

# PROFILES

FOR THE DEFENCE



Edward J. Reilly

**T**WENTY years ago, the late Supreme Court Justice Garretson broke a lifetime record by swallowing his chewing tobacco. Shock did it. For several days he had been presiding, in criminal term, over a routine murder case in which conviction was a foregone conclusion. The jury filed in and the judge was waked from a warm judicial doze by an outlandish verdict—acquittal. Garretson jumped to his feet, and the gastric explosion engendered by two ounces of fine-cut put him in a high state of civic indignation. He pointed his finger at a rapidly vanishing defence counsel. "There," he bellowed, "goes the most dangerous man in Brooklyn. He turns murderers out on the street."

Edward J. Reilly has always been proud of that left-handed compliment and happy to be known as a sinister figure. It means money in his pocket, clients in the outer office, and, best of all, publicity. Over a quarter of a century he has been denounced generously by judges, and calculates, with reprehensible light-heartedness, that judicial disapproval is worth about a thousand dollars a word. So far he has been unlucky enough to escape pillory by the graybeards of the United States Supreme Court, but once he achieves that accolade, his fortune will be made and his eminence unquestioned on the gaudy playing fields of the criminal law.

When it was announced some weeks ago that Reilly had been retained as counsel for Bruno Richard Haupt-

mann, cynical members of the bar decided at once, and unjustly, that a healthy defence fund had been raised. The truth of the matter is that the Brooklyn attorney's pocketbook stands to profit little or not at all, and his problem has been to raise enough pin money to hire those expert witnesses whose business it is to contradict the prosecution's expert witnesses, and who are, he believes, vitally important to the case. Reilly takes no credit for his willingness to serve without pay. It is not a matter of idealism. Originally he was promised a fee, but the government has since impounded all Hauptmann's funds and brokerage accounts. "No lawyer in the world," says Reilly, "would step out of this case because he couldn't get a fee. It's a criminal lawyer's dream of a case—the murder trial of the century."

Despite his considerable reputation, Reilly has never appeared in a trial so widely ballyhooed as this one. Like Sam Leibowitz, his chief rival at the criminal bar (they dislike each other heartily), Reilly built his legend for legerdemain on a series of legal actions which, while exciting enough in a journalistic way, were purely local in interest. His clients have rarely achieved the international infamy of, say, the clients of Max Steuer or Clarence Darrow, even though they worked at it in their humble way. In sheer number of cases, however, Reilly runs Steuer a sporting race. He says that he has defended two thousand persons accused of homicide (on foggy days in Brooklyn, his estimates run as low as one thousand), and of the total about one hundred were women. The records show that he has defended all except three of Brooklyn's lady murderers in the past twenty-five years. He is the master of the silk-stockinged leg exposed to the jurors' view, the widow's weeds and the black-trimmed kerchief, the weeping on the witness stand, and the baby-and-mother ensemble. An example of the perfect Reilly client was a certain Olivia Stone, who followed a solid Cincinnati citizen to New York some years ago and shot him in front of the courthouse in which she later went on trial. Olivia was a talented emotional actress. Reporter covering the trial were amazed at her timing and technique, her ability to counteract

telling bits of testimony with quick Niagaras of tears. Then they discovered the secret of her legal intuition. Every time Reilly cupped an unobtrusive right hand around his kneecap, the tear ducts opened automatically and the saline rivers ran.

Such a client is, of course, a rarity, and Reilly knows that the rigors of his profession demand dependable, time-proved methods. Thus it is virtually certain that at the start of any case the Brooklyn attorney will charge police brutality and persecution, inveigh against the third degree, and dwell, with all the organ stops open, on man's inhumanity to man. He also favors, as a matter of insurance, a deft reference to home-and-mother. Where matters go after that depends upon the case in hand, but if all other avenues of defence seem hopeless, Reilly still has one shot left in the locker which is guaranteed to flabbergast prosecutor and jury alike. He boldly charges that the State's star witness committed the crime.

