

CHAPTER XX.

THE FIRST DAY.

THEN came the morning on which Caldigate and Hester must part. Very little had been said about it, but a word or two had been absolutely necessary. The trial would probably take two days, and it would not be well that he should be brought back to Folking for the sad intervening night. And then,—should the verdict be given against him, the prison doors would be closed against her, his wife, more rigidly than against any other friend who might knock at them inquiring after his welfare. Her, at any rate, he would not be allowed to see. All the prison authorities would be bound to regard her as the victim of his crime and as the instrument of his vice. The law would have locked him up to avenge her injuries,—of her, whose only future joy could come from that distant freedom which the fraudulent law would at length allow to him. All this was not put into words between them, but it was understood. It might be that they were to be parted now for a term of years, during which she would be as a widow at Folking while he would be alone in his jail.

There are moments as to which it would be so much better that their coming should never be accomplished! It would have been better for them both had they been separated without that last embrace. He was to start from Folking at eight that he might surrender himself to the hands of justice in due time for the trial at ten. She did not come down with him to the breakfast parlour, having been requested by him not to be there among the servants when he took his departure; but standing there in her own room, with his baby in her arms, she spoke her last word, "You will keep up your courage, John?"

"I will try, Hester."

"I will keep up mine. I will never fail, for your sake and his,"—here she held the child a moment away from her bosom,—"I will never allow myself to droop. To be your wife and his mother shall be enough to support me even though you should be torn from both of us for a time."

"I wish I were as brave as you," he said.

"You will leave me here," she continued, "mistress of your house; and if God spares me, here you will find me. They can't move me from this. Your father says so. They may call me what they will, but they cannot move me. There is the Lord above us, and before Him they cannot make me other than your wife,—your wife,—your wife." As she repeated the name, she put the boy out to him,

and when he had taken the child, she stretched out her hands upwards, and falling on her knees at his feet, prayed to God for his deliverance. "Let him come back to us, O my God. Deliver him from his enemies, and let him come back to us."

"One kiss, my own," he said, as he raised her from the ground.

"Oh yes;—and a thousand shall be in store for you when you come back to us. Yes; kiss him too. Your boy shall hear the praises of his father every day, till at last he shall understand that he may be proud of you even though he should have learned why it is that you are not with him. Now go, my darling. Go; and support yourself by remembering that I have got that within me which will support me." Then he left her.

The old Squire had expressed his intention of being present throughout the trial, and now was ready for the journey. When counselled to remain at home, both by Mr. Seely and by his son, he had declared that only by his presence could he make the world around him understand how confident he was of his son's innocence. So it was arranged, and a place was kept for him next to the attorney. The servants all came out into the hall and shook hands with their young master; and the cook, wiping her eyes with her apron, declared that she would have dinner ready for him on the following day. At the front door Mr. Holt was standing, having

come over the ferry to greet the young squire before his departure. "They may say what they will there, squire, but they won't make none of us here believe that you've been the man to injure a lady such as she up there." Then there was another shaking of hands, and the father and son got into the carriage.

The court was full, of course. Mr. Justice Bramber, by whom the case was to be tried, was reputed to be an excellent judge, a man of no softnesses,—able to wear the black cap without convulsive throbbings, anxious also that the law should run its course,—averse to mercy when guilt had been proved, but as clear-sighted and as just as Minos,—a man whom nothing could turn one way or another,—who could hang his friend, but who would certainly not mulct his enemy because he was his enemy. It had reached Caldigate's ears that he was unfortunate in his judge; by which, they who had so said, had intended to imply that this judge's mind would not be perverted by any sentiments as to the prisoner, as to the sweet young woman who called herself his wife at home, or as to want of sweetness on the part of the other woman who claimed him.

The jury was sworn in without more than ordinary delay, and then the trial was commenced. That which had to be done for the prosecution seemed to be simple enough. The first witness called was the

woman herself, who was summoned in the names of Euphemia Caldigate *alias* Smith. She gave her evidence very clearly, and with great composure,—saying how she had become acquainted with the man on board the ship; how she had been engaged to him at Melbourne; how he had come down to her at Sydney; how, in compliance with his orders, she had followed him up to Ahalala; and how she had there been married to him by Mr. Allan. Then she brought forth the documents which professed to be the copy of the register of the marriage, made by the minister in his own book; and the envelope,—the damning envelope,—which Caldigate was prepared to admit that he had himself addressed to Mrs. Caldigate; and the letter which purported to have been written by the minister to Caldigate, recommending him to be married in some better established township than that existing at Ahalala. She did it well. She was very correct, and at the same time very determined, giving many details of her early theatrical life, which it was thought better to get from her in the comparative ease of a direct examination than to have them extracted afterwards by an adverse advocate. During her evidence in chief, which was necessarily long, she seemed to be quite at ease; but those around her observed that she never once turned her eyes upon him whom she claimed as her husband except when she was asked whether the man there before her was the

man she had married at Ahalala. Then, looking at him for a moment in silence, she replied very steadily, "Yes; that is my husband, John Caldigate."

