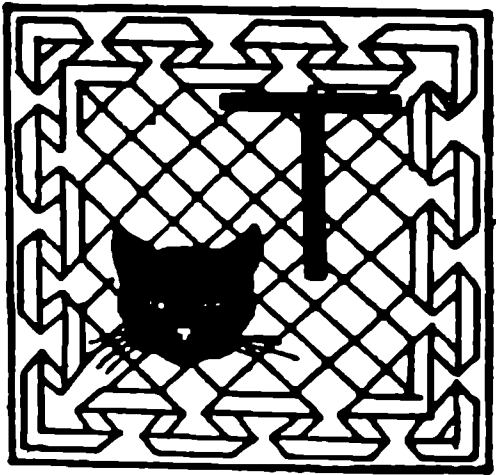


# Her Eyes, Your Honor.

BY H. D. UMBSTAETTER.



HE witness is yours."

As the prosecuting attorney sat down, the spectators craned their necks and eagerly leaned forward. Every one expected a merciless cross-examination, as the reputation of the young lawyer, who had been brought two hundred miles to defend the prisoner, had preceded him. And though Delos McWhorter had thus far taken no part in the proceedings, he was the most conspicuous figure in the great trial. One person alone rivaled him,— the mysterious woman who stood at the bar, charged with murder. The hush that fell upon the packed court-room as the man slowly rose to his feet resembled the awful silence with which the death sentence is awaited. As he stood silent and irresolute for a moment, the color rising to his plain, youthful face, his fingers nervously fumbling with a pencil, the spectators were conscious of a feeling of disappointment.

With almost boyish embarrassment, his eye sought that of the presiding judge; next he scanned the faces of the jury, and then, turning to the witness, in a voice at once gentle, sarcastic, and magnetic, he began :

"Mr. Slade, I will trouble you to look once more very carefully at the prisoner. Perhaps she will rise that you may see her better. You have testified that shortly before eight on the night of the murder you saw this woman enter the apartment house of which you are the janitor, and in which the body of Charlotte Ames was found. Now, I would like to have you tell the jury just what it was in the appearance of the woman you say you then saw that enables you to swear to-day that she and the prisoner are one and the same person."

The witness, fearing a trap, hesitated, and nervously eyed the lawyer.

“I would like you to tell us,” calmly continued the questioner, “whether you took such particular notice of her height, her face, her complexion, her hair, her nose, and her teeth during the few moments that you say you saw her in the dimly lighted hallway, four months ago, as to enable you to swear to-day that you cannot be mistaken. Was it her size, her apparent age, perhaps, or the color of her hair, or what?”

“It was her looks,” answered the witness, squirming in his seat. “It’s the same woman.”

“Yes, her looks; but I must trouble you to answer my question so that the jury may have the whole truth before they are asked to send any one to the gallows. Remember, Mr. Slade, you are under oath. Now tell us, what was it?”

“We object,” came from the prosecuting attorney as he sprang to his feet. “We object, your honor, to this attempt to intimidate the witness.”

Before the court could pass upon the objection, the witness, turning from his questioner to the court, exclaimed half defiantly:

“It was her eyes, your honor!”

“That is all,” came from the lawyer for the defense, as he resumed his seat; and the spectators relaxed into a condition of restlessness that clearly showed their further disappointment.

Each of the succeeding witnesses declared without hesitation that the prisoner was the woman they had seen near the scene of the murder, either just before or shortly after the deed was discovered. As one after the other was dismissed by the defense, upon insisting under cross-examination that he could not possibly be mistaken, the faces of the government counsel beamed with satisfaction, while those of the spectators assumed the blankness of mystification. What was the strange lawyer there for? they whispered among themselves, and many turned toward the prisoner as though to ascertain whether she realized how surely her life was being sworn away. In his opening address the prosecuting attorney had said:

“On the second day of last November, a woman residing in this town, young, rich, and notorious for her gay and reckless career, was found murdered in her bed at half past eight at night.

Everything about the room was in perfect order. There had been no robbery, and the instrument used was found in her breast, where it had been driven to the heart. It was a gold ornament, such as a woman wears in her hair.