From the purely circus viewpoint, Reilly is the town's most entertaining practitioner at the bar, a master of smart antics. He walks the tight wire, swings from the flying trapeze, shoots blank cartridges at the lions, and rises to a climax with the Spirit of the Common Law done in pinwheels and Pain's Fireworks.—Reilly's talent for stage direction was perhaps most graphically evident in the trial of Rosie Caruso. Rosie was a beautiful young Sicilian with long black hair, which she parted in the middle. In the apartment where she lived with her parents, an artist was busy at his easel. He asked Rosie to pose for a painting of Madonna and Child, and she came secretly to his studio. Eventually her father discovered them and drove her from home. After a week of sleeping on park benches, Rosie returned to the artist and demanded that he marry her. The artist displayed temperament by picking up the painting of Madonna and Child and throwing it at her. Rosie plucked a stiletto from her stocking and placed it in his right ventricle. Reilly defended the girl. He obtained stays on various motions until, several months later, Rosie's child was born. Then he called in a photographer. He placed the baby in Rosie's arms and draped a scarf over her head; beside this tableau he placed



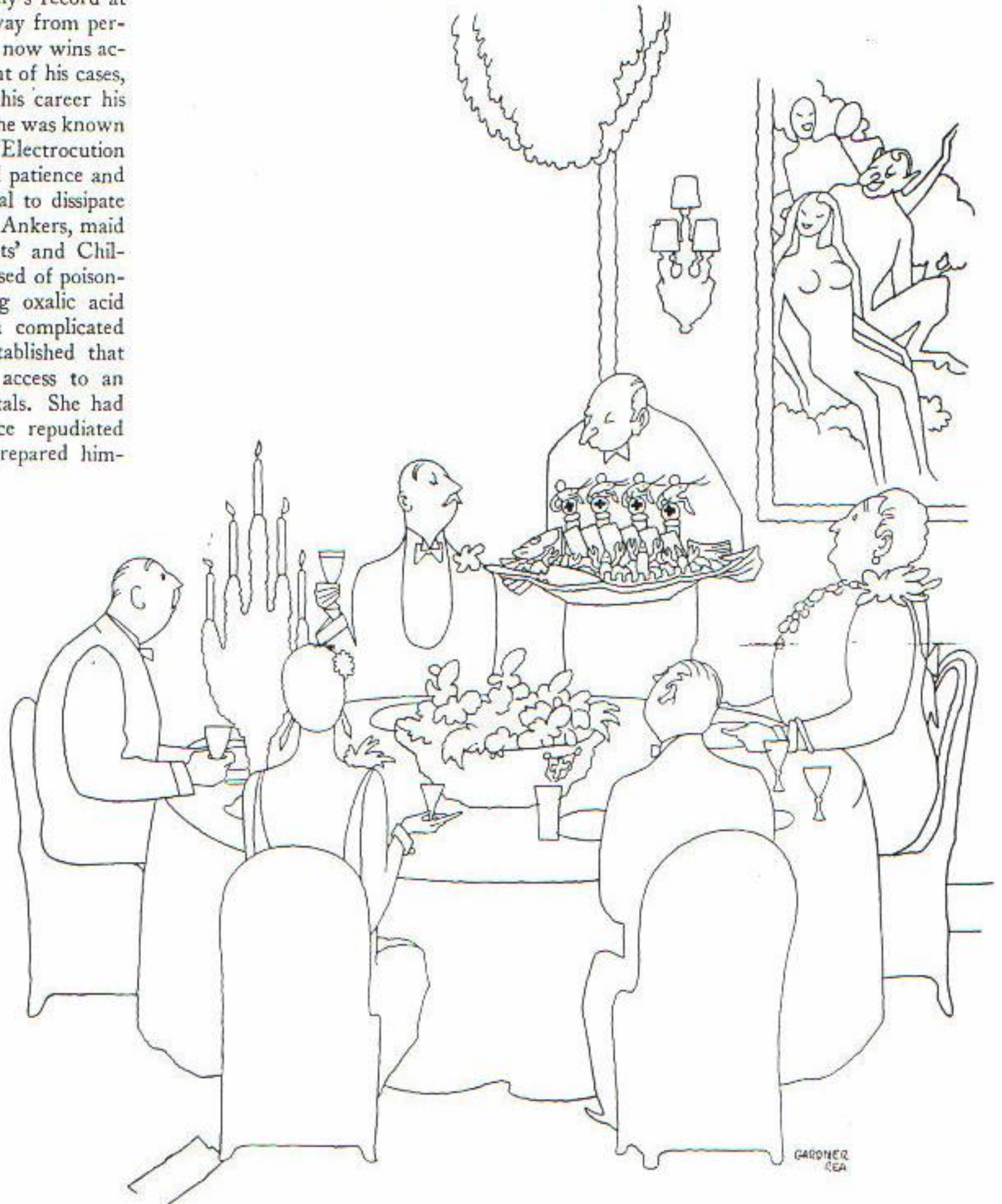
the painting of Madonna and Child. Then he told the photographer to go ahead. One of Mr. Hearst's journals gave a half-page to the ensemble. At the trial Rosie wore her long hair plaited, and sat with the child in her arms. The jury acquitted her of murder.

