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Lawyer Fiction in the Saturday Evening Post: Ephraim Tutt, Perry Mason, and Middle-Class Expectations

David Ray Papke

The dominant image of the lawyer derives not only from actual lawyers and accounts of their conduct but also from pop culture and its portrayals of lawyers. In the United States in the years between World Wars I and II, few institutions rivaled the *Saturday Evening Post* as a purveyor of pop culture. The magazine's weekly issues bulged with non-fiction reports, opinionated essays, biographical profiles, cartoons, short stories, and installments of serials. Some of the most popular of the stories and serials concerned the exploits of fictional lawyers.

This article considers two of those lawyers: Ephraim Tutt and Perry Mason. The stories concerning Tutt and the serials about Mason drew on middle-class hopes and expectations regarding lawyers and legal services and also reinforced those hopes and expectations. Ironically, this widely read lawyer fiction from the Post also contributed to the dissatisfaction contemporary Americans have with actual lawyers whom they hire or simply encounter.

I. The Saturday Evening Post

The *New York Times* said in 1937 that the *Saturday Evening Post* "probably had more influence on the cultural life of America than any other periodical."¹ As grudging as this acknowledgment might have been, it seems accurate. The early 20th century circulation and revenues of the Post made it America's most successful periodical. More important, the Post set a tone and championed a set of values that appealed to millions of mainstream Americans. The Post was in a symbolic sense "America's magazine."

The Post had begun in 1821 as a modest weekly newspaper published in Philadelphia, but it managed to change with the times, always staying

in touch with market developments and consumer preferences.² In the middle decades of the 19th century the Post was less of a newspaper and more a weekly collection of miscellany, some of it written by the nation's leading literati. When later in the century the emergence of large Sunday editions of daily newspapers displaced the weekend collection of miscellany, the Post languished.³ However, it rebounded at the turn of the 20th century, evolving into a modern magazine read not only on leisurely Saturday evenings and Sundays but rather whenever it was available. After World War I, American magazines divided roughly into "pulp" and "slicks," both so-named after the type of paper on which they were published.⁴ The Post was undoubtedly the king of the "slicks."

The Post of the 1920s and 1930s is of particular interest for the purposes at hand. In 1919, the magazine's circulation reached 2 million,⁵ and it then averaged 2.4 million annually for the subsequent decade.⁶ As circulation grew, so did the size of the magazine. An average issue included over 200 pages, more than half of which were devoted completely to advertising.⁷ When the variety of consumer goods and volume of consumer sales increased during the 1920s, more and more businesses wanted to advertise their products in the Post. The magazine was only too happy to oblige, charging \$8000 for a black and white page as of 1926.⁸ As of 1927, the Post's annual advertising revenue topped \$50 million.⁹ In 1929, Curtis Publishing, which published the Post as well as *Country Gentleman*, *Jack and Jill* and a collection of specialized magazines, reported net earnings of \$21.4 million, "an all-time high for any publishing enterprise."¹⁰

The onslaught of the Great Depression not surprisingly reduced the Post's size and earnings. By the end of 1932, some issues had a mere 60 pages, with only 12 to 15 pages of advertising.¹¹ With advertising revenue in severe decline, the Post abandoned a prior policy and began to accept cigarette advertisements.¹² In part because of this decision and, more generally, because of the somewhat improving economy, the Post rebounded in the late 1930s. Issues grew longer, and advertising revenue increased. Revenue for 1936 was \$26.4 million, and the Post claimed this figure exceeded the combined total of all other weekly magazines.¹³

Interestingly enough, the magazine's financial ups and downs did not seem to have a major impact on circulation. With men and women making up roughly equal percentages of the Post's readers, the magazine's circulation continued to grow, topping 3 million for the first time in

