been called for jury duty, interrupts the proceedings often with cross-examination of the witnesses, "shrewdly exposing some of the rifts in the criminal code."¹ After the jury is retired, Mrs. Crane engages herself in convincing the other eleven members of the jury that they are wrong in thinking the defendant guilty of homicide, and that she is right in thinking she is not guilty.

Possibly the main attraction of Ladies of the Jury to audiences when presented on Broadway in 1929, was the appearance of Mrs. Minnie Maddern Fiske in the role of Mrs. Livingston Baldwin Crane. Stark Young commented:

Of Mrs. Fiske's new comedy. . .there is little to be said except that it has an amusing. . . situation--this lady knowing the truth by intuition and handling by the same faculty the law processes of a trial and the manipulation of a jury--and that it has otherwise no brilliance, certainly, and not much wit. Of Mrs. Fiske's performance we may say that it has her own intangible comedy all through it.²

The New York Times also praised Mrs. Fiske's performance, with the following judgment:

¹"Mrs. Fiske Serves on Jury," The Literary Digest, CII (November 9, 1929), p. 21.

²Stark Young, "An Actress and a Dramatist," The New Republic, LX (November 6, 1929).

If Mrs. Fiske did not dominate. . .you might be more conscious than you are likely to be of its transparently broad humors and its unabashed employment of that quality and most succinctly described as hokum.¹

The jury in the play seem much like the cross-section of an ordinary community. For example, there is a spinstery reformer, a young Greek candy merchant, a Scotch gardener, an ex-chorus girl, a clinging young wife, and an incipient poet.

And despite the fact that these types are written and played for all the less subtle humors they contain, they have a certain actuality. With a little less tendency to comic caricature they might conceivably represent a small-town jury. In that circumstance is to be found one of the play's few claims to distinction.²

Billboard made further comment on the make-up of the jury by saying that "the play was cast with great detail and scrutiny, making the collection of types that is a typical American jury arresting of itself."³ The casting responsibilities were those of Harrison Gray Fiske, Mrs. Fiske's husband, who directed the play. His production in New York played eighty-eight performances.

A serious castigation of juries and public responsibility occurs in William Hurlbut's Chivalry (1925). In this play Hurlbut's shows a discontent at the frequency with which

¹The New York Times, October 22, 1929, p. 26.

²Ibid.

³Billboard, November 2, 1929.

beautiful ladies, pleading "the unwritten law," are freed by groups of softhearted jurymen, implying that the defendants are sometimes less innocent than they seem.

Playwright Hurlbut uses the "flashback" in Chivalry, to tell the story of a young defendant, who had been presumably tricked by a gentleman whom she eventually kills. She turns out to be a rather hard and ruthless young lady. The New York Times dismissed the Hurlbut's effort with little positive comment.¹ Chivalry ran twenty-three performances.

There are five courtroom plays remaining which concern American jurisprudence. Only one, A Case of Libel by Henry Denker, received any notable degree of acclaim by critics or enjoyed a substantial run of performances. It was produced in 1963 and is discussed first. The remaining four, all produced between 1920 and 1930 are treated collectively as a reflection of the nineteen-twenties in America.

A Case of Libel is an adaptation by Henry Denker, the co-author of Time Limit!, of portions of Louis Nizer's My Life in Court, a treatise on a number of legal cases undertaken during Nizer's career as an attorney. While the characters' names in the play are fictitious, it is apparent, that the play is based on an actual law suit which Quentin Reynolds, a

¹The New York Times, December 16, 1925, p. 22.

prominent American columnist, brought against Westbrook Pegler, a popular war correspondent. Louis Nizer represented the plaintiff Reynolds in the actual trial.

The story of the play, with some minor exceptions intended for the purposes of dramatization, follows closely along the lines of the real life trial. A synopsis which follows, parallels the actual case. Dennis Corcoran, war correspondent, has been viciously attacked and slanderously assailed in print by a somewhat fanatical right-wing newspaper columnist, Boyd Bendix. Bendix has wildly attacked Corcoran by accusing him of sexual promiscuity and communist affiliation. Corcoran persuades a liberal attorney, Robert Sloane, the prototype of Nizer, to help him bring a suit for libel against Bendix. The legal concept of libel becomes interesting at this point, for Sloane attempts to impress upon Corcoran that a charge of libel is one of the most difficult suits to win in a court of law. Sloane dramatizes his point to Corcoran with the following speech:

Prove that you're not immoral? Drunken?
Cowardly? How, Dennis? Imagine you were Christ
himself on the witness stand being cross-examined.
(He turns to an empty chair to use as a witness)
"Now, sir, you say you are a carpenter? Yet
isn't it a fact that from the ages of thirty to
thirty-three, three whole years, you didn't work
at anything, just wandered the countryside as a
vagrant? And during that time, did you drink?
Only wine. Uh huh. And did you ever commit
assault against a group of moneychangers? And

did you have frequent contact with a known prostitute? I didn't ask you why! Just answer the question! You did! Thank you." (Then turning to Dennis) How do you think you'd make out?¹

After a parade of witnesses and an impassioned statement to the court, Sloane wins for Corcoran. The court allows Corcoran compensatory damages of one dollar, but punitive damages for \$500,000 against the news syndicate for which Bendix works. The court also allows the plaintiff punitive damages in the sum of \$100,000 against Boyd Bendix. One interesting aspect of the case is that it involves only a claim for civil damages; therefore, the play is not about a crime in the usual sense of the word.

Howard Taubman of The New York Times called the play a "stimulating specimen of courtroom drama."² John McClain's comments about courtroom drama, in general, are interesting in his review of A Case of Libel. He says:

The courtroom and the attendant histrionics involved in the legal process have served the theatre well since the first time Portia haggled with Shylock over a pound of Antonio's prime filet.

The scene presents a drama-within-a-drama, allowing the trial lawyer freedom of expression and deportment readily excused on the basis that

¹Henry Denker, A Case of Libel (New York: Random House, 1963), p. 15.

²The New York Times, October 11, 1963. Reproduced in New York Theatre Critics' Reviews, XXIV, 1963, p. 245.

he is saving a life or guarding a principle, and there is the added advantage that long and impassioned speeches are accepted as part of the form.

Granted the matter at hand is interesting, it is a foolproof formula, and it seemed to me that Henry Denker made good use of all those elements in fashioning "A Case of Libel". . .¹

Norman Nadel has similar statements about courtroom drama. In his review of A Case of Libel he stated:

Hot on the heels of sex and violence comes the courtroom drama, as a sure thing in popular entertainment. As it often includes both sex and violence, if only vicariously, it can fetch up as the commercial entertainment package par excellence. Note its strength in movies, on television and the stage.

And one way to top a fictional courtroom drama is to base it on truth, which usually is more interesting anyway. That is what playwright Henry Denker has done in "A Case of Libel". . .²

Taubman, contrary to Nadel, commented that if the audience has knowledge of the basis of the play, it might take away some of the pleasure of being in doubt about which way the case will end.³ Harold Clurman had some reservations about A Case of Libel, commenting that it "would have been a lot more interesting, and even bravely controversial, if it had been produced

¹New York Journal American, October 11, 1963. Reproduced in New York Theatre Critics' Reviews, XXIV, 1963, 246.

²New York World-Telegram and The Sun, October 11, 1963. Reproduced in New York Theatre Critics' Review, XXIV, 1963, 247.

³The New York Times, October 11, 1963. Reproduced in New York Theatre Critics' Reviews, XXIV, 1963, 245.

during the McCarthy era or shortly after the trial. Being neither art nor stirringly topical, it is now platitude,"¹ A Case of Libel had Van Heflin and Sidney Blackmer in its original cast, and was directed by Sam Wanamaker. It played 242 performances in New York.

Three more courtroom plays, produced between 1926 and 1930, also concern a manifestation of American jurisprudence. They also seem to mirror an interest on the part of their authors for the dramatic possibilities inherent in the legal process. None of these plays, discussed chronologically, received notable acclaim or enjoyed substantial popularity with audiences. The first play in the group, She Couldn't Say No, was produced in 1926.

The story of She Couldn't Say No, a farce by B. M. Kaye, concerns Alice Hinsdale, a stenographer, who is secretly in love with her boss, Turnbull. By happenstance, Alice is given the opportunity to "try" a breach of promise case in upstate New York. Turnbull is the opposing attorney to Alice at the trial, which turns out to be a burlesque of legal procedure. Alice wins, but the case is "fixed" by Turnbull, in her favor.

The basis for the trial in She Couldn't Say No is a

¹Harold Clurman, "Theatre," The Nation, CXCIV (November 9, 1963), pp. 306, 308.

"breach of promise" suit. "Breach of promise," no longer enforced as a cause for legal suit, was a common form of legal entanglement in the nineteen-twenties. It occurred when a young man asked a young lady to marry him, and then reneged on the promise. Today we would call "breach of promise" a broken engagement.

The New York Times said of She Couldn't Say No!: "The play is an absurd tale about a young woman who pretends to be a lawyer, and not one instant of it is in the least credible. But as a tour de force for Florence Moore [who played Alice Hinsdale] it is superb."¹ A sample of the comedy is given in the excerpt below. This scene gives an example of humor in Broadway comedies in 1926, and it demonstrates the kind of courtroom humor that aided in the play's popularity. The scene shows Alice, the leading character, cross-examining Pansy, a dashing country spinster of forty years of age. Alice asks:

Alice
 . . .How old are you?

Pansy
 . . .Do I have to answer that, Judge Jenkins?

Jenkins
 If defendant's counsel insists.

Alice
 How old are you?

¹The New York Times, September 1, 1926, p. 27.

Pansy

I won't tell you.

Alice

Oh, yes, you will.

Pansy

Oh, no, I won't.

Jenkins

. . .Now answer the question, Pansy--we all know how old you are.