Reilly has always considered a golden-haired child the best of all possible exhibits in a murder case, and the long record of his acquittals is fairly pock-marked with mournful little cherubs. Unhappily it is not always practicable to endow bachelors and rakehells with sentimental ties, and Reilly's record at prison-robbing is a long way from perfect. He estimates that he now wins acquittals in sixty-six per cent of his cases, but in the early days of his career his record was so dismal that he was known in the underworld as "Electrocution Reilly." It took time and patience and the celebrated Ankers trial to dissipate the reputation. Winifred Ankers, maid of all work in the Infants' and Children's Nursery, was accused of poisoning ten babies by placing oxalic acid in their milk. It was a complicated case. The prosecutor established that the defendant had had access to an ounce of oxalic-acid crystals. She had twice confessed and twice repudiated her confessions. Reilly prepared himself for the trial by studying chemistry for several months. He discovered that oxalic acid was a constituent of a brass-polish compound the maid mixed regularly, that these crystals and the soda crystals used in the babies' formulas were kept in the same closet, that the two were almost indistinguishable. Reilly prepared an interesting exhibit, a box divided into a dozen compartments. Each compartment held a white powder. He asked the nursery pharmacist to pick out the soda crystals and the oxalic-acid crystals. The witness couldn't do it. This was important evidence, giving credence to the idea that the poisoning was an accident, but a carefully built implication of prosecution chicanery really clinched

the case. The State failed to introduce the original package of oxalic-acid crystals. Reilly thundered and stormed. Where was it? An exasperated prosecutor finally produced a package from which, he said, the poison had been taken. Reilly looked at it suspiciously. Medical experts told the strength of the fatal solution and the number of grams necessary to give a solution lethal strength; a pharmacist testified to the number of grams in the original full package. Dramatically, Reilly produced apothecary's scales and asked the pharmacist to

weigh the package. There were several hundred grams more in the package than would have been left after the removal of a lethal dose. Winifred Ankers walked out of the court free.

**R**EILLY is now in his middle fifties, tall, carefully shaved and massaged, and given, from choice, to cutaway coat, gardenia, striped trousers, and spats. He has been married three times and twice divorced. He lives with his third wife at 334 Lafayette Avenue, Brooklyn, and maintains a summer



*"Thanks, my man, but I don't think I shall bother with the fish course."*



place in Tarrytown. He was born in Brooklyn, attended parochial schools and the Boys' High School. While employed at the Metropolitan Life Insurance Company, he attended the St. Lawrence University law school in Brooklyn and was admitted to the bar in 1904. He has remained in Brooklyn ever since, although in the late twenties he spent some time in Los Angeles, where movie scandals at the moment were keeping lawyers busy. He was admitted to the California bar, associated himself with a well-known Los Angeles attorney as trial counsel, and commuted by airplane for several years. The growing piety of the cinema folk eventually made the Western field less fruitful, and he abandoned it. He now has offices at 26 Court Street.

The Ankers case is hardly a fair example of Reilly's trial methods. Ordinarily, he does not bother with elaborate preparation. He comes before the bar with little more than a cursory knowledge of the matter at hand, staking everything on his quick-wittedness, his sharpness at cross-examination, his intuitive feeling for the weakest juror, his slightly fly-blown eloquence. His courtroom manner is reminiscent of William J. Fallon and Earl Rogers (the comparison does not irk him), for he frequently tries a litigation without taking a note, holding in mind perfectly, as did those two master defenders, the most complicated and indigestible slabs of testimony. His usual technique is to discover the weakest point in the prosecution's case and then to pound it ferociously. Reilly is at his best when the odds are against him; the drama of the desperate chance brings his talents into full bloom. He struts the floor with the sureness of the barnstorming trouper, his broad, flat face is rosily contemptuous, his mind shoots off sparks while he waits for the one unforeseen break which will turn defeat into victory. Often it is a simple thing. In one murder case, Reilly sat silent while the district attorney built an apparently airtight case. He waived cross-examination of every witness until the medical examiner presented his routine report on the nature of the fatal knife wound. The wound, said the physician, was four inches deep and one inch wide. Reilly roused from his doze: "You are sure it was an inch wide?" "It was not quite an inch." "You are sure?" "I am sure." The knife was introduced as evidence and the defendant admitted ownership. The prosecution rested. Reilly rose, picked up the weap-