1937.¹⁴ Furthermore, the readership was hardly limited to those who actually subscribed or purchased the magazine at a newsstand. Families and circles of friends happily passed the magazine around. It was available to waiting customers in barber shops and dentists' offices, and Depression-Era Americans also scooped up copies which had been discarded in trains and street cars. The pundit Isaac Marcossion said, "The magazine was simply unavoidable — as much an American staple as wheat."¹⁵

Throughout these inter-war decades, the Post's content remained a relatively constant amalgam of articles, short stories, editorials and lighthearted miscellany. The fiction often amounted to 250 stories and 20 to 25 serials in a single year.¹⁶ The Post paid more for its fiction than did anyone: as much as \$5000 for a short story and as much as \$50-60,000 for a serial novel.¹⁷ Some dismissed this fiction as hopelessly middlebrow. In the opinion of Upton Sinclair, for example, the Post was "as standardized as soda crackers; originality is taboo, new ideas are treason, social sympathy is a crime, and the one virtue of man is to produce larger and larger quantities of material things."¹⁸ Yet at the same time many of those we today consider the great 20th century American writers of fiction published their stories in the Post. Willa Cather, Theodore Dreiser, William Faulkner, F. Scott Fitzgerald, Sinclair Lewis, Jack London, Booth Tarkington and Edith Wharton were all willing contributors.¹⁹

The overall political alignment of the Post was conservative. The magazine found something good to say about Warren G. Harding, encouraged the Presidential aspirations of Herbert Hoover, and attacked the policies and politics of Franklin D. Roosevelt.²⁰ However, the Post was not taken during the inter-war years to be primarily a political organ. It registered instead as a fundamentally American voice, as a champion of national pride and character. Indeed, one commentator credited the Post with inventing the average American — "some compound of nineteenth-century values and twentieth-century opportunities."²¹ Frank Luther Mott, the distinguished historian of American newspapers and magazines, said, "The *Saturday Evening Post* is as American as the public school, the big department store, the television network program, the hot dog and the ice cream cone."²² Fiction about lawyers or, at least, a certain variety of fiction about lawyers found a home within this extremely popular and influential cultural product.

II. *Ephraim Tutt*

The *Saturday Evening Post's* most popular fictional lawyer was Ephraim Tutt. He was created by author Arthur Train, one of the nation's best-loved writers of the 1920s and 1930s. Train's family belonged to Boston's Back Bay elite, and his father had been Attorney General of Massachusetts from 1872-79. Train himself attended Harvard College and Harvard Law School, and after graduating from the latter, he moved to Manhattan to pursue a legal career. During the first two decades of the 20th century, he worked in various legal settings — a firm, a small partnership, the district attorney's office — but the law never fully captured his imagination. Train wrote in his spare time, publishing short stories and serials in popular magazines as well as an insider's look at the criminal justice system and a study of the mafia.²³ When his writings attracted more and more attention, Train was only too happy to abandon the practice of law:

I left the bar with some forebodings but no qualms. For over twenty years, in company with a miserable minority of the fifteen thousand other lawyers in the City of New York, I had lived upon the crimes and weaknesses, economic disasters, and sexual entanglements of my fellow men, until I had learned to look upon any one not involved, in legal complications, much as does the medico to whom a sound and healthy human being seems a total loss. I have neither remorse nor regrets that I no longer earn my living out of the misfortunes or difficulties of others.²⁴

Dozens of stories, serials and novels flowed from Train's pen in subsequent years, but Train's most popular works were most certainly his stories about the fictional lawyer Ephraim Tutt.²⁵ Train published his first Tutt tale in the *Post* in 1919, and a total of 86 appeared between then and Train's death in 1945. As the example of Conan Doyle's Sherlock Holmes, among others, suggests, a series built around a recurring character was not new. However, this type of series was truly ideal for the *Post*. George Horace Lorimer, the *Post's* editor, superbly exploited the format, establishing something approaching a sub-genre. "Because stories built

around a central, recurring character have become so familiar to us from radio and television,” Jan Cohn points out, “it requires an act of defamiliarization to comprehend how brilliantly the exploitation of the concept fitted Lorimer’s plans for the Post... [T]hese stories and the characters they presented functioned like the Post covers to establish and maintain the Post identity.”²⁶