Pansy

(Defiantly) I'm twenty-five. . . (General movement of amusement)¹

She Couldn't Say No! played a total of seventy-one performances in New York, receiving a longer run and more critical acclaim than Penal Law 2010, produced in 1930, which also involves the legal process.

Penal Law 2010 is the story of Dora Sandrey, a parlor maid, who accused her employer's son, Roger Stuart, of having taken advantage of her innocence. The important legal factor in the play is that because Dora Sandrey happens to be under eighteen years of age, the grounds against Roger Stuart constitute statutory rape. Roger is an upstanding young man in the community and is well known as a trial lawyer. He brings his own case to court, and acting as his own attorney, wins the case, on circumstantial evidence, after revealing Dora as

¹Benjamin M. Kaye, She Couldn't Say No! (New York: Samuel French, Inc., 1924), p. 86.

a trollop.

This writer could not find an allusion to penal law 2010, but it is likely that the title of the play refers to the charge of having an illicit affair with a minor. The play was found to be over melodramatic; on opening night "the audience began to get out of hand and to celebrate jocosely the rolling periods of oratory that thundered across the. . . Biltmore. [Theatre]."¹ Penal Law 2010 played nineteen performances on Broadway.

Three days following the opening of Penal Law 2010, the final play in this group, Room 349, began its run of only fifteen performances. The legal interest here is twofold: (1) the play attempts to show how gangland killings by and of hoodlums require difficult investigation and proof; and (2) the play also attempts to show that the murder of a hoodlum often remains unsolved, as in the case of Penal Law 2010.

Penal Law 2010 tells the story of a gangland killing of Harold Stromberg, who is killed at a poker game. Another gangster, Sandy Tully, is accused of the murder, is tried, and eventually acquitted. The murder remains a mystery in the play. The basic facts of the story in the play are suggested by the killing of Arnold Rothstein,² and was called

¹The New York Times, April 19, 1930, p. 14.

²Arnold Rothstein was a New York gambler who died of gunshot wounds in November of 1928. The killer was never found.

". . .only a bad play draped loosely around a dull court room scene."¹

The three plays discussed above, She Couldn't Say No, Penal Law 2010, and Room 349, according to critical comments and number of performances, cannot be considered important to the history of the American drama. However, the three reflect, to some degree, an interest by some playwrights of the period in the use of specific laws and manifestations of the legal process and how they may be used for dramatic purpose.

Caponsacchi: An Historical Romantic Verse Tragedy

Playwrights Arthur Goodrich and Rose. A. Palmer saw dramatic possibilities in something that might seem remote from courtroom drama, for Goodrich and Palmer adapted Robert Browning's poem, The Ring and the Book, into a successful courtroom drama called Caponsacchi.

As in On Trial, Time Limit!, and other plays mentioned previously, Caponsacchi is told in "flashbacks." This similarity in form is the only manner, with one exception, in which Caponsacchi is likened to other plays in this study; therefore, it is discussed separately. The exception is The Broker of Bogota by Robert Montgomery Bird, previously discussed in Chapter Two. The two plays differ from others in

¹The New York Times, April 23, 1930, p. 24.

this history, mainly because they are written in verse. In addition, Caponsacchi shows "the Browning conception of love that lifts this play. . .into an air of spiritual beauty, romanticizes and sanctifies its melodrama, and pushes its dramatic theme into that effect of philosophy and preaching so beloved of Browning followers."¹ Caponsacchi may also be likened to the familiar classical treatment we normally attribute to Shakespeare, and other dramatic poets.

The story begins with a trial in 1698, in a Court Room in the Vatican, in Rome. On trial are Count Guido Franchschini and a priest, Caponsacchi. The Count's wife, Pompilia, has been murdered. Guido admits that he killed Pompilia, but only because she was unfaithful to him with Caponsacchi. The Vatican Court is to decide on the punishment for Guido, and the moral offense of the priest, Caponsacchi. As the trial begins, Guido tells of Caponsacchi's seduction of his wife. A few minutes later Caponsacchi is called to the stand. He testifies:

My story of this crime? So be it lords.
I'll tell it though it tear my heart in twain,
Tell it for her, Pompilia. Oh, good sirs!
A month ago she lived as you and I.
She saw and spoke and felt and listened. . .
she,

¹Stark Young, "Sacred and Profane Love," The New Republic LI (May 25, 1927), p. 17.

Do I speak ambiguously? The glory, I say,
And the beauty, I say, and the splendor
still say I,

Who, priest and trained to live my whole
life long

On beauty and splendor solely at their source,
God . . . have thus recognized my food in her.

Oh, could I show you her, Pompilia! All
Her glory, beauty, truth. . . .

What is all this?

There, I was born, have lived, shall die. . .
a fool!

This is a foolish outset; might with cause
Give color to the very lie of the man,
The murderer; make as if I loved his wife
In the way he called love. He is the fool there!
Is there no woman then with soul so high
To lift mere man above his baser self?
Is there no worship, only that of flesh?
How silent you all are! Forgive me, lords.
I will go on now. Does she need or not
That I keep calm? Calm I will try to be.
I'll make her story live. You, sirs, shall see
rather than listen, watch rather than hear
The progress of her fate from the first eve
On which I met her.

(The story begins and lights begin to fade.) 1
It was Carnival, . . .

The play now moves into a "flashback" as Caponsacchi tells his story. From the point the play alternates between the Vatican Court and various locales in Italy, as the opposing stories are told. As the results of the trial become closer to being revealed in the final scenes of the play, the Vatican Court also finds itself directly involved in the trial; the

¹Arthur Goodrich and Rose A. Palmer, Caponsacchi
(New York: D. Appleton and Company, 1926), p. 17.

Church does not wish to face a scandal, or be accused of hiding the testimony. All questions are resolved in the final scene.

The Pope passes sentence on Guido:

I will, sirs, since, through God, the truth
is plain.
I forthwith think, speak, act in place of Him.
The sentence: "On receipt of this command
Acquaint Count Guido and his fellows four
They die to-morrow. Set a scaffold up,
Not in the place where die the common sort,
But since this man is noble, and his peers
By predilection haunt the people's square,
There let him be beheaded in the midst
And his companions hanged on either side.
Let there be prayer incessant for the five."
(Guido drops to the floor in a faint. The Pope
comes down to where Guido lies, looks down
upon him compassionately.)
For the main criminal I have no hope,
Except the truth be flashed out by one blow,
And Guido see, one instant, and be saved.
Else I avert my face, nor follow him
Into that sad, obscure, sequestered state
Where God unmakes but to remake the soul
He else made first in vain, which must not be.
Enough, for I may die this very night,
And how should I dare die, this man let live?¹

At this point Guido confesses that he lied. He pleads for grace and assures the court that Caponsacchi and his wife were both true. He cries out for help as he is taken from the court. The Pope praises the virtues of Pompilia and advises Caponsacchi:

Make the world better, show in God's behalf
That broad brow that reverberates the truth,
And flash the word God gave you back to man.²

¹Ibid., p. 172.

²Ibid., p. 174.

In an introduction to the printed version of Capon-sacchi, literary critic William Lyon Phelps, points to the production in New York in which Walter Hampden played Capon-sacchi. Phelps also gives an interesting perspective to the play, as it compares to other literary works of merit. The following excerpts are taken from his lengthy comments:

. . .although he [Browning] stopped writing for the stage, he was, with the exception of Shakespeare, the most dramatic poet in English literature. It has often been said that Browning invented more plots than any other writer in history; and one of the motion picture magnates. . . said, "Robert Browning is the greatest writer of the movies who ever lived."

.....

But the possibilities of a dramatic version of this exciting murder trial were perceived by Rose A. Palmer, grasped instantly by Walter Hampden, and brought to fine fruition as true poetic drama by Arthur Goodrich. This is a play, a tragedy, in which Browning's own lines, wherever possible, have been preserved; they are immensely effective when spoken with the intelligent and dramatic feeling that Mr. Hampden and his company are able to give. This is not a drama that one attends from a sense of duty, like many intellectual dramas where the audience feel virtuous and bored at the same time, and are relieved when a disagreeable task is finally accomplished. The fact is that Mr. Goodrich, with the cooperation of a truly great actor, has produced an intensely exciting and deeply affecting play. There is not a moment of dullness from the beginning to the end, and the different scenes have been arranged with extraordinary skill. I regard this play as the chief event of the dramatic season in New York, and it is my hope that it will become a permanent feature on the American stage.

It is strange when we consider three things--first, that the glory of English literature is its poetry; second, that our greatest dramatist,

Shakespeare, wrote his plays in verse; third, that the leading continental dramas of our time, "The Sunken Bell" and "Cyrano de Bergerac," are both in verse; it is strange, I say, that there has been no good modern English drama in verse until "Caponsacchi" appeared. It is difficult for the modern actor to give adequate value to the poetic drama on the stage; but it can be done as is proved by Mr. Hampden and his company.¹

In an essay accompanying the printed version of the play, Clayton Hamilton also praises the adaptation by saying that Goodrich "has so completely drenched and steeped himself in the spirit and the atmosphere of Browning that he has enabled himself to write the play. . .with the full connivance and approval of the poet."² The "flashback" technique used in the play was specifically cited by the critic for The New York Times; he said that perhaps it was not the movies that invented the "flashback," but Robert Browning. "Surely, here is an uncredited trail blazer,"³ the critic commented.

The critics, for the most part, were favorable toward Caponsacchi. Stark Young said it is "refreshingly sound old-style Bowery melodrama. . .over all this suspense and. . . theatrical excitement, there hangs the mist of deep meaning and God's purpose, which, taken practically as theatrical

¹Ibid., pp. vi-vii.

²Ibid., 183.