“We shall not attempt to defend the character of the dead woman, but we shall ask that justice be done.

“It is true that many a woman in this town had good reason to wish the murdered woman ill. It is true that there are men in the community who might have been driven by desperate hate, desperate love, or desperate jealousy, to do the deed, but, fortunately, before cruel suspicion made any blunder of that sort the police discovered the criminal. Almost simultaneously with the rumors of the murder came the reports of a mysterious woman found leaving the city. Within twelve hours this woman, who now stands at the bar, had been identified by no less than four people, who saw her in the vicinity of the scene of the crime either before or after it was committed.

“No one knew her. She refused to give any account of herself. She appeared to be in a state of great nervous excitement. The government will show that she entered the house shortly before the murder was committed; that she left it a few minutes after the deed was done; that on the very day of the murder she had high words with the dead woman, and that the instrument with which the deed was done was such an one as the prisoner was known to possess. Gentlemen of the jury,” he concluded dramatically, “Fate plays no tricks of that sort. Fate fashions no such chain of circumstantial evidence as that which establishes the guilt of this woman and upon which we ask her conviction.”

These were his words, and now that the janitor had testified that he saw the prisoner enter the building, a patrolman had declared that he saw her leaving it within fifteen minutes before the crime was discovered, and the dead woman's coachman had sworn to having overheard the prisoner using threatening language to his mistress, — after this and other circumstantial evidence had gone before the jury and remained unshaken by cross-examination, the prosecution announced that the case for the government was in.

In spite of the disappointment with which the spectators re-

garded Lawyer McWhorter, a nervous dread of the man possessed the minds of the opposing counsel, as he rose slowly and deliberately clasped his hands behind him. He was so calm. His methods were so unfathomable that they began to feel a vague conviction that he mastered them and their methods, while to them he was a closed book.

A moment he stood silent, and when he spoke, utter consternation fell upon the court. The words were the last they had expected.

“Your honor, the defense has no evidence to offer.”

Even the court could scarce control its amazement. Inch by inch the ground upon which the prisoner stood had been carried away, until now nothing but the personal appeal of her counsel could save her life. Was this possible? Did this young stranger really possess that rare eloquence, that fatal magnetism, that sometimes blind strong men to all sense of reason and right? Did even he hope to save his client? His looks betrayed nothing. As he took his seat his face was that of a sphinx.

The attorney for the government lost no time in beginning his closing speech. “We commend the judgment of the distinguished counsel for the defense,” he began, “which deterred him from attacking the overwhelming proofs we have submitted of the prisoner’s guilt. We commend the keen judgment which prompts him to rely upon the famed magic of his own voice rather than to seek hope for his client in the uncertain words of unreliable witnesses. The defense, too clever to attack such proof as we have presented, will now rely upon silvery tongued oratory and superb rhetorical appeals to secure from these twelve men a verdict of acquittal. But, may it please the court,” he concluded, “our learned brother mistakes the intelligence of these gentlemen of the jury, if he supposes, for one moment, that fervent appeals to their sympathies can make them forget their duty to themselves, to civilized society, and to womankind.” So well satisfied, however, had the spectators become of the prisoner’s guilt, and so completely did all interest now center in McWhorter’s anticipated speech, that the remarks of the prosecuting attorney were listened to with indifferent attention.

Now, surely, the brilliant advocate would demonstrate his ability, even though he could not save his client.

“The woman,” he began, amid oppressive silence, “who was arrested on the second day of November last, stands charged with murder. As no testimony has been offered to show that she committed murder, the defense will not waste your time or insult your common sense by unnecessary argument. You have been told with great clearness by the witnesses for the prosecution that the prisoner was seen to enter and leave a certain house at certain hours; also that on a certain day she had high words with a certain woman. But, gentlemen of the jury, under the laws of your State that doesn't constitute murder. A woman may pay a visit to an apartment house at eight o'clock at night, she may have high words with another woman in the public highway, she may even wear a gold ornament in her hair, — she may do all this without becoming a murderess. The evidence adduced is purely circumstantial. No proof whatever has been offered that the accused woman killed Charlotte Ames. In the absence of such testimony, it is your duty to yourselves, to civilized society, and to woman-kind, to acquit the prisoner.” Before the last word was spoken he sat down.