The Post’s readers loved the Tutt tales as did the middle-class reading public in general. Almost all of the stories were collected in volumes such as *Tutt and Mr. Tutt*, *Tut, Tut! Mr. Tutt*, and *When Tutt Meets Tutt*.²⁷ Tutt’s popularity even lead Train to edit a Tutt “case-book” and write a mock Tutt autobiography.²⁸

Ephraim Tutt himself is the head of the small Manhattan law firm of Tutt & Tutt, where tea is served every afternoon at 5:00. Tall and ungainly with a passing resemblance to Abraham Lincoln, Tutt has a passion for cheap cigars and is notorious among other members of the firm for forgetting to bill his clients. Samuel Tutt, Ephraim Tutt’s short and chubby junior partner, shares the hero’s surname but is unrelated. When Ephraim Tutt originally asked Samuel Tutt during an employment interview why he wanted to join the firm, the latter replied, “I feel I should be associated with a good name.”²⁹

Train said the idea for this Mutt and Jeff of the Manhattan bar came to him from two cigar-smoking silhouettes painted on an ash tray in his family’s home in Boston,³⁰ but George Horace Lorimer, editor of the Post, also played a role in the characters’ genesis. When Train began to make his mark as a writer, Lorimer invited him to an elegant dinner at the Trocadero Hotel in Atlantic City to discuss what Train might write for the Post. Train shared with him the idea for a fictional firm named Tutt & Tutt. Lorimer immediately sensed the potential for a series with recurring characters. The next morning Lorimer even gave Train an anecdote from a St. Louis newspaper which could be used in the first Tutt story.³¹

Train used the anecdote, and Ephraim Tutt became a fictional tribune for the poor, the weak and the outcast. In the story “The Liberty of Jail” Train describes Tutt as “an avenging jack-in-the-box,”³² an apt metaphor for the way he jumped up in defense of those who needed him. In almost every story Tutt takes the side of a good person who is unfairly accused of a crime, wrongly being disinherited, or in some other fashion being treated badly. Tutt uses his technical expertise in the law and/or his

courtroom skills to come to the rescue. Sometimes Tutt even steps outside the law. In the story “Hocus-Pocus,” for example, Tutt’s client is a devoted, adopted daughter who stands to be disinherited because a will cannot be proven. Tutt has in his hands a memorandum regarding the will which would suffice if it were not excluded as privileged communication with the deceased. The solution? With Tutt’s approval, office boy Willie Toothaker surreptitiously places the memorandum in the deceased’s desk. When found in that location — recall the title of the story is “Hocus-Pocus” — the memorandum can be used to prove the will.³³

Thinking of this story and others, the evidence scholar John Henry Wigmore noted that Train’s Tutt stories often explored the conflict between law and justice. Every great jurisprudential writer, Wigmore argued, has wrestled with the relationship of law and justice, with the conflict between the technical rules and what might be true fairness in a given case. Train’s Tutt stories, Wigmore thought, superbly illustrated the collision of law and justice for the layman.³⁴

What Wigmore failed to say is that whenever there is a conflict between law and justice, Tutt represents justice. During his days as a practitioner, Train reported in his autobiography, he often reflected on what would be true justice in a case or controversy. He even began to envision an imaginary lawyer who stood silently by, prepared to make the arguments for justice. This “ideal lawyer,” Train said, was like Schopenhauer’s “ideal tree.”³⁵ Years later, Ephraim Tutt became this “ideal lawyer.”