³The New York Times, October 27, 1926, p. 24.

matter, also has its uses."¹ The New York Times generally concurred but also found it to be melodrama, rather than tragedy.² Historian Quinn made the following observations:

One of the hopeful indications of the vitality of the verse play and the growing popular appreciation of good things in the theatre was the success of Caponsacchi. . . . Goodrich provided Hampden with a heroic part, whose success disproved the distrust of the rhythmic drama. . . . Mr. Goodrich. . . skillfully built up on a scaffold of Browning's verse a play which, so far as language is concerned, is largely his own.³

Billboard praised the revival of Caponsacchi in 1928, two years following the original production;⁴ the revival, however, ran only sixteen performances. The 1926 production played 296 performances on Broadway.

Plays Concerning Religion and Morality

The final group of plays discussed in this study concern religion and morality. There are two plays in this group and both of them appeared on the professional stage in recent times, and since World War Two. Inherit the Wind, by Jerome Lawrence and Robert E. Lee, is discussed first, for it received the greatest acclaim.

¹Stark Young, The New Republic (May 25, 1927), 18.

²The New York Times, October 27, 24.

³Quinn, A History of the American Drama from the Civil War to the Present Day, II, 151.

⁴Billboard, December 1, 1928.

Inherit the Wind was produced on Broadway in 1955, thirty years following the trial on which it is based. Inherit the Wind is a dramatization of a court test of the State of Tennessee Anti-Evolution Act which took place in Dayton, Tennessee, from July 10 to 21, in 1925.¹ The test was precipitated by a twenty-four-year old high school teacher, John T. Scopes, who, at the urging of friends, deliberately violated a law which prohibited the teaching of evolution in Tennessee schools.

The American Civil Liberties Union, supporting Scopes, sent three attorneys to Dayton to defend Scopes. One of them, Clarence Darrow, was a celebrated attorney from Chicago. The attorney for the prosecution was William Jennings Bryan, three times a nominee for the Presidency of the United States. At the time of the Scopes trial, Bryan was reaching the end of a rather illustrious career. He had been President Woodrow Wilson's Secretary of State, and was talented as a public speaker. He was fondly called "the boy orator from Nebraska,"²

¹A complete and authentic record of the Tennessee Evolution Case compiled from the stenographic report of the trial, into a rare book called The World's Most Famous Court Trial (Cincinnati: National Book Company, 1925).

²Two outstanding, though rare books, on the life and beliefs of William Jennings Bryan are: Mary Baird Bryan, ed., The Memoirs of William Jennings Bryan (Chicago: John C. Winston Company, 1925), and Wayne C. Williams, William Jennings Bryan (New York: G. P. Putnam's Sons, 1936).

and became more well known as a rhetorician when he captivated the Democratic national convention in 1896 with a speech to become known as the "Cross of Gold" speech. During the Scopes trial, his eloquence had not waned, though it had been twenty-nine years since his convention speech.

The issue which brought Darrow and Bryan to Dayton, Tennessee, was based on a Public Act of the State of Tennessee which stated:

An Act prohibiting the teaching of the Evolution Theory in all the Universities, Normals and all other public schools of Tennessee, which are supported in whole are in part by the public school funds of the State, and to provide penalties for the violation thereof.

Section 1. Be it enacted by the General Assembly of the Tennessee, That it shall be unlawful for any teacher in any of the Universitis, [sic] Normals and all other public schools of the State which are supported in whole or in part by the public school funds of the State, to teach any theory that denies the story of the Divine Creator of man as taught in the Bible, and to teach instead that man has descended from a lower order of animals.

Section 2. Be it further enacted, That any teacher found guilty of the violation of this Act, Shall be guilty of the violation of this Act, Shall be guilty of a misdemeanor and upon conviction, shall be fined not less than One Hundred . . . Dollars nor more than Five Hundred . . . Dollars for each offense.¹

The anti-evolutionists were resisting the theory put

¹State of Tennessee, Public Acts of the State of Tennessee, Sixty-fourth General Assembly, House Bill No. 185, 1925 (Nashville: Printing Department Tennessee Industrial School, 1925), pp. 50-51.

forth by scientist and naturalist Charles Robert Darwin, in his book, The Origin of Species By Means of Natural Selection; or, The Preservation of Favored Races in the Struggle for Life. In his book Darwin details his theory that mankind is developed from the same group of animal as chimpanzees and other apes. For this reason, the Scopes case also became known as "the Monkey trial."

The controversy concerning the theory of evolution and public schools still manages to become news items. For example, in 1960 the controversy flared anew in the State of Washington, raising a religious issue in a campaign for Governor.¹ It was also a controversy in the State of California in 1964,² and again, in the State of Arkansas in 1965.³ The so-called "Monkey Law" is still on the books in Tennessee today.

At the trial in 1925 Darrow and Bryan debated the evils and virtues of human evolution. Darrow was the antagonist to the people of Tennessee. A year earlier he had defended two murderers, Nathan Leopold, Jr. and Richard Loeb, defying public clamor for vengeance by saving them from the electric chair. Prior to the Loeb-Leopold case he had

¹The Washington Star, March 6, 1960.

²Richmond [Va.] Times-Dispatch, January 11, 1964,

P - 11.

³The State Journal [Lansing, Michigan], September 12, 1965, Section F, p. 2.

1

espoused many unpopular causes and defended many who were considered outcasts. His personal image in Tennessee, in his defense of John Scopes, however, was not favorable, for he was well known as an agnostic. Bryan, on the other hand, was a staunch believer in the literal interpretation of the Bible.¹ Their personal views led to their debate in Dayton, Tennessee.

Clarence Darrow brought a number of scientists to Dayton, Tennessee, to testify in Scopes' behalf, but were not allowed to take the stand, for the Judge felt that scientific testimony had no bearing on the case. Darrow then surprised the court by asking that Bryan be put on the stand as an expert on the Bible. Bryan agreed to testify, and the court gave approval. Darrow questioned Bryan on many facets of the Bible, particularly concerning The Creation. Bryan insisted that he accepted the Bible literally. The jury was not allowed to hear Darrow's examination of Bryan concerning the Bible, and this testimony was stricken from the record. At this point, Darrow requested that the court instruct the jury to return a verdict of guilty, so that he could appeal the case to a higher court. This was done, and Scopes was fined the minimum charge for the violation, one-hundred dollars. The Tennessee appellate reversed the decision later and dismissed the case.

¹Bryan led the believers in the literal interpretation of the Bible in the nineteen-twenties; Bryan and those who believed in this concept at the time of the Scopes trial were called Fundamentalists.

Inherit the Wind generally follows the lines of the actual case. In some instances, the incidents are heightened for dramatic purposes, and the authors have condensed the passage of time for the play. For example, in Inherit the Wind, the prototype of Bryan collapses and dies at the end of the trial, while in real life it was five days later. During the trial in Dayton, the proceedings were moved outside the courtroom onto the lawns of downtown Dayton; in Inherit the Wind the entire trial is held inside the courtroom, although the July heat is often mentioned in the play. In a Preface to the printed version of the play, authors Lawrence and Lee explain their approach to the subject matter:

Inherit the Wind is not history. The events which took place during the scorching July of 1925 are clearly the genesis of the play. It has, however, an exodus entirely its own.

Only a handful of phrases have been taken from the actual transcript of the famous Scopes trial. Some of the characters of the play are related to the colorful figures in that battle of giants; but they have life and language of their own--and, therefore, names of their own.

.....

The collision of Bryan and Darrow at Dayton was dramatic, but it was not a drama. Moreover, the issues of their conflict have acquired new dimensions and meaning in the thirty years since they clashed at the Rhea County Courthouse. So Inherit the Wind does not pretend to be journalism. It is theatre. It is not 1925. The stage directions set the time as "Not too long ago." It might have been yesterday. It could be tomorrow.¹

¹Jerome Lawrence and Robert E. Lee, "Inherit the Wind," Best American Plays Fourth Series 1951-1957, ed. John Gassner (New York: Crown Publishers, Inc. 1958), p. 404.

In Inherit the Wind the prototype of Clarence Darrow is known as Henry Drummond; William Jennings Bryan is called Matthew Harrison Brady, John Scopes is Bertram Cates; and, a prototype of H. L. Mencken, a famous newspaper editor of the Baltimore Sun who wrote much about the Dayton trial, is E. K. Hornbeck. Most of the action of the play takes place in the courtroom, although some scenes are placed in the main street of Hillsboro, obviously the name substitute for Dayton. The authors explain the setting of the play in the following statement:

In and around the Hillsboro Courthouse. The foreground is the actual courtroom, with jury box, judge's bench, a raised witness chair and a scattering of trial-scarred chairs and counsel tables. The back wall of the courtroom, from waist-level up, is non-existent. In full stage, at a raked elevation, is the courthouse square and the Main Street of Hillsboro, including a practical drug store and dry-goods store.

It is important to the concept of the play that the town is visible always, looming there, as much on trial as the individual defendant. The crowd is equally important throughout, so that the courtroom becomes a cock-pit, an arena, with the active spectators on all sides of it.¹

In the first scene of the play Cates has been incarcerated. His girl friend, Rachel Brown, visits him in jail. She informs him of the coming arrival of Matthew Harrison Brady, who arrives later in the scene with much fanfare. At the end of the scene Drummond enters, after which the action

¹Ibid., 406.

immediately moves into the courtroom. During this scene we see that the conflict between Brady and Drummond will grow into great proportions before the trial is finished. In Act Two scientists brought to the stand by Drummond are refused testimony by the court. Drummond gets Brady on the stand; the following is excerpted from Drummond's questioning of Brady:

Drummond

Am I correct, sir, in calling on you as an authority on the Bible?

Brady

I believe it is not boastful to say that I have studied the Bible as much as any layman. And I have tried to live according to its precepts.

Drummond

Bully for you. Now, I suppose you can quote me chapter and verse right straight through the King James Version, can't you?

Brady

There are many portions of the Holy Bible that I have committed to memory. . . .

Drummond

I don't suppose you've memorized many passages from the Origin of Species.