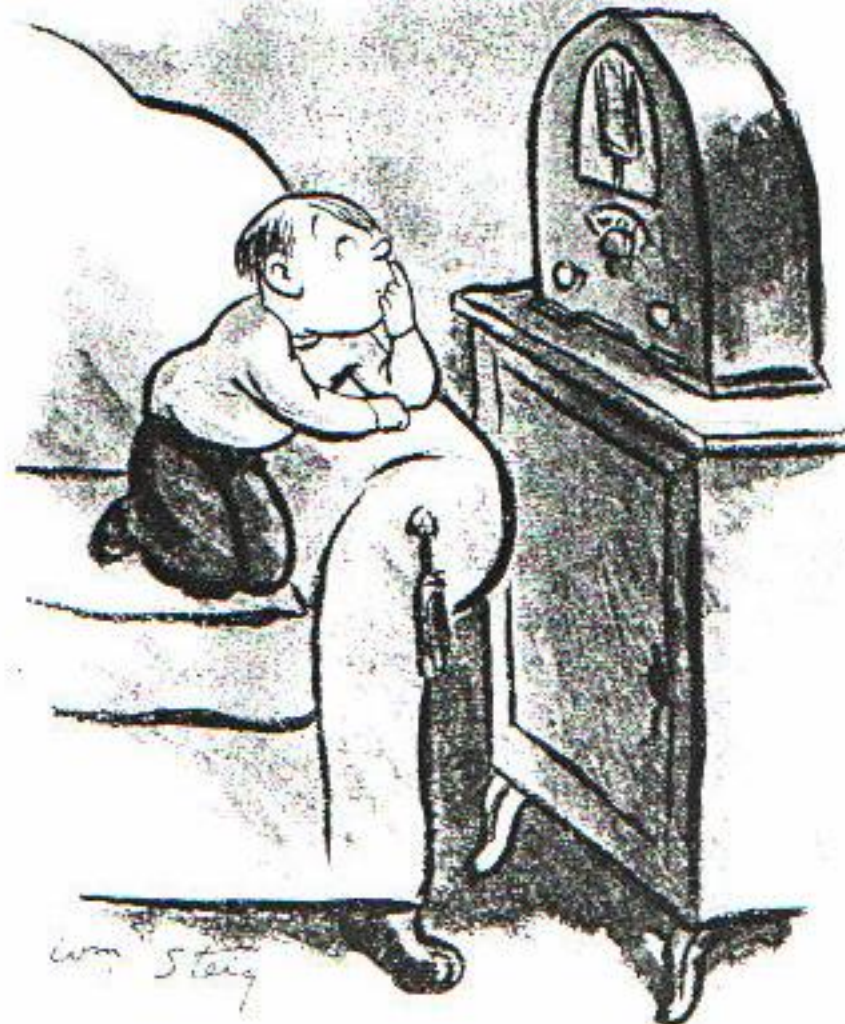
on, and produced a tape measure. "I submit," he said, "that this knife, four inches from the point, is two and one-quarter inches wide." He sat down. The judge directed an acquittal. Now and then Reilly's technique backfires disastrously. One incident comes to mind. An Italian bravo was accused of strangling his best friend. The medical examiner said that it had been done with three fingers of one hand. Reilly pounced at once. Would the examiner, he demanded scornfully, show just how a three-finger strangling could be accomplished? A court attendant was summoned to be the guinea pig. The physician stepped behind him, applied three fingers to his windpipe, and pressed. The court attendant slumped over in his chair; it took ten minutes to revive him. Reilly's client went to the chair.

But attorneys who have watched Reilly in action over a period of years say that they have hardly ever seen him taken by surprise, and that he has no superior in the business of jury selection. He is devious and cunning and possesses an almost psychic ability to spot a potentially dangerous talesman. The trial of Joseph McDermott

is something of a classic. McDermott killed Mulroy, another Irishman, in a drinking brawl. McDermott had a bad record and the case looked difficult. Reilly was opposed by a brilliant Jewish prosecutor who later became a judge. The selection of the jury occupied days, and the prosecutor became impatient; it was not until later that he realized, with rude shock, that Reilly, an Irishman, had accomplished the impossible feat of packing the jury box with twelve other Irishmen. After the acquittal had been announced, one of the jurors strode over to McDermott. "You were lucky to get out of this, son," he said. "Don't do it again."