“Were I asked to furnish an explanation for the affection in which Mr. Tutt is held by many,” Train said, “I should say that it was due to the general impression that the laws of man, like those of nature, often work deep hardship.... It is absurd to say the poor man shivering without a coat is as warm as the rich one in his furs, as that he has equal advantages before the law.”³⁶ Tutt, Train said proudly, “is the fellow who evens things up. He fights guile with guile, and rights the legal wrong. He is the Don Quixote who tried to make things what they ought to be in this world of things as they are.”³⁷

III. Perry Mason

The May 29, 1937 issue of the *Saturday Evening Post* featured an Ephraim Tutt story by the then venerable Arthur Train, but the issue also included the first installment of a serial novel by a new Post author, Erle

Stanley Gardner. The serial concerned a case handled by the fictional Perry Mason. Destined to quickly supplant Ephraim Tutt as the Post's leading fictional lawyer, Perry Mason would also in subsequent decades become the 20th century's most recognizable pop cultural lawyer.

Gardner was born in Massachusetts in 1889, the son of a civil engineer, and his family relocated to California while he was still a boy. He briefly attended Valparaiso University in Indiana but was expelled after a dormitory row. He then returned to California, read law in various lawyers' offices, and passed the state bar exam at the age of 21. Law had come easily to him, but his fondness for boxing was a bit of a stumbling block. Gardner had been in a boxing match the night before being sworn in as a lawyer, and he joked later that he was the only man to formally become a California lawyer with two black eyes.³⁸

Gardner practiced in assorted office and partnership arrangements in Oxnard and Ventura, but his practice was undistinguished and largely uninspiring. He picked up clients and earned small fees in the local Chinese community, but one of the reasons he had Chinese clients was that nobody else wanted them.³⁹ Gardner wrote to his father, "I am terribly busy. I have clients of all classes except the upper and middle classes."⁴⁰

Like Arthur Train before him, Gardner began to write in his spare time, and also like Train, Gardner found success as a writer. By the mid-1920s, he was a regular contributor to the "pulp," and in 1926 alone, Gardner sold 97 pieces, mostly to *Black Mask* and *Top Notch*.⁴¹ His stories featured fictional characters such as western heroes Black Barr, The Old Walrus and Fish Mouth McGinnis; "good badmen" such as Lester Leith, Sidney Zoom and Senor Arnaz de Lobo; and various con men and scam artists such as El Paisano and Ed Migraine, The Headache.⁴² In 1932 Gardner wrote two short novels with lawyer heroes. One was named Ed Stark and the other Sam Keene, but when editors at William Morrow and Company suggested Gardner blend the characters into one with an eye to a series, Gardner went along with the idea and named his new character "Perry Mason."⁴³ In March of 1933, Perry Mason, Attorney at Law based in Los Angeles, appeared in print in *The Case of the Velvet Claws*, and the ink was barely dry when he appeared a second time in *The Case of the Sulky Girl*.⁴⁴

Imbued by his successes, Gardner thought it was time to begin publishing in the "slicks" and to begin cashing the larger checks from that

side of the periodical street. But when Gardner met *Saturday Evening Post* editors, it was not at the Trocadero Hotel in Atlantic City, as it had been for Arthur Train, but rather in the employee cafeteria in Philadelphia. The Post thought Gardner's characters and stories were "too unpleasant a setup."⁴⁵ Gardner and his agent took this to mean that his work was too "hardboiled," the term often applied to the type of dark and moody detective fiction written by Raymond Chandler, Dashiell Hammett, and others.⁴⁶ Indeed, the original Perry Mason was a somewhat tawdry chain-smoker who kept a bottle of whiskey in his desk and was not above roughing up assorted butlers, newspaper reporters, shyster lawyers, and even an unappealing client or two.

