

THE ART OF
CROSS-EXAMINATION

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WITH THE CROSS-EXAMINATIONS OF IMPORTANT
WITNESSES IN SOME CELEBRATED CASES

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SOME FAMOUS CROSS-EXAMINERS

"*Mr. Butler.* 'Well, doctor, let us see; is not the disease called hysteria and its effects hysterics; and isn't it true that hysteria, hysterics, hysterical, all come from the Greek word *ὑστέρα*?'"

"*Witness.* 'It may be.'

"*Mr. Butler.* 'Don't say it may, doctor; isn't it? Isn't an exact translation of the Greek word *ὑστέρα* the English word "womb"?'"

"*Witness.* 'You are right, sir.'

"*Mr. Butler.* 'Well, doctor, this morning when you examined this young man here,' pointing to my client, 'did you find that he had a womb? I was not aware of it before, but I will have him examined over again and see if I can find it. That is all, doctor; you may step down.'"

Robert Ingersoll took part in numerous noted lawsuits in all parts of the country. But he was almost helpless in court without a competent junior. He was a born orator if ever there was one. Henry Ward Beecher regarded him as "the most brilliant speaker of the English tongue in any land on the globe." He was not a profound lawyer, however, and hardly the equal of the most mediocre trial lawyer in the examination of witnesses. Of the art of cross-examining witnesses he knew practically nothing. His definition of a lawyer, to use his own words, was "a sort of intellectual strumpet." "My ideal of a great lawyer," he once wrote, "is that great English attorney who accumulated a fortune of a million pounds, and left it all in his will to make a home for

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idiots, declaring that he wanted to give it back to the people from whom he took it."

Judge Walter H. Sanborn relates a conversation he had with Judge Miller of the United States Court about Ingersoll. "Just after Colonel Ingersoll had concluded an argument before Mr. Justice Miller, while on Circuit I came into the court and remarked to Judge Miller that I wished I had got there a little sooner, as I had never heard Colonel Ingersoll make a legal argument."—"Well," said Judge Miller, "you never will."¹

Ingersoll's genius lay in other directions. Who but Ingersoll could have written the following:—

"A little while ago I stood by the grave of the old Napoleon—a magnificent tomb of gilt and gold, fit almost for a dead deity, and gazed upon the sarcophagus of black marble, where rest at last the ashes of that restless man. I leaned over the balustrade, and thought about the career of the greatest soldier of the modern world. I saw him walking upon the banks of the Seine, contemplating suicide; I saw him at Toulon; I saw him putting down the mob in the streets of Paris; I saw him at the head of the army in Italy; I saw him crossing the bridge of Lodi, with the tricolor in his hand; I saw him in Egypt, in the shadows of the Pyramids; I saw him conquer the Alps, and mingle the eagles of France with the eagles of the crags; I saw him at Marengo, at Ulm, and at Austerlitz; I saw him in Russia, where the infan-

¹ "Life Sketches of Eminent Lawyers," Gilbert J. Clark.

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try of the snow and the cavalry of the wild blast scattered his legions like winter's withered leaves. I saw him at Leipsic, in defeat and disaster; driven by a million bayonets back upon Paris; clutched like a wild beast; banished to Elba. I saw him escape and retake an empire by the force of his genius. I saw him upon the frightful field of Waterloo, where chance and fate combined to wreck the fortunes of their former king. And I saw him at St. Helena, with his hands crossed behind him, gazing out upon the sad and solemn sea. I thought of the orphans and widows he had made, of the tears that had been shed for his glory, and of the only woman who had ever loved him, pushed from his heart by the cold hand of ambition. And I said I would rather have been a French peasant, and worn wooden shoes; I would rather have lived in a hut, with a vine growing over the door, and the grapes growing purple in the kisses of the autumn sun. I would rather have been that poor peasant, with my loving wife by my side, knitting as the day died out of the sky, with my children upon my knees, and their arms about me. I would rather have been that man, and gone down to the tongueless silence of the dreamless dust, than to have been that imperial impersonation of force and murder, known as Napoleon the Great."