To Caldigate and his friends,—and indeed to all those collected in the court,—the most interesting person of the day was Sir John Joram. In a sensational cause the leading barrister for the defence is always the hero of the plot,—the actor from whom the best bit of acting is expected,—the person who is most likely to become a personage on the occasion. The prisoners are necessarily mute, and can only be looked at, not heard. The judge is not expected to do much till the time comes for his charge, and even then is supposed to lower the dignity of the bench if he makes his charge with any view to effect on his own behalf. The barrister who prosecutes should be tame, or he will appear to be vindictive. The witnesses, however interesting they may be in detail, are but episodes. Each comes and goes, and there is an end of them. But the part of the defending advocate requires action through the whole of the piece. And he may be impassioned. He is bound to be on the alert. Everything seems to depend on him. They who accuse can have or should have no longing for the condemnation of the accused one. But in regard to the other, an acquittal is a matter of personal prowess, of professional triumph, and possibly of well simulated feeling.

Sir John Joram was at this time a man of considerable dignity, above fifty years of age, having already served the offices of Solicitor and Attorney-General to his party. To his compeers and intimate friends it seemed to be but the other day since he was Jacky Joram, one of the jolliest little fellows ever known at an evening party, up to every kind of fun, always rather short of money, and one of whom it was thought that, because he was good-looking, he might some day achieve the success of marrying a woman with money. On a sudden he married a girl without a shilling, and men shook their heads and sighed as they spoke of poor Jacky Joram. But, again, on a sudden,—quite as suddenly,—there came tidings that Jacky had been found out by the attorneys, and that he was earning his bread. As we grow old things seem to come so quickly! His friends had hardly realised the fact that Jacky was earning his bread before he was in Parliament and had ceased to be Jacky. And the celerity with which he became Sir John was the most astonishing of all. Years no doubt had passed by. But years at fifty are no more than months at thirty,—are less than weeks in boyhood. And now while some tongues, by dint of sheer habit, were still forming themselves into Jacky, Sir John Joram had become the leading advocate of the day, and a man renowned for the dignity of his manners.

In the House,—for he had quite got the ear of

the House,—a certain impressive good sense, a habit of saying nothing that was not necessary to the occasion, had chiefly made for him the high character he enjoyed; but in the law courts it was perhaps his complaisance, his peculiar courtesy, of which they who praised him talked the most. His aptitude to get verdicts was of course the cause of his success. But it was observed of him that in perverting the course of justice,—which may be said to be the special work of a successful advocate,—he never condescended to bully anybody. To his own witnesses he was simple and courteous, as are barristers generally. But to adverse witnesses he was more courteous, though no doubt less simple. Even to some perjured comrade of an habitual burglar he would be studiously civil: but to a woman such as Euphemia Caldigate, *alias* Smith, it was certain that he would be so smooth as to make her feel almost pleased with the amenities of her position.

He asked her very many questions, offering to provide her with the comfort of a seat if it were necessary. She said that she was not at all tired, and that she preferred to stand. As to the absolute fact of the marriage she did not hesitate at all. She was married in the tent at Ahalala in the presence of Crinkett and Adamson, and of her own female companion, Anna Young,—all of whom were there to give evidence of the fact. Whether any

one else was in the tent, she could not say, but she knew that there were others at the entrance. The tent was hardly large enough for more than five or six. Dick Shand had not been there, because he had always been her enemy, and had tried to prevent the marriage. And she was quite clear about the letter. There was a great deal said about the letter. She was sure that the envelope with the letter had come to her at Ahalala by post from Sydney when her husband was at the latter place. The Sydney postmark with the date was very plain. There was much said as to the accuracy and clearness of the Sydney postmark, and something as to the absence of any postmark at Nobble. She could not account for the absence of the Nobble postmark. She was aware that letters were stamped at Nobble generally. Mr. Allan, she said, had himself handed to her the copy of the register almost immediately after the marriage, but she could not say by whom it had been copied. The letter purporting to be from Mr. Allan to her husband was no doubt, she said, in the minister's handwriting. Caldigate had showed it to her before their marriage, and she had kept it without any opposition from him. Then she was asked as to her residence after her marriage, and here she was less clear. She had lived with him first at Ahalala and then at Nobble, but she could not say for how long. It had been off and on. There had been quarrels, and after a time they had agreed to

part. She had received from him a certain amount of mining shares and of money, and had undertaken in return never to bother him any more. There was a great deal said about times and dates, which left an impression upon those around her in the court that she was less sure of her facts than a woman in such circumstances naturally would have been.