More motivated by financial rewards than committed to the integrity of his art, Gardner made the changes necessary to please the Post, and the magazine serialized "The Case of the Lame Canary" in 1937. Gardner received \$15,000, a hefty sum for a first-time Post author, and he was also pleased when the Post took an option at \$17,500 on his next Mason novel.⁴⁷ The new Mason put aside his whiskey and stopped punching out people. His clients became more appealing, and Mason no longer seemed to care about how they would pay their fees. Gardner also developed the reliable set of regular secondary characters that readers expect in a series. They included his loyal secretary Della Street, detective Paul Drake, and District Attorney Hamilton "Ham" Burger. In what would become a virtually formulaic final courtroom scene, Mason always showed his client to be innocent, made District Attorney Burger look foolish, *and* identified the truly guilty party, a person who was sometimes conveniently present in the courtroom.

Before long, Mason was a fixture in the Post, and the magazine bought and published Perry Mason serials from Gardner until the early 1960s. However, as much as the Post may have wanted to monopolize the Mason character and stories, both were too successful and appealing for even the Post to control. Hollywood studios purchased rights to various novels, and seven uneven Perry Mason movies were produced. A highly successful Perry Mason radio drama broadcast for almost ten years. And of course the Perry Mason television series of the late 1950s and early 1960s starring Raymond Burr attracted millions of weekly viewers.⁴⁸ By mid-century Perry Mason was one of the most successful pop cultural figures in American history.

IV. Conclusion

The stories and serials in the *Saturday Evening Post* at the peak of its 20th century success are good windows on America's tastes and values. As a magazine published for profit, the Post sought to attract and hold its audience by giving that audience what it wanted. During his long editorship, George Horace Lorimer "seemed generally disposed to accept the social and cultural standards of the majority, which rarely in history has been responsible for the introduction of new ideas or for experimentation."⁴⁹ Recurring fictional lawyers Ephraim Tutt and Perry Mason spoke to and for that majority, effectively embodying middle-class expectations regarding lawyers.

The two lawyers are not identical. A New York practitioner, Tutt even in his own time was somewhat old fashioned. Not only his dress and manners but also his very way of speaking underscored this. His speech was marked "by a slight pedantry of diction a trifle out of character with the rushing age in which he saw fit to practice his time-honored profession."⁵⁰ Mason, by contrast, was more up to date and could be described as "L.A. smooth" — cocky, slick, and somewhat abrupt. If the two lawyers had met over drinks at some fictional bar association meeting, they most likely would not have liked one another.

That having been said, there are also a number of important characteristics Tutt and Mason share, and these shared characteristics might alert us to the expectations of the Post's middle-class readers. To begin with, Tutt and Mason both work in small, independent law offices. Ephraim Tutt has his partner Samuel Tutt as well as several loyal staff people.⁵¹ Perry Mason can always count on Della Street and Paul Drake to be there when he needs them. But still, both Tutt and Mason have professional autonomy. They complain about the courts and the police, but in the most fundamental ways they are free of bureaucracy and hierarchy. In the classic American tradition reaching from Leatherstocking to Lindbergh, Tutt and Mason are individuals, and they are free to be individuals in and through their work.

What would be the best type of practice for the individualistic lawyer? Litigation, of course, and both Tutt and Mason are at their best handling cases headed to court. Tutt is also quite skillful with regard to investment matters and trusts and estates, but he truly shines cross-examining a

witness, commanding the rules of evidence, and winning over a jury. Mason is often as much a detective as he is a lawyer, but, like Tutt, his best work as a lawyer comes in the courtroom. Almost all of the Mason serials end with Mason pulling a surprise rabbit from the hat in a preliminary hearing or other courtroom proceeding.