Personally, Reilly is a queer combination of dramatic actor and small boy. When playing the rôle of the leader at the bar, he is as pompous as a port-swilling earl, and a little extravagant in his professional dignity. A few years ago someone fired a revolver at him while he was motoring with a client. The cartridge burned his boiled shirtfront, but turned out to be a blank. Reilly seemed disappointed. "A case of mistaken identity," he said. Reilly often describes himself as a man

who spends most of his evenings in the quiet of his home, but actually he is incurably gregarious, addicted to public dinners and robust amusement, a lavish host, an irreverent entertainer, and a malicious and gifted mimic. His chief joy in life is his own independence; he, in his own perverse way, likes nothing better than being undiplomatic. His idea of whimsy is to hand a political boss an exploding cigar. This has been of no great assistance in his career. A lifelong and regular Democrat in a Democratic borough, he has failed of political preferment because, at the most inopportune moments, grave issues strike him as funny. The late Mr. McCooey



### SMALL FRY

*"I'll whisper with a smile,  
I've lived a little while,  
I've known One Night of Love."*



did not care for humor; Reilly serves as vice-chairman of the Speaker's Bureau of the Democratic Party in his borough, but a few years ago, when he ran for judge, it was as an independent. The votes he received would hardly have filled a Stetson hat. Reilly, however, is invariably a delegate to state conventions, and on one occasion he turned small boy in a large way. He had recently lost a murder case to an ambitious district attorney, and decided that a little harmless horseplay would square the account. Late one evening at the convention, disguising his voice, he called up the district attorney from Albany and gravely ordered him to catch the first train. "Judge," he said, "you are to be nominated for Attorney General on the first ballot tomorrow." The next morning, Reilly and a friend were at the station and greeted the district attorney with fine surprise. Reilly was curious concerning his mission in Albany; the prosecutor was coyly mysterious. "Just dropped up to look the boys over," he said, and dashed for a taxicab. He arrived at the convention just in time to learn that someone else had been nominated.

Reilly's trial trickeries may not constitute public service, but he has never been accused of certain baser practices which have given the criminal law its most evil effluvia. His anti-social clients do not object to his ethical timidities; they regard his opposition to jury-tampering and witness-buying not as an unmanly weakness but as the pardonable eccentricity of genius. His talents are held in awe. Little Augie Pisano, currently the Pooh-Bah of the Brooklyn criminal class, is a worshipful client. Frankie Yale and the entire Yale mob were his customers during the richest of the prohibition years. Yale guaranteed the fees for his underlings and swelled Reilly's income noticeably. Reilly was genuinely mournful when he heard that Cash-on-the-Line Frankie Yale had been machine-gunned to his reward.

REILLY likes to lead a brass band, and his yen for military service is so strong that an unkind rival once suggested at a public dinner that his mother had been frightened by an epaulet. His musical leanings are often satisfied; he has led parades wearing a busby and juggling the drum major's bulbous stick, and he has served as a volunteer



"Oh dear! Burton Holmes always leaves me so restless."

bandmaster on many occasions. In his early years, he wanted to be a naval officer; he compromised by joining the National Guard. He served as a captain in the Army Intelligence Service during the war, and in 1919 obtained a commission in the Naval Reserve. He now holds the rank of lieutenant commander. He possesses a large library on naval law, has a wide acquaintanceship at the Brooklyn Navy Yard, and often represents officers and men in court-martial. His best-known case of this sort was that of Captain Franklin D. Karns, whose battleship, the Colorado, went aground off the Battery. Captain Karns was found guilty of negligence, but he was punished only by a loss of seniority.

Reilly has never been bothered by the unpopularity of his clients or concerned with their innate virtue, and he has never pretended that all the gun-toters, wife-beaters, sneak thieves, high-

waymen, and murderers he defends are innocent. "Lots of them are guilty," he says. "When a client comes to me, I take his case and do the best I can for him. And I don't take just the cases I think I can win. You never heard of the Mayo brothers' taking just cases they think they can cure."

Sometimes, when self-esteem is burning particularly bright, Reilly develops this medical theme in a lyrical fashion, presenting himself as a legal surgeon who treats the socially ill to the best of his ability regardless of the virulence of their ailment. His preoccupation with the patient, however, ends once the operation is performed. Only last October he mesmerized a jury into freeing two plug-uglies ripe for the death house, and then refused to shake hands with the men he had wept over two hours before. The point is that, out of business hours, he hates criminals.

—MILTON MACKEYE