Brady

I am not in the least interested in the pagan hypotheses of that book.

Drummond

Never read it?

Brady

And I never will.

Drummond

Then how in perdition do you have the gall to

whoop up this holy war against something you don't know anything about? How can you be so cock-sure that the body of scientific knowledge systematized in the writings of Charles Darwin is, in any way, irreconcilable with the spirit of the Book of Genesis.¹

At this instant, Davenport, Brady's associate in the case, objects to Drummond's using scientific testimony. The objection is sustained by the Judge. Drummond proceeds to question Brady on the literalness of various events in the Bible, such as the stories of Jonah and the whale, Joshua and the sun, and Cain's marriage. During this scene the crowd in the courtroom begins to slip away from Brady's favor and aligns itself with Drummond. An important speech that contributes to this change is delivered by Drummond when Brady asks:

Brady

It is possible something is holy to the celebrated agnostic?

Drummond

Yes! . . . The individual human mind. In a child's power to master the multiplication table there is more sanctity than in all your shouted "Amens!" "Holy, Holies!" and "Hosannahs!" An idea is a greater monument than a cathedral and the advance of man's knowledge is more of a miracle than any sticks turned to snakes, or the parting of waters! But are we now to halt the march of progress because Mr. Brady frightens us with a fable? (Turning to the Jury, reasonably) Gentlemen, progress has never been a bargain. You've got to pay for it. Sometimes I think there's

¹Ibid., 426.

a man behind every counter who says, "All right, you can have a telephone; but you'll have to give up privacy, the charm of distance. Madam, you may vote; but at a price; you lose the right to retreat behind a powder-puff or a petticoat. Mister, you may conquer the air; but the birds will lose their wonder, and the clouds will smell of gasoline!". . . Darwin moved us forward to a hilltop, where we could look back and see the way from which we came. But for this view, this insight, this knowledge, we must abandon our faith in the pleasant poetry of Genesis.¹

The crowd in the courtroom eventually leaves Brady's side of the argument. At the end of the act Brady is left alone with his wife, a beaten man. Later, Cates is found guilty and fined one hundred dollars, but the victory is obviously Drummond's, who toward the end of the play, learns that Brady has died. Hornbeck, who is alone in the courtroom with Drummond, now preparing to leave Dayton, begins a vitriolic diatribe against Brady, setting off the following exchange:

Hornbeck

Matthew Harrison Brady died of a busted belly. . . .Be frank! Why should we weep for him? He cried enough for himself! The national tear duct from Weeping Water, Nebraska, who flooded the whole nation like a one-man Mississippi! You know what he was: a Barnum-bunkum Bible-beating bastard! . . .

Drummond

You smart-aleck! You have no more right to spit on his religion than you have a right to spit on my religion! Or my lack of it!

¹Ibid., 428.

Hornbeck

. . .Well, what do you know! Henry Drummond for the defense--even of his enemies.

Drummond

. . .There was much greatness in this man.

Hornbeck

Shall I put that in the obituary.

Drummond

. . .Write anything you damn please.

Hornbeck

How do you write an obituary for a man who's been dead thirty years? "In Memoriam--M. H. B." Then what? Hail the apostle whose letters to the Corinthians were lost in the mail? Two years, ten years--and tourists will ask the guide, "Who died here? Matthew Harrison Who?" . . .What did he say to the minister? It fits! He delivered his own obituary! (Hornbeck searches, finds the Bible on the Judge's bench). Here it is: his book! . . .Proverbs, wasn't it?

Drummond

(quietly). "He that troubleth his own house shall inherit the wind: and the fool shall be servant to the wise in heart." (Hornbeck looks at Drummond, surprised. . . .)

Hornbeck

We're growing an odd crop of agnostics this year! . . .

Drummond

. . .I'm getting damned tired of you, Hornbeck.

Hornbeck

Why?

Drummond

You never pushed a noun against a verb except to blow up something.

Hornbeck

That's a typical lawyer's trick: accusing the accuser!

Drummond

What am I accused of?

Hornbeck

I charge you with contempt of conscience! Self-perjury. Kindness aforethought! Sentimentality in the first degree.

Drummond

Why? Because I refuse to erase a man's lifetime? I tell you Brady had the same right as Cates: the right to be wrong!

Hornbeck

"Be-Kind-To-Bigots" Week. Since Brady's dead, we must be kind. God, how the world is rotten with kindness!

Drummond

A giant once lived in that body. . . .But Matt Brady got lost. Because he was looking for God too high up and too far away.

Hornbeck

You hypocrite! You fraud! . . .You're more religious than he was. . . .Excuse me, gentlemen. I must get me to a typewriter and hammer out the story of an atheist-- who believes in God! . . .¹

In an article appearing in The New York Times prior to the opening of Inherit the Wind on Broadway, the authors explained to an interviewer that they first discussed writing the play when both of them were working in the medium of radio, Lawrence as a writer and Lee as a director. For radio production they won two Peabody awards.² In 1948 they collaborated

¹Ibid., 437.

²The New York Times, April 17, 1955.

on a Broadway musical, Look Ma, I'm Dancin'. Inherit the Wind was first produced for a limited run in a Dallas, Texas, theatre for which Margo Jones produced. A few months following the Texas engagement Herman Shumlin produced it for Broadway with Paul Muni as Henry Drummond, Ed Begley as Matthew Harrison Brady and Tony Randall as E. K. Hornbeck. Walter Kerr saw Inherit the Wind as a semi-documentary in which "the writing itself seems a species of lively, not very dimensional journalism."¹ John McClain, writing for the New York Journal American, said Inherit the Wind "was handled with pardonable dramatic license and moments of brilliant eloquence."² Richard Watts, Jr. made the following comments in his acclaim for the play, which enjoyed 806 performances on the New York stage:

Among other things, the trial was a flamboyant show, with its colorful giants of the law in combat, its odd atmosphere of lurid fantasy, and the small Southern town turned into a combination of traveling circus and hysterical religious revival meeting, and the authors have naturally taken advantage of all this to indicate the wild picturesqueness of the spectacle. They wouldn't have been true to the spirit of the occasion if they hadn't. But they are also concerned with the philosophical implications of the factual nightmare interlude.

This being a day not unknown for its own heresy trials, the playwrights have naturally

¹New York Herald Tribune, April 22, 1955. Reproduced in New York Theatre Critics' Reviews, XVI, 1955, p. 324.

²New York Journal American, April 22, 1955. Reproduced in New York Theatre Critics' Reviews, XVI, 1955, p. 324.

seen certain parallels with the time of Darrow, Bryan and Scopes, but they have wisely not pushed them too heavily. The danger of trying men for unorthodox beliefs that another age may accept is present by suggestion, but it is always in the background, as I think it should be. It is possible that the outrageousness of trying to jail a man for teaching the theory of evolution might otherwise falsely give us the idea that we have progressed farther in such matters than we really have.

Although the play is frankly partisan in its viewpoint, it is admirably fair to the man who is actually its villain. I believe it is sound in showing Bryan as absurdly narrow and small-minded in his actions at the trial, but nonetheless a man who possessed goodness of heart, an innate decency and a tragic quality of fine instincts gone wildly wrong through his inner weakness of bigotry. . . ."Inherit the Wind" is at its least effective in its philosophical moments, but its dramatized chronicle is vivid, pertinent and always interesting.¹

The strength of the play as courtroom drama seems to depend on three aspects: one, historical value because of its adaptation from a famous event; two, a conflict between two strong and influential personalities, whose real life counterparts are well known figures from the American past; and three, the conflict of ideas in which a Fundamentalist belief in the Holy Scriptures as it applies to Education, is pitted against a more liberal concept which embraces the consideration of many ideas.

The final play of this study, The Deadly Game, also

¹New York Post, April 22, 1955. Reproduced in New York Theatre Critics' Reviews, XVI, 1955, 322.

a morality play, has seen the most recent production on the professional stage of all the courtroom plays discussed here. The Deadly Game is an adaptation of a short Frederick Dueran-matt novel, Trapps, by James Yaffe.

The story concerns an American salesman, Howard Trapp, who accidentally finds his way to a chalet in Switzerland. The chalet is occupied by five elderly Swiss gentlemen who have retired from their careers. Represented are a judge, a prosecutor, a defense counsel, a bailiff, and an executioner. They perform a deadly game, in which any casual visitor to their chalet is tried as a criminal. The theory on which their occasional trials are based is that any human being could be guilty of a serious crime. Trapp concedes to play the game, thinking that he has nothing to hide. It is revealed that he willed the death of his employer, who died of a heart attack, resulting in his success in business.

The play is a "ruthless view of social morality."¹ The character of Trapp is important to this theme, for he is a man who has been indifferent to the poverty of others, has connived in the business world, has been unfaithful to his wife, and who has little consideration for moral purpose.

Walter Kerr, writing for the New York Herald Tribune, Censured the play for its weakness as courtroom drama in the

¹The New York Times, February 14, 1960.

following statement:

What turns the thread of the evening inside out. . . is an unexpected pair of theatrical vices. The first of these is a curious lack of subtlety. Though our hearty American is supposed to be thick headed he is so conveniently quick to convict himself out of his own mouth that the very fun of the game is dissipated. Once the trial is under way, his inquisitors have much too easy time of it.¹

Robert Coleman saw The Deadly Game as "a weird and literal courtroom melodrama," but without suspense.² The New York Times critic, Brooks Atkinson, found the play standard melodrama in which mankind is on trial.³ Moreover, the general view of The Deadly Game by the critics was that it did not fulfill its promise as significant drama. Dueranmatt had previously received considerable recognition for his play, The Visit. In view of this, apparently more was expected of The Deadly Game. The Deadly Game played only thirty-nine performances in its first presentation in New York. In 1966, it was revived off-Broadway and received little critical acclaim.