Most of the two lawyers' litigation is criminal defense work, and while real life criminal defense lawyers sometimes have a fraternal relationship with prosecutors, Tutt and Mason hate them. Mason's combat with and formulaic trouncing of District Attorney Hamilton Burger has already been mentioned, and Tutt, as well, has a prosecutorial nemesis, District Attorney William Francis O'Brien. The latter appears in a half dozen Tutt stories, demonstrating his narrow mindedness and duplicity at every turn and eventually being subjected to a much deserved courtroom trouncing. What seems to bother Train and Gardner most — and, by extension, Tutt and Mason — is the way prosecutors' work destroys their integrity and sense of justice. The narrator in "The Bloodhound," a lively Tutt story, offers a warning for those contemplating a career as a prosecutor:

The danger to a young lawyer who out of a desire for public service seeks an appointment as an assistant district attorney, is that in the passion of the chase the conviction and punishment of some — to him — obviously guilty criminal may seem more important at the moment than the strict preservation of his own integrity or the unwavering maintenance of the principles of justice.⁵²

Gardner's Mason is even blunter when he tells Paul Drake in *The Case of the Sulky Girl*, "The D.A. always howls to high heaven about the crooked criminal lawyers who manipulate the facts. But whenever the D.A. uncovers any evidence that gives the defendant a break, you can bet something happens to it."⁵³ Tutt, Mason, and their loyal readers smile whenever state functionaries of this despicable sort can be put in their place.

This is especially true when it is done in the name of fairness and justice, and, more so than anything else, Tutt and Mason share a commitment to fairness and justice. Of course it helps that neither ever has to defend a guilty client, but it is the altruistic commitment more than the incredibly lucky client intake that defines Tutt and Mason as lawyers. Tutt is the "avenging jack-in-the-box" committed to those who

need and deserve his help. Mason is a type of tribune for the people seeking justice for the citizen unfairly pursued and charged by the wrong-headed system.

Putting these various shared characteristics of Tutt and Mason together, we get something approaching the image of the ideal lawyer for middle-class readers of the *Saturday Evening Post*. This lawyer is independent, not driven by financial gain, and both committed to and skillful at obtaining justice, especially but not exclusively as a courtroom litigator.

The complex and sometimes tawdry realities of actual legal practice do not require underscoring. The issue is not one of realism but rather image. The Post developed and promoted tales of fictional lawyers who measured up not to the actual legal profession, but rather to the hopes, dreams and expectations of the magazine's middle-class readers. "The recurring characters in Post fiction, like those on the Post covers," Jan Cohn argues, "were woven out of the stereotypes deeply embedded in American popular consciousness."⁵⁴ As such they reaffirmed popular attitudes and strengthened the values and prejudices of the broad, middle-class, middlebrow community that made up the audience of the Post.

What *is* surprising, perhaps, is the extent to which the image of the ideal lawyer captured by the Post in the 1920s and 1930s remains powerful today. While lots of novels and movies about corrupt and confused lawyers are available, Americans still enjoy tales of crusading, individualistic lawyers determined to find justice for their deserving clients. In addition, advertisements in the yellow pages or on late-night television routinely promote the heroic lawyer who will supposedly fight for the little guy or gal.

The failure to measure up to this image must, in fact, be one of the reasons actual lawyers are often unpopular. In 1998 the Media Studies Center of the University of Connecticut, for example, asked respondents if they trusted various professions. A mere 24% trusted lawyers, a percentage higher only than that for presidents – 21% – and radio talk show hosts – 14%.⁵⁵ Moreover, lawyer popularity seems to have declined in the past decade, at least judging by American Bar Association studies commissioned in 1993 and 1998.⁵⁶ The public perceives actual lawyers to be men and women who often work in teams, rely on technicalities and loopholes, and do it all with an eye to fees and financial gain rather than to fairness and justice. The public would prefer it if they could somehow

be represented by the likes of Ephraim Tutt and Perry Mason.

The *Saturday Evening Post* of course cannot be held responsible for all of this. Arthur Train, Erle Stanley Gardner and the Post's editors did not simply foist escapist lawyer fiction on an unsuspecting American public. Rather, there was a dialectical relationship between the fictional lawyer images and stories on the one hand and American attitudes and values on the other. The American public fantasized or longed for a heroic class of lawyers, and the Post found authors and formats that spoke to this fantasy and longing. If there is a specific role which can be assigned to the *Saturday Evening Post*, it has to do with its leadership and power in the emerging pop culture industry. With the Post setting the pace, the pop culture industry underscored and promoted a version of lawyering against which the actual profession could not possibly compete. To a surprising extent, this continues today. Reading about and watching movies and television shows about pop cultural lawyers with great delight and approval, the majority of Americans turn to their actual lawyers with pronounced resignation and disapproval.