Then Sir John produced the letter which she had written to Caldigate, and in which she had distinctly offered to marry Crinkett if the money demanded were paid. She must have expected the production of this letter, but still, for a few moments, it silenced her. "Yes," she said, at last, "I wrote it."

"And the money you demanded has been paid?"

"Yes, it has been paid. But not then. It was not paid till we came over."

"But if it had been paid then you would have—married Mr. Crinkett?" Sir John's manner as he asked the question was so gentle and so soft that it was felt by all to contain an apology for intruding on so delicate a subject. But when she hesitated, he did, after a pause, renew his inquiry in another form. "Perhaps this was only a threat, and you had no purpose of carrying it out."

Then she plucked up her courage. "I have not married him," she said.

"But did you intend it?"

"I did. What were the laws to me out there? He had left me and had taken another wife. I had to do the best for myself. I did intend it. But I didn't do it. A woman can't be tried for her intentions."

"No," said Sir John. "But she may be judged by her intentions."

Then she was asked why she had not gone when she had got the money, according to her promise. "He defied us," she said, "and called us bad names,—liars and perjurers. He knew that we were not liars. And then we were watched and told that we might not go. As he said that he was indifferent, I was willing enough to stay and see it out."

"You cannot give us," he asked again,—and this was his last question,—"any clearer record of those months which you lived with your husband?"

"No," she said, "I cannot. I kept no journal." Then she was allowed to go, and though she had been under examination for three hours, it was thought she had escaped easily.

Crinkett was the next, who swore that he had been Caldigate's partner in sundry mining speculations,—that they had been in every way intimate,—that he had always recommended Caldigate to marry Mrs. Smith, thinking, as he said, "that respectability paid in the long run,"—and that, having so advised

him, he had become Caldigate's special friend at the time, to the exclusion of Dick Shand, who was generally drunk, and who, whether drunk or sober, was opposed to the marriage. He had been selected to stand by his friend at the marriage, and he, thinking that another witness would be beneficial, had taken Adamson with him. His only wonder was that any one should dispute a fact which was at the time so notorious both at Ahalala and at Nobble. He held his head high during his evidence in chief, and more than once called the prisoner "Caldigate,"—"Caldigate knew this,"—and "Caldigate did that." It was past four when he was handed over for cross-examination; but when it was said that another hour would suffice for it, the judge agreed to sit for that other hour.

But it was nearly two hours before the gentleman who was with Sir John had finished his work, during which Mr. Crinkett seemed to suffer much. The gentleman was by no means so complacent as Sir John, and asked some very disagreeable questions. Had Crinkett intended to commit bigamy by marrying the last witness, knowing at the time that she was a married woman? "I never said that I intended to marry her," said Crinkett. "What she wrote to Caldigate was nothing to me." He could not be made to own, as she had done, in a straightforward way, that he had intended to set the law at defiance. His courage failed him, and his presence

of mind, and he was made to declare at last that he had only talked about such a marriage, with the view of keeping the woman in good humour, but that he had never intended to marry her. Then he was asked as to Bollum;—had he told Bollum that he intended to marry the woman? At last he owned that he might have done so. Of course he had been anxious to get his money, and he had thought that he might best do so by such an offer. He was reduced to much misery during his cross-examination; but on the one main statement that he had been present at the marriage he was not shaken.

At six o'clock the trial was adjourned till the next day, and the two Caldigates were taken in a fly to a neighbouring inn, at which rooms had been provided for them. Here they were soon joined by Mr. Seely, who explained, however, that he had come merely to make arrangements for the morrow. "How is it going?" asked Caldigate.

The question was very natural, but it was one which Mr. Seely was not disposed to answer. "I couldn't give an opinion," he said. "In such cases I never do give an opinion. The evidence is very clear, and has not been shaken; but the witnesses are people of a bad character. Character goes a long way with a jury. It will depend a good deal on the judge, I should say. But I cannot give an opinion."

No opinion one way or the other was expressed

to the father or son,—who indeed saw no one else the whole evening; but Robert Bolton, in discussing the matter with his father, expressed a strong conviction that Caldigate would be acquitted. He had heard it all, and understood the nature of such cases. “I do not in the least doubt that they were married,” said Robert Bolton. “All the circumstances make me sure of it. But the witnesses are just of that kind which a jury always distrusts. The jury will acquit him, not because they do not believe the marriage, but out of enmity to Crinkett and the woman.”

“What shall we do, then?” asked the old man. To this Robert Bolton could make no answer. He only shook his head and turned away.