The revival of The Deadly Game is the latest appearance of American courtroom drama on the professional stage. It climaxes the production of thirty-seven courtroom dramas presented on the American stage from 1918 to 1966.

¹New York Herald Tribune, February 3, 1960.

²The New York Mirror, February 3, 1960.

³The New York Times, February 3, 1960.

CHAPTER V

SUMMARY

Introduction

Between 1771, when the first American courtroom play was printed, and the present, sixty-six courtroom plays have become a part of American dramatic history. A summary of the material concerning these plays, which were discussed at length in the preceding chapters, is presented below in seven parts.

The first and largest part of this summary is a discussion of the sixty-six plays in chronological order, which gives emphasis to their continuity in the three major periods of this study, which are: the period from 1771 to the Civil War; the period from the Civil War to the First World War; and, the period from the First World War to the present day. The second part of the summary, somewhat related to the first, shows how the American courtroom play generally follows the trends of the American drama.

The next five portions of the summary present more specific considerations of the American courtroom play with a brief discussion of the following: important playwrights who are contributors to this study, and some comments

concerning adaptations of courtroom plays from other works; famous events and personages represented in the plays of this study; the popularity of the American courtroom play, with a discussion of famous actors who have created roles in some of the plays; and, the most important themes found in the plays of this study. A final statement on the significance of courtroom drama constitutes the seventh and final part of the summary.

Chronology

1771 To The Civil War

In the period between 1771 and the Civil War, six courtroom plays appear in American literature. The first three courtroom plays appearing chronologically in this period do not have definite records of production, while the other three do have records of being staged. The first courtroom play to appear in American literature is The Trial of Atticus, Before Justice Beau, For A Rape, which was printed in 1771. This play is anonymously written, and is particularly satirical of magisterial justice, a somewhat typical trademark of American pre-Revolutionary drama. The American Revolutionary period is also represented by one courtroom play, The Patriots, by Robert Munford, which is a pacifist play taking no sides in the Whig and Tory conflict. It has no definite record of production, although there is some indication it may have reached the stage. The post-Revolutionary period is

represented by one courtroom play, The Trial of Cain, an anonymous work which is a theological and pedagogical poem in play form.

In the period from 1830 to 1860, preceding the Civil War, three courtroom plays appear in American dramatic literature, all three of them having record of production. The Broker of Bogota, by Robert Montgomery Bird, which was produced in 1834, has the distinction of being the first American courtroom play to have a recorded performance. This play is a verse tragedy which attracted the attention of Edwin Forrest, one of America's finest actors, who played it for several years. The second play with a record of production in this period, is The People's Lawyer, by J. S. Jones, a comedy first reaching the stage in 1842, and which frequently saw production until 1880. It attracted audiences because of one of its characters, Solon Shingle, who is a slow-talking, rural comedy character, representative of the "stage yankee," a comic type created shortly following the Revolutionary period. Contemporary playwrights continue to write courtroom plays in which similar character types appear. The final play of the first major period of this study is another comedy, A Coroner's Inquisition, by A. Oakey Hall, which is a satire on English law methods.

The Civil War to World War One

In the second major period of this study, from the Civil War to World War One, twenty-two courtroom plays appear as a part of American dramatic history; however, in the span of years between 1857 and 1884, no new courtroom plays were produced. This is attributed to three factors: one, the production of serious plays was discouraged by the commercial manager who, in a sense, took the place of the author and the actor as the most important theatrical figure; two, foreign plays were imported for specific actors, thereby discouraging native playwriting; and, three, the native plays that did appear either were designed for variety entertainments made up of song and dance, or they were written with an emphasis on spectacle and many changes of scenery, making the development of courtroom scenes impossible. Therefore, all of the twenty-two courtroom plays appearing in the second major historical division reached the stage between 1884 and 1917.

Six courtroom dramas reached the stage between 1884 and the turn of the century. Three of the six concern some aspect of American history: Giles Corey, Yeoman by Mary E. Wilkins is based on the Salem witch trials of 1672; The Ensign by William Haworth concerns a Civil War military engagement; and, Peter Styvesant by Bronson Howard and Brander Matthews, is a courtroom play in which the famous Governor

of New Amsterdam is the central figure. Two other courtroom dramas written prior to the twentieth century are comedies designed for the special talents of performers: in 1884, Captain Mishler by Fred G. Maeder, starred "Gus" Williams, a popular comedian of the day; and, in 1891 Hoss and Hoss by Charlie Reed and William Collier, featured performers from the musical variety stage. The last courtroom play to appear before the turn of the century is The Cowboy and the Lady, a mixture of comedy and melodrama by Clyde Fitch, in which a domestic conflict is dramatized in the setting of the American Western frontier.

Although no native courtroom plays appear as part of American drama between 1900 and 1904, between 1905 and 1909, five plays of this type reached the stage. The first chronologically, Nancy Stair, by Paul M. Potter, is an adaptation from an historical novel, a popular source for play material during this time. In 1906 another courtroom play based on Western frontier life is found in The Judge and the Jury by Harry D. Cottrell and Oliver Morosco. A year later two courtroom plays appeared on the American stage, one of which, A Grand Army Man by David Belasco, Pauline Phelps and Maxine Short, is a domestic story of paternal love; the other, Mills of the Gods, by George Broadhurst, is a play in which embezzlement in the business world is the subject matter. Charles

Klein's courtroom drama, The Third Degree, which was produced in 1909, questions the interrogation techniques used on suspects by police officials. These five plays show a diversity of subject matter in the courtroom drama between 1905 and 1909.

Between 1911 and 1917 the courtroom drama is represented by ten plays, a six year period in which more courtroom plays were produced than any other equivalent period in this study. Five of the plays in this period are based on domestic problems involving divorce, marital discord, and the problems of the children's court. For example, The Unwritten Law, by Edwin Milton Royle, is a story of divorce resulting in violence. Furthermore, Common Clay, by Cleves Kinkead, concerns members of several social strata who are important to a story about a woman whose child is born out of wedlock. Domestic problems also appear in Young America, by Frederick Ballard, which concerns child adoption; The Guilty Man, by Ruth Helen Davis and Charles Klein, which is a story of a nameless child and an outcast mother; and, Just a Woman, by Eugene Walter, which is mainly concerned with a divorce trial. These five plays about domestic problems mirror the interest of playwrights and audiences, during the period immediately prior to World War One, in intimate drama and a definite sensitiveness to the social problems of the day. In the main, these plays are also conventional melodrama tailored to the popular tastes

of audiences. The other five plays produced between 1911 and 1916 are also written in this vein.

Two courtroom plays produced in 1914 reflect a definite tendency on the part of playwrights of the day to write about sensational subjects and situations commonly found on the front pages of a newspaper; this journalistic tendency can be found in The Last Resort by George Scarborough and The Governor's Boss by James S. Barcus. Both plays concern political corruption by officials in high office, while one of them, The Governor's Boss, parallels an actual case of political chicanery in the State of New York at the time. Violent crime, another subject commonly found in the headlines of newspapers, is the subject for The Confession (1911), by James Halleck Reid, and On Trial (1914) by Elmer Rice. The Confession, to some degree, concerns itself with the Church, but is basically a murder story. On Trial is especially significant, for it is the first American drama to use the "flashback" technique, a device usually found in the medium of the motion picture, and one which has since been used in a number of courtroom plays.

Courtroom drama between 1911 and 1916 also included Back Home by Bayard Veiller, a play which is dominated by the character Judge Priest, a folksy, conservative, homely Judge. This type of character has become a trademark in American courtroom drama, including motion picture and television

plays, and is not unlike the kind of rural character which began with Solon Shingle in J. S. Jones' The People's Lawyer, which was produced in 1842.

The majority of the courtroom plays produced between the Civil War and the First World War probably would not hold the attention of a theatre audience today. Two possible exceptions are On Trial and Giles Corey, Yeoman. However, this period of American drama is one of exceptional promise, and the writers of courtroom drama during this period reflect this promise. Although a great deal cannot be said of the twenty-two courtroom plays as literature during this time, the emphasis their authors placed on American characters, native settings, social issues, and the glorification of an American way of life, helped pave the way for playwrights of prominence and plays of greater stature. The themes for courtroom plays during this time could be called trivial, but the immediacy and freshness of the material should be considered significant. Therefore, it would be a mistake to dismiss this body of plays as unimportant, or to underestimate its value to the development of the American drama and to the history of the American courtroom play.

First World War To The Present

In the period between the First World War and the present day, thirty-eight courtroom plays appear as a part of the

American drama. This number is ten more than the number of courtroom dramas produced between 1771 and the First World War, the other two large divisions of history in this study combined. Between 1918 and 1929 eleven of the thirty-eight appear as part of the history of the American courtroom play. Two of these plays are dominated by characters similar to Judge Priest and Solon Shingle. For example, in Lightnin', a comedy by Winchell Smith and Frank Bacon, the character of Lightnin' Bill Jones is the main appeal. Lightnin' has the distinction of being the most popular courtroom play in American dramatic history. This Fine-Pretty World by Percy Mackaye, produced in 1923, has as its leading character, Beem Spradlin, another folksy, rural character, who is not too unlike Lightnin' Bill Jones, although it cannot claim the popularity of Lightnin'. In this study both plays are classified as domestic folk comedies, for the action in both plays is initiated by divorce proceedings.

Five other plays produced between 1918 and 1929 have domestic situations as a basis for dramatic action. One of them, The Judge's Husband by William Hodge, is also a comedy in which divorce plays an important part. Unlike Lightnin' and This Fine-Pretty World, however, The Judge's Husband is concerned with characters of a more sophisticated nature. The remaining four plays in this group are more serious in nature.

The Trial of Mary Dugan by Bayard Veiller, the most popular of the four with audiences, concerns the problems of a brother and sister which are solved as a result of a murder trial.