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- 1 "George H. Lorimer, Noted Editor, Dies," *New York Times*, Oct. 23, 1937, 1. Lorimer had been the editor for 38 years at the time of his death. For the *New York Times*, Lorimer "was a sort of Henry Ford of American literature." *Id.*
 - 2 Book-length studies of the *Saturday Evening Post* include Jan Cohn, *Creating America: George Horace Lorimer and the "Saturday Evening Post"* (Pittsburgh: University Press of Pittsburgh, 1989), and John Tebbel, *George Horace Lorimer and the "Saturday Evening Post"* (New York: Doubleday, 1948).
 - 3 In 1897 the subscription list contained only 2000 names, and owner Andrew E. Smythe sold the journal for a mere \$1000 to Curtis Publishing. John Tebbel, *The American Magazine: A Compact History* (New York: Hawthorn Books 1969), p. 187.
 - 4 Jim Cullen, *The Art of Democracy: A Concise History of Popular Culture in the United States* (New York: Monthly Review Press, 1996), pp. 159-60.
 - 5 Theodore Peterson, *Magazines in the Twentieth Century* (Urbana: University of Illinois Press, 1964), p. 13.
 - 6 Frank Luther Mott, *A History of American Magazines* (Cambridge: Harvard University Press, 1957), p. 696.
 - 7 *Id.*

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- 8 *Id.*
- 9 *Id.*
- 10 "Philadelphia Plan," 34 *Time* 78 (1939).
- 11 Mott, *supra* note 6 at 699.
- 12 However, Curtis Publishing and its stockholders maintained their ban on liquor advertisements. *Id.*
- 13 *Id.*, at 700.
- 14 Peterson, *supra* note 5 at 61. Circulation grew to 4 million by 1949 and 5 million by 1954. Mott, *supra* note 6 at 715.
- 15 Quoted in Ronald Weber, *Hired Pens: Professional Writers in America's Golden Age of Print* (Athens: Ohio University Press, 1997), p. 218.
- 16 *Id.*, at 217.
- 17 *Id.*
- 18 Upton Sinclair, *Money Writes!* (New York: A.& C. Boni, 1927), p. 68.
- 19 Mott, *supra* note 6 at 704.
- 20 Tebbel, *The American Magazine*, *supra* note 3 at 192.
- 21 Jan Cohn quoted in Weber, *Hired Pens*, *supra* note 15 at 219.
- 22 Mott, *supra* note 6 at 716.
- 23 Arthur Train, *The Prisoner at the Bar* (New York: Charles Scribner's Sons, 1906) and *Courts, Criminals and the Camorra* (New York: Charles Scribner's Sons, 1911).
- 24 Arthur Train, *My Day in Court* (New York: Charles Scribner's Sons, 1939), p. 368.
- 25 For a fine bibliographical essay regarding Train's Ephraim Tutt stories, see Francis M. Nevins, "Mr. Tutt's Jurisprudential Journey: The Stories of Arthur Train," 19 *Legal Studies Forum* 57 (1995).
- 26 Cohn, *Creating America*, *supra* note 2 at 85.
- 27 Arthur Train, *Tutt and Mr. Tutt* (New York: Charles Scribner's Sons, 1922); *Tut, Tut! Mr. Tutt* (New York: Charles Scribner's Sons, 1923); *When Tutt Meets Tutt* (New York: Charles Scribner's Sons, 1927).
- 28 Arthur Train, *Mr. Tutt's Case Book* (New York: