

THROUGH A MONOCLE

A CRIMINAL-LAW DEFECT

CAPTAIN HAINS was found guilty of manslaughter. Now, whatever he did or didn't do, he did not commit manslaughter. They might as well have brought him in guilty of arson or violation of the speed by-law. His act was premeditated, deliberate and committed with malice aforethought; and the other man had no chance to fight back. A lay mind like mine would say that it was either murder or nothing. The jury, which seems to have been quite as talkative as the Kinrade jury, explained how it arrived at the verdict of "manslaughter." Six of them wanted to find him guilty of murder, and the other six were in favour of acquittal on the ground of insanity. So they split the difference and called it manslaughter. Great are the uses of compromise. Some day we will have a consultation of doctors in doubt as to whether a patient has an ingrowing stomach or gastritis and they will compromise on tooth-ache. We have a belief in this easy-going age that anything can be compromised. When we cannot agree upon a price, we split the difference. Free traders and protectionists compromise on a "moderate tariff." There is nothing absolutely right and nothing absolutely wrong. We just mix extremes and strike an average. When school-masters come to realise that this is the way to work out problems, mathematics will be more popular with the "kiddies."

* * *

A SIGNIFICANT deduction from that Hains compromise is possible from the fact that the Americans seem to regard the jury as a good deal of a hero—or dozen heroes. Most people feared that they would find the prisoner insane and then leave it to the experts to prove that he had recovered enough to be set at liberty. That they did not do this has called forth the praise of the American press. Moreover, one of the jurors who favoured the "murder" verdict said that the reason why he compromised was that he was afraid that a disagreement and a new trial would result in a jury which would agree on acquittal. So the solid six regarded themselves as something unusual. Now why is it that sane, sensible, law-abiding, justice-loving American citizens are thought likely to find a man, who committed the act which it is admitted that Captain Hains committed, "not guilty" of murder? If we knew nothing of the story but the final tragedy on the float of the yacht club, there would not be two opinions on the subject. It would be cold-blooded, devilish and cowardly murder. Yet the best that a carefully selected and much praised jury can do is manslaughter, and it is granted that most juries would have favoured acquittal.

* * *

NOW that means something. It will not do to dismiss the subject with a few caustic remarks about the way they administer justice in the United States. We will have a similar case here one

of these days; and I want to predict that we will treat it in the same way. We think a little more of law-enforcement here than they do; but our social consciences are very much alike. At all events, the Americans are no more in favour of murder as murder than we are. Yet cases like the killing of Stanford White and of "Billy" Annis find juries of American citizens reluctant to call them murder or to punish the perpetrators. It has become hackneyed and therefore unfashionable to talk about "the unwritten law"; but there is certainly a sentiment behind public opinion in such instances which looks exceedingly like that same "unwritten law." The feeling is, in the rough, that the victim deserved his fate, and that the law provided no adequate redress for the man or woman he had wronged.

* * *

THERE should be written law on the subject. When a man steals another man's wife—when he desecrates what Mrs. Browning called "the holiest thing" that God ever made—it should be at least as certain to send him to penitentiary as if he had forged the man's cheque or broken into his house. There are men who would rather lose a small cheque than lose their wives and who would prefer to have their houses broken into than their homes broken up. As the law stands, there is no punishment for the violator worth mentioning. He can be sued; but to a sensitive man whose wife has been stolen, it is only adding insult to injury to tell him that if he will drag his whole miserable story before the public and undergo ridicule and badgering by the hired lawyers of his enemy, he can get cash compensation for his irreparable loss. This is not so very far away from offering him money for his wife's favours before the great crime has taken place.

* * *

WHEN law-makers recognise this very real crime in adequate fashion and make it certain that men proven guilty of it will go to penitentiary for a good share of the rest of their lives, then we will hear no more of these shootings, of the "unwritten law" and of juries considering whether they will bring in men like Captain Hains as victims of "insanity." We will get back to straightforward honesty in our courts and try the real criminal for his real crime. Annis would not be dead in his boat but in the prisoner's dock; and Captain Hains would not be the accused but the accuser. As for the woman in such a case, God knows! It is altogether likely that she will be sufficiently punished. She has simply reverted to type—as the scientists say. She has shown that the seeds we planted in her character through the long centuries when we shut her up and denied her mental development and exaggerated her sexual importance, have not yet ceased to bear fruit even in the free air and bright sunlight of this twentieth century. Such a woman refuses to take her new heritage and plunges back into the past when she was the plaything of a man's lust. She turns her back on the Promised Land and seeks out the flesh pots of Egyptian slavery.

MONOCLE MAN

SOME FACES TO BE SEEN AT THE WOODBINE, TORONTO, THIS WEEK.



Mr. Wm. Walker, owner of Stanley Fay.

Mr. Chinn, an owner from over the Border.

Jockey Gilbert and Trainer John Nixon.

Mr. Chas Bowman, an owner from St. Louis.

Trainer McDaniel and Mr. John Dymont.