The entire court room was again taken by surprise. While the brief speech had the ring of cleverness, it fell far short of the general expectations.

After hearing the judge's charge to the jury not one person in that vast assembly doubted the result. Few felt any sympathy for the woman, and those few were men. The members of her own sex were as a unit arrayed against her. The pride of her pale beauty antagonized them. The very women who in their hearts had wished the dead girl ill and who would have committed the crime themselves, except that they lacked the courage, had no pity for the accused. There was something in her beauty above and beyond them, and, womanlike, they hated her for it.

Not a soul left the court room as the jury filed out, for all expected a prompt verdict. In this they were not disappointed. Ten minutes later the twelve men filed solemnly back. Not an eye sought the face of the prisoner, who, like her counsel, sat entirely unmoved.

As the clerk rose the silence became deathlike. “Prisoner,

look upon the jury. Jury, look upon the prisoner. Have you agreed upon a verdict?"

"We have."

"Is the prisoner at the bar guilty or not guilty of the crime charged against her?"

"Guilty."

With difficulty the demonstrations of approval that broke out in every part of the room were checked by the court officers.

Moved by that inevitable heart-stopping vision of "hanged by the neck," every spectator turned to the handsome woman in the dock.

The calmness with which she received the stares of a thousand eyes was marvelous. No one expected that she would now break her mysterious silence. When, therefore, she rose and turned her eyes towards the court the spectators sat fairly spellbound with surprise.

"May it please your honor," she began in a firm, clear voice; then, lifting one slender white hand, she pointed to the door at the back of the witness stand.

Every eye followed her gesture. A tall female figure, heavily veiled, accompanied by one of the associate counsel of the defense, stood in the doorway. The next moment she raised her veil, advanced rapidly, and took her place beside the prisoner.

The scene that followed resembled a street riot, rather than the solemn proceedings of a court room. Men, wild with excitement, mounted their chairs, women rose in their seats, pushing, jostling, and crowding each other in their frantic efforts to get a better view of the highly sensational proceedings. The confusion was indescribable, the noise deafening. Not until McWhorter was seen to spring to his feet did the court officers' vigorous rapping and loud cries for order produce any effect. Instantly all was silence. Rigid suspense held the spectators breathless. With the light they had missed in his eye and the fire they had longed for in his voice the young lawyer spoke, addressing the judge:

"May it please the court, — nice customs must bow to desperate needs. When a man is called upon to face in defense of a woman's life such odds as I found in this case, when he sees justice outwitted by the devil's trick, — circumstantial evidence, — he must resort

to the devil's weapon,— cunning. Such evidence as has been here given has hanged many a man, and I believe that when a man of any heart, any soul, any chivalry, sees that it is likely to hang a woman it becomes his duty to combat fate as the defense has done in this case.

“I ask your honor, I ask the jury, I ask the witnesses, to look upon these two women. As they stand there side by side, there is a marked difference in their heights, a decided difference in the color of their hair, a striking difference in the color of their eyes, a very perceptible difference, even at this distance, in the tone of their skin; and, I may add, a difference of eight years in their ages. The woman who has just been pronounced guilty of murder is the wife of a gentleman who throughout this trial has sat within the shadow of the jury. She is innocent, as God is my judge. Every moment of her life up to this very instant can be accounted for. In substituting her to-day for the real prisoner, the defense had no desire to circumvent justice. We merely wished to save this court, this community, from the everlasting shame of hanging a woman whose guilt has not been proved. We wished to show to your honor and to these gentlemen of the jury that it is monstrous to accept as conclusive such evidence as has been given in this case. May it please your honor, this jury has just pronounced a verdict of ‘guilty’ against my own wife. I move that here and now this verdict be set aside.”

The request was granted, and, although McWhorter was charged with unprofessional conduct and threatened with disbarment, his client was promptly acquitted on the new trial which the court ordered.