The Woman in Room 13 by Samuel Shipman and Max Marcin concerns marital infidelity; marital indiscretion is also the subject of The Woman on the Jury by Bernard K. Burns; and, Scarlet Pages, produced in 1929, and written by Samuel Shipman and John B. Hymer, is the story of a struggle between a young lady and her foster father. These seven plays concerning domestic problems are conventional theatrical fare designed primarily to entertain.

Three courtroom plays produced in this period, all of them between 1925 and 1929, have a specific concern for some aspect of the law. Two of them question the sincerity of some who pass judgment on their peers from the jury box. The first of these, Ladies of the Jury, a theatrical vehicle for the famous actress, Mrs. Minnie Maddern Fiske, is a comedy, in which an extremely wealthy and sophisticated woman finally persuades the other eleven members of the jury on which she serves, that her judgment of the defendant is correct. Secondly, Chivalry by William Hurlbut, also concerned with the responsibilities of jury duty, is a serious play in which a jury's bias is suspect where an attractive female defendant pleads "the unwritten law." Finally, a comedy, She Couldn't

Say No! by B. M. Kaye, is a story about a case of "breach of promise," a popular term for an unfulfilled commitment of marriage. Ladies of the Jury and She Couldn't Say No! are mainly plays designed for entertainment, while Chivalry attempts to point up the problem of bias in jury responsibility.

The first courtroom play in which the social problem of racial injustice emerges is Appearances, by Garland Anderson, which concerns a Negro bellhop who is falsely accused of rape. This play, first produced in 1925 and revived in 1929, possibly could be considered a precursor to courtroom plays about racial injustice written after 1925. It is significant that its author, a Negro, has written the play concerning his own experiences with racial hatred.

One of the most unusual courtroom dramas in this study is Caponsacchi, which was produced in 1926 and revived in 1928. It is an adaptation by Arthur Goodrich and Rose A. Palmer from Robert Browning's poem, The Ring and the Book. This play is unusual because of its formalized verse dialogue, and because the nature of the story approaches tragic proportions. Furthermore, it is not unlike The Broker of Bogota, produced in 1834, in which poetic passages and tragic characters are also predominant. Caponsacchi proved to be a popular play during its initial run on the New York stage, a consideration Broadway audiences do not normally give to a

play with classical form.

From 1930 to 1945, a fifteen year period ending with the final year of the Second World War, twelve new courtroom dramas appear as a part of the history of the American courtroom play. Five of the twelve plays produced during this period are plays of social protest, all but one of which concern racial injustice and the Negro. They Shall Not Die, by John Wexley is perhaps the most significant of these, for it is the only play in the group receiving significant praise from the critics. Wexley's play is based on what is commonly called "the Scottsboro case," in which several Negro boys were brought to trial in Alabama for the alleged rape of two white women. The case was a cause celebre, for it was the opinion of most legal authorities, at the time the case was being tried, that the boys were falsely accused. The play is based on this premise. The Scottsboro case is also the subject for another courtroom play, Legal Murder by Dennis Donoghue. It did not enjoy the critical or audience recognition given They Shall Not Die. The Trial of Dr. Beck, by Hughes Allison, also concerns racial bias toward the Negro who wrote the play for the Federal Theatre Project in 1937. The final play of the period concerning racism and the American Negro is According to Law, a one-act play by Noel

Houston, which was produced with another play in 1944. The critics praised its attempt to show the plight of the Negro in the American South. A social protest play produced in 1944, which does not have racism as a theme, is Pick-Up Girl by Elsa Shelley. It attracted audiences during World War Two when the problem of juvenile delinquency in America, the play's subject matter, first became a national social problem.

Conventional melodrama continued to find its way to the stage between 1930 and 1945, with subjects already familiar to audiences. For example, Night of January 16 by Ayn Rand is another play about the responsibility of a jury during a trial. It proved to be very popular during the 1935 dramatic season. Penal Law 2010 by Alexander Gerry and Augusta Greely, and Room 349 by Mark Linder, both produced in 1930, are plays in which a specific manifestation of the law is the vital question of the play. The concept of circumstantial evidence is the important factor in Penal Law 2010, while an unsolved murder in which evidence is lacking, is the subject of Room 349, which is ostensibly based on the murder of gambler Arnold Rothstein, a famous underworld character of the nineteen-twenties. Two other conventional melodramas produced during this time are That's The Woman by Bayard Veiller, and The Bellamy Trial by Frances Noyes Hart and Frank B. Carstarphen; both concern martial infidelity, a subject for courtroom

drama appearing in all periods of American dramatic history.

Politics in the American courtroom play becomes manifest in two courtroom plays produced between 1930 and 1945. In Judgment Day playwright Elmer Rice uses the burning of the German Reichstag building, in Berlin in 1933, and the trial that followed, as a basis for this anti-Nazi play. In 1945 Elizabeth McFadden's Signature! was produced, which is also a political play, but concerning a gubernatorial election in the State of Virginia in 1856.

During the fifteen year period between 1930 and 1945, discussed above, the American courtroom drama is dominated by the play of social protest. The Great Depression and the prelude to the Second World War took place in America during this time, and these events are reflected in the courtroom plays of the period. At the same time, conventional melodrama also appears a part in the courtroom drama of this period. However, it is significant that during the grim depression years no comedies classified as courtroom drama appear in the American drama.

No courtroom plays appear in the American drama between 1945 and 1950; however, after the "cold war" between the Soviet Union and the United States had developed to considerable proportions, and American writers had developed a perspective on the Second World War, the American courtroom

play began to mirror these events. Politics in the American courtroom play takes a different bent during the final period in this history; for example, between 1951 and 1963, four courtroom plays in some way, use the threat of Communism as a basis for their stories. Darkness at Noon, produced in 1951, and written by Sidney Kingsley, shows the horror to which members of a particular faction in Soviet government are submitted when faced with a changing regime. The Crucible by Arthur Miller, on the other hand, shows the disastrous consequences of a nation or community when the fear of a liberal politic reaches the point of hysteria. It was first produced in 1953, at a time when the American populus centered its attention on the statements of Senator Joseph McCarthy of Wisconsin, who claimed there were many Communists in high offices of the United States Government. Miller's play, based on the Salem witch trials of 1672, was revived in 1958 and 1964. Shadow of My Enemy by Sol Stein, produced in 1957, uses as its basis an actual incident involving the trial of an alleged Communist in the United States Department of State. Finally, The Advocate, by Robert Noah, was produced in 1963, being a political play based on the famous Sacco-Vanzetti case of the nineteen-twenties, in which two alleged anarchists were tried and convicted of robbery and murder. Popular opinion is that Sacco and Vanzetti were convicted because of their liberal

views, rather than on evidence of criminality. The Advocate is based on this view.

War and the military provide the subject matter for three courtroom plays of this period, all of which were produced on the professional stage between 1954 and 1959. Chronologically, the first is The Cane Mutiny Court-Martial, adapted by Herman Wouk from his successful novel, The Caine Mutiny. It is a story of the United States Navy during the Second World War, in which the concept of duty and obligation in the military is an important part of the theme. The Koren War is the basis for the courtroom drama, Time Limit!, produced in 1956 and written by Henry Denker and Ralph Berkey. This military play also concerns an officer's obligation to his men, with the added story complication of a man's resistance to "brainwashing" by an enemy. The Andersonville Trial by Saul Levitt, which was produced in 1959, is based on the trial of Henry Wirz, who was tried and convicted of war crimes and "crimes against humanity," following the Civil War. During the war Wirz was commandant of a prisoner-of-war camp in Andersonville, Georgia, where 14,000 Union troops died of starvation and exposure. The play is also a grim reminder of the cruelties suffered at the hands of the Nazis in the concentration camps of World War Two.

Two plays in which morality and religion dominate

appear in this period: Inherit the Wind by Jerome Lawrence and Robert E. Lee, and The Deadly Game by James Yaffe. Inherit the Wind is based on the trial of John Scopes, who in 1925, was convicted of teaching the theory of evolution in public schools in Dayton, Tennessee, an act which is still considered a misdemeanor in the State of Tennessee and is punishable by fine. William Jennings Bryan, three times a presidential nominee for the Democratic party, and Clarence Darrow, world-famous lawyer, were opposing attorneys at the trial. Their prototypes are the principal characters in Inherit the Wind, who debate over the interpretation of the Holy Bible, and the morality of Darwin's theory of evolution. The Deadly Game adapted by James Yaffe from Frederich Dueranmatt's novel, Trapps, is a morality play of another kind. The Deadly Game, produced in 1960 and revived in 1966, attempts to claim that every man is guilty of some major crime, which results in an allegorical play in which all of mankind seems to be on trial.

The courtroom play in which the main emphasis is on domestic problems is represented during this period by Drink To Me Only, a comedy by Abram S. Ginnes and Ira Wallach, and a serious play, Deadfall by Leonard Lee. The former is the story of a man who slightly wounds his wife with a pistol shot while inebriated, and the trial that ensues. Deadfall is about a wife's vengeance on a man who is guilty of murdering

her husband, but has been acquitted.

The courtroom play in which a specialized legal problem is the subject matter and the social protest play, are both represented by one dramatization during this period. A Case of Libel, an adaptation of a portion of Louis Nizer's book by Henry Denker, concerns a legal entanglement over a suit for libel. The play and book are based on an American trial involving famous personalities as both plaintiff and defendant. The social protest play is Blues for Mister Charlie by James Baldwin, which was produced in 1964. It is a story that takes place in the American South, in which a white man, who is obviously guilty of murdering a Negro boy, is acquitted by a biased Southern jury. It was produced at a time when the Negro "revolution" was taking place in America.

Courtroom Plays Reflect Trends In Drama

In each of the three historical periods of this study, the American courtroom play, for the most part, reflects the general trends in the body of plays which make up the American drama. Beginning with the period from 1771 to the Civil War, the American courtroom play generally follows the lines of the larger body of American dramatic literature. By way of example, The Trial of Atticus, Before Justice Beau, For A Rape is typical of the pre-Revolutionary satires of the time; The Patriots is directly concerned with the Revolutionary

conflict, an event precipitating a number of plays; The Broker of Bogota is representative of the romantic influences on American playwrights prior to the Civil War; and The People's Lawyer is one of a number of comedies in pre-Civil War era in which the "stage Yankee" is an important character.

In the period from the Civil War to the First World War, the American drama is divided into three eras for the purposes of this study. In the first era, from 1860 to 1880, no new courtroom plays appear as a part of our dramatic history; however, courtroom dramas written prior to this time reached the stage during this twenty year period. The complete lack of courtroom plays is mainly attributed to the fact that most of the plays, foreign, and native, produced during the period following the Civil War, concentrate on short acts or scenes with emphasis on the changing of scenery, thereby deterring development for long scenes required for most courtroom drama. In the period from 1880 to 1900, the second era in this period, the courtroom play again follows the general trend of American drama; that is, a dominance of subject matter taken from current events and topical items, particularly those about American life are paramount in the plays of the time. Furthermore, between 1900 and 1917, the American courtroom drama develops a definite bent toward realism, with social problems and domestic situations as dominate subject matter. We can

also make these generalizations about the main body of American plays produced professionally during this period.

In the period from the First World War to the present day, the American courtroom play is represented more on the professional stage than in the other two major periods of this study combined. The courtroom drama, in the first era of this larger period, from 1917 to 1930, is represented mostly by the conventional comedies of the period, but also by a verse tragedy and a play of social protest. Primarily, however, the courtroom play from 1918 to 1930 tends to hold on to the past traditions of the conventional play tailored for popular appeal.

In the era encompassing the years from 1929 to 1945 plays of social protest and those expressing political change in the world dominate the American drama. These subjects also prevail in the courtroom play during these years. During World War Two the American drama is primarily wartime expapist fare of melodrama and comedy, although these war years do see examples of the courtroom play of social protest as a contrast to the general predominance of musical comedies and conventional melodrama.

In the most recent period from 1945 to the present day, courtroom drama is not dominated by any particular subject; however, courtroom plays of social protest, domestic problems, morality and religion, and specific problems of the

law are paramount. There is also a period when a number of outstanding playwrights led by Arthur Miller, Sidney Kingsley, and James Baldwin, are contributors to the history of the courtroom play.

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Playwrights and Adaptations

In the long span of 195 years covered in this study, many playwrights, and other personages, considered by critics, historians, and dramatic theorists to be significant contributors to the history of the American theatre and drama,⁴ are contributors to this history of the American courtroom play. In the period from 1771 to the Civil War they are Robert Munford, J. S. Jones, and Robert Montgomery Bird, three of the six playwrights contributing to this study during this period. In the period from 1860 to 1917, the following notable authors have courtroom plays to their credit: Bronson Howard, Brander Matthews, Clyde Fitch, George Broadhurst, David Belasco, Charles Klein, Elmer Rice, and Bayard Veiller. From 1918 to the present day the following outstanding playwrights are authors of courtroom drama: Percy MacKaye, William Hodge, Bayard Veiller, Ayn Rand, Elmer Rice, John Wexley, Herman Wouk, Sidney Kingsley, Arthur Miller, and James Baldwin. Playwrights contributing more than one courtroom play to this study are: Elmer Rice, Frederick Ballard, Charles Klein, Samuel Shipman, Henry Denker, and Bayard Veiller, who is the

author of three courtroom plays.

Some of the playwrights represented in this history are the authors of courtroom drama taken from other works, such as novels, short stories, and novellas. No adaptations of this kind appear in the period from 1771 to the Civil War. However, in the period from 1860 to the First World War only two courtroom plays are adapted from other works of literature, and these are Nancy Stair and Back Home. From the First World War to the present day the following plays are adapted from other forms of literature: Caponsacchi, Signature, The Caine Mutiny Court-Martial, The Deadly Game, Darkness at Noon, and A Case of Libel.

People and Events

We have seen that some of the works appearing in the history of the American courtroom play are based, to some degree, on real life incidents involving somewhat famous personages. No courtroom plays in the period from 1771 to the Civil War are definitely based on specific events. However, in the period from the Civil War to the First World War, Giles Corey, Yeoman, The Ensign, and The Governor's Boss, have as their basis, a similar incident in real life. In the period from the First World War to the present day, the following plays have a real incident as a basis: Appearances, Room 349, Judgment Day, They Shall Not Die, Legal Murder, The Anderson-

ville Trial, The Crucible, Inherit the Wind, Shadow of My Enemy, The Advocate, A Case of Libel, and Blues for Mr. Charlie.

Famous people represented by prototypes in the American courtroom play are numerous. Although none appear in the period from 1771 to the Civil War, they do appear in the other two periods. In the period from the Civil War to World War One, the following famous people are represented by characters in courtroom plays: Peter Styvesant, Governor of New Amsterdam; Robert Burns, poet; and, William Sulzer, Governor of New York. In the period from 1918 to the present day, the following famous people are represented in the American courtroom play: Arnold Rothstein, gambler; Samuel J. Liebowitz, attorney; Michael Musmanno, Justice of the State of Pennsylvania; Lew Wallace, author; Henry Wirz, Commandant of the Andersonville, Georgia, prison during the Civil War; William Jennings Bryan, Presidential nominee for the Democratic Party in the United States; Clarence Darrow, attorney; H. L. Mencken, journalist and author; Bartholmeo Vanzetti and Nicola Sacco, martyrs to liberal thought and action in the nineteen-twenties in America; Quentin Reynolds, American correspondent; Westbrook Pegler, journalist; Whittaker Chambers, magazine editor; and, Alger Hiss, United States Department of State official.

Popular Plays and Actors

A number of courtroom plays in this study have records

of exceptional popularity with audiences. It would be difficult to determine the reasons for the popularity, as the courtroom plays enjoying the greatest number of performances are a general cross-section of the plays appearing in this study. The majority of plays produced on the professional stage do not enjoy substantial attendance, for theatre annuals reveal the average number of performances for most plays to be from twenty to fifty. We can say, moreover, that a record of two-hundred performances by a play constitutes a run of approximately one theatrical season and, therefore, deserves attention. Among the sixty-six plays discussed in this study, ten of them, or approximately fifteen per-cent, have exceptional records, while others greatly exceed the average performance record of most plays. Among the plays with a definite record of performances available, the following ten courtroom plays have the most outstanding records:

1. Lightnin' (1918) by Winchell Smith and Frank Bacon
1,291 performances
2. Inherit the Wind (1955) by Jerome Lawrence and
Robert E. Lee
806 performances
3. The Crucible (1958 revival) by Arthur Miller
633 performances
4. The Caine Mutiny Court-Martial (1954) by Herman Wouk
405 performances
5. On Trial (1914) by Elmer Rice
265 performances

6. The Cowboy and the Lady (1899) by Clyde Fitch
358 performances
7. Common Clay (1915) by Cleves Kinhead
316 performances
8. The Trial of Mary Dugan (1927) by Bayard Veiller
310 performances
9. Caponsacchi (1926) by Arthur Goodrich and Rose A. Palmer
296 performances
10. A Case of Libel (1963) by Henry Denker
242 performances

The courtroom plays produced between 1771 and 1894 have no definite record of number of performances; evidence indicates, however, that The Broker of Bogota by Robert Montgomery Bird, which was first produced in 1834, attracted audiences with a number of performances comparable with the ten mentioned above. The same can be said for The People's Lawyer by J. S. Jones, which was first produced in 1842.

Several of the courtroom plays appearing in this study were made popular in production due to a famous actor or actress playing a principal role. In the period from 1771 to the Civil War, Edwin Forrest helped popularize Bird's The Broker of Bogota and George "Yankee" Hill helped make famous J. S. Jones' The People's Lawyer. Another actor who became famous playing in Jones' comedy is John Edmond Owens. In the period from the Civil War to the First World War five courtroom plays can be named in which a theatrical personality

aided in popularizing. The personalities and the plays are as follows: Gus Williams in Captain Mishler (1884); "Nat" Goodwin in The Cowboy and the Lady (1899); William H. Crane in Peter Styvesant (1899); David Warfield in A Grand Army Man (1907); and, Jane Cowl in Common Clay (1915). Further, in the period from the First World War to the present day, the following popular actors can be identified with roles in the courtroom plays mentioned: Frank Bacon in Lightnin' (1918); Walter Hampden in Caponsacchi (1926 and 1928); Florence Moore in She Couldn't Say No! (1926); William Hodge in The Judge's Husband (1926); Fred Stone in Lightnin' (1938 revival); Claude Rains in Darkness at Noon (1951); Henry Fonda and Lloyd Nolan in The Caine Mutiny Court-Martial (1954); Paul Muni and Ed Begley in Inherit the Wind (1955); and David Wayne in The Ponder Heart (1956).

Themes

The themes manifest in the plays of this study are, for the most part, to be found in the general cross-section of American drama. Some of them, however, are outstanding and prominent and, therefore, bear particular mention. Moreover, we can generally say that the inherent nature of what takes place in a courtroom tends to embrace a set of values which implies the following: Justice, Dignity, Integrity, Right, Propriety, and Fair play. In each of the sixty-six

plays in this study we are made aware of these absolutes.

Specifically, the most important themes are to be found in the various groups of courtroom plays mentioned below. For example, the five plays in which the injustices of racial prejudice are treated are: They Shall Not Die, Blues for Mister Charlie, Appearances, According to Law, and The Trial of Dr. Beck.

The sacrifice of personal beliefs for a larger cause in the performance of military duty is the theme for The Caine Mutiny Court-Martial, The Ensign, Time Limit!, and The Andersonville Trial.

Courtroom plays in which the theme of Man's right to freedom from oppression and political persecution is expressed are the following: The Patriots, Shadow of My Enemy, The Advocate, Darkness at Noon, The Crucible, Judgment Day, and Giles Corey, Yeoman.

The general theme of Man's integrity and perserverance against overwhelming odds is found in many American courtroom plays. However, this theme is of particular consequence in The Broker of Bogota, A Case of Libel, Caponsacchi, and Inherit the Wind.

Most of the plays mentioned above were written after World War One, which implies that the writers of courtroom drama in the final major period of this history have given

their plays a more serious thematic treatment than writers of courtroom drama in the other two periods. This is attributed to the profoundly serious effect on Americans, which was brought about by two world wars and The Depression.

Significances

The significance of the courtroom play in America depends upon several facets of this kind of play, including the thematic treatment given it by playwrights. The American courtroom play must be considered as an asset to the general body of American literature for the following reasons, all of which have been pointed out in the main chapters of this study: one, the American courtroom play considers important themes for many of its works; the themes involving racial injustice, individual responsibility to important causes, the rights of Man to certain freedoms, and the ridiculousness and futility of War, all point to a general effort on the part of playwrights writing courtroom drama to dignify the existence of Man, to encourage Man's responsibility to Man, and to seek answers to the problems, large and small, individual and collective, which face Mankind in every age.

Secondly, the courtroom play is a contributor to dramatic form, particularly in the development of the "flashback" as a theatrical device. Elmer Rice's On Trial is the first play in which this device is used in any American drama; since

the production of On Trial in 1914, many dramatists have used the "flashback" to enhance their dramatizations, including other writers of courtroom drama.

Thirdly, the American courtroom play is a provider of entertainment for audiences. We have seen how, in every period of American history, the courtroom play is attractive to theatre-goers. Courtroom plays rank high in the list of long-running plays on Broadway. This popularity, in some cases, has been partly due to a specific performer who becomes well known by popularizing a character in a courtroom play.

Fourthly, the courtroom drama, very often, reflects the American scene. From the first printed American courtroom play, which appeared before the Revolutionary War, to the present, the American courtroom play is a distinct part of the American drama, in general, which is concerned with subjects mirroring the problems of the American Republic. Some of them are: the threat of foreign oppression, political and military; the internal problems of social deterioration, such as racial hatred, religious bigotry, the corruption of youth, divorce, and violent crime; the concern over inadequacies in The Law; and, the representation of specific personages in history and numbers of nonentities, who can be identified as American in type and motive.

The American courtroom play, which, at this time, is

made up of sixty-six different works, may be considered an important part of American dramatic history, due to the themes which often appear in its body of plays, due to its contribution to dramatic form, due to the entertainment value of many of its works, and due to the manner in which it sometimes reflects the American scene. Moreover, we may conclude that the American courtroom play is a meaningful part of dramatic literature, out of which the production of exciting and entertaining theatrical experiences significantly emerge in all periods of American history.

APPENDIX

The American courtroom plays discussed in this study are found on the following pages listed in chronological order. The number of performances each play received in its initial professional production in America is also included, whenever possible.

APPENDIX

AMERICAN COURTROOM PLAYS

From 1771 to the Civil War

1771

The Trial of Atticus Before Justice Beau For a Rape
(Anonymous)

No recorded performance.

1798

The Patriots by Colonel Robert Munford

No recorded performance.

1827

The Trial of Cain by Erastus Brown

No recorded performance.

1834

The Broker of Bogota by Robert Montgomery Bird

Produced professionally in repertory from 1834 to 1864.
No recorded number of performances.

1839

Solon Shingle or The People's Lawyer by Joseph Stevens
Jones

Produced professionally from 1842 to 1880.

1857

A Coroner's Inquisition by A. Oakey Hall

No recorded number of performances.

From the Civil War to World War One

1884

Captain Mishler by Fred Maeder

Produced professionally for approximately three months.

From the Civil War to World War One (con't)

1891

Hoss and Hoss by Charlie Reed and William Collier

Number of professional performances unknown.

1892

The Ensign by William Haworth

Produced professionally for two weeks.

1893

Giles Corey, Yeoman by Mary E. Wilkins

Number of professional performances unknown.

1899

Peter Styvesant by Bronson Howard and Brander Matthews

Number of professional performances unknown.

1899

The Cowboy and the Lady by Clyde Fitch

Produced professionally for 358 performances.

1905

Nancy Stair by Paul M. Potter

Produced professionally for 29 performances.

1906

The Judge and the Jury by Harry D. Cottrell and Oliver Morosco

Produced professionally for 17 performances.

1907

Mills of the Gods by George Broadhurst

Produced professionally for 48 performances.

1907

A Grand Army Man by David Belasco, Pauline Phelps and Marion Short

Produced professionally for 149 performances.

From the Civil War to World War One (con't)

1909

The Third Degree by Charles Klein

Produced professionally for 168 performances.

1911

The Confession by James Halleck Reid

Produced professionally for 56 performances.

1913

The Unwritten Law by Edwin Milton Royle

Produced professionally for 19 performances.

1914

The Last Resort by George Scarborough

Produced professionally for 16 performances.

1914

The Governor's Boss by James S. Barcus

Produced professionally for 16 performances.

1914

On Trial by Elmer Rice

Produced professionally for 365 performances.

1915

Common Clay by Cleves Kinhead

Produced professionally for 316 performances.

1915

Young America by Fred Ballard

Produced professionally for 105 performances.

1915

Back Home by Bayard Veiller

Produced professionally for 16 performances.

From the Civil War to World War One (con't)

1916

Just a Woman by Eugene Walter

Produced professionally for 136 performances.

1916

The Silent Witness by Otto Hauerbach

Produced professionally for 52 performances.

1916

The Guilty Man by Ruth Helen Davis and Charles Klein

Produced professionally for 52 performances.

From World War One to the Present

1918

Lightnin' by Winchell Smith and Frank Bacon

Produced professionally for 1,291 performances.

1919

Woman in Room 13, The by Samuel Shipman and Max Marcin

Produced professionally for 175 performances.

1923

The Woman on the Jury by Bernard K. Burns

Produced professionally for 77 performances.

1923

This Fine-Pretty World by Percy MacKaye

Produced professionally for 33 performances.

1925

Appearances by Garland Anderson

Produced professionally for 23 performances.

1925

Chivalry by William Hurlbut

From World War One to the Present (con't)

Produced professionally for 23 performances.

1926

She Couldn't Say No! by B. M. Kaye

Produced professionally for 71 performances.

1926

The Judge's Husband by William Hodge

Produced professionally for 120 performances.

1926

Caponsacchi by Arthur Goodrich and Rose A. Palmer

Produced professionally for 296 performances.

1927

The Trial of Mary Dugan by Bayard Veiller

Produced professionally for 310 performances.

1928

Caponsacchi (Revival) by Arthur Goodrich and Rose A. Palmer

Produced professionally for 16 performances.

1929

Appearances by Garland Anderson

Produced professionally for 24 performances.

1929

Scarlet Pages by Samuel Shipman and John B. Hymer

Produced professionally for 72 performances.

1929

Ladies of the Jury by Fred Ballard

Produced professionally for 88 performances.

1930

Penal Law 2010 by Alexander Gerry and Augusta Greely

From World War One to the Present (con't)

Produced professionally for 19 performances.

1930

Room 349 by Mark Linder

Produced professionally for 15 performances.

1930

That's the Woman by Bayard Veiller

Produced professionally for 29 performances.

1931

The Bellamy Trial by Frances Noyes Hart and
Frank E. Carstarphen

Produced professionally for 16 performances.

1934

Legal Murder by Dennis Donoghue

Produced professionally for 7 performances.

1934

They Shall Not Die by John Wexley

Produced professionally for 62 performances.

1934

Judgment Day by Elmer Rice

Produced professionally for 94 performances.

1935

Night of January 16 by Ayn Rand

Produced professionally for 232 performances.

1937

The Trial of Dr. Beck by Hughes Allison

Produced professionally for 24 performances.

1938

Lightnin' (Revival) by Winchell Smith and
John Golden

From World War One to the Present (con't)

Produced professionally for 54 performances.

1944

Pick-up Girl by Elsa Shelley

Produced professionally for 198 performances.

1944

According to Law by Noel Houston

Produced professionally for one performance.

1945

Signature! by Elizabeth McFadden

Produced professionally for two performances.

1951

Darkness at Noon by Sidney Kingsley

Produced professionally for 186 performances.

1953

The Crucible by Arthur Miller

Produced professionally for 197 performances.

1954

The Caine Mutiny Court-Martial by Herman Wouk

Produced professionally for 405 performances.

1955

Inherit the Wind by Jerome Lawrence and Robert E. Lee

Produced professionally for 806 performances.

1955

Deadfall by Leonard Lee

Produced professionally for 20 performances.

1956

Time Limit! by Henry Denker and Ralph Berkey

Produced professionally for 127 performances.

From World War One to the Present (con't)

1956

The Ponder Heart by Joseph Fields and Jerome Chodorov

Produced professionally for 149 performances.

1957

A Shadow of My Enemy by Sol Stein

Produced professionally for 5 performances.

1958

The Crucible (Revival) by Arthur Miller

Produced professionally for 633 performances.

1958

Drink to Me Only by Abram S. Ginnes and Ira Wallach

Produced professionally for 77 performances.

1959

The Andersonville Trial by Saul Levitt

Produced professionally for 179 performances.

1960

The Deadly Game by James Yaffe

Produced professionally for 39 performances.

1963

A Case of Libel by Henry Denker

Produced professionally for 242 performances.

1963

The Advocate by Robert Noah

Produced professionally for 8 performances.

1964

The Crucible (Revival) by Arthur Miller

Produced professionally for 32 performances.

From World War One to the Present (con't)

1964

Blues for Mister Charlie by James Baldwin

Produced professionally for 44 performances.

1966

The Deadly Game by James Yaffe

Produced professionally for 89 performances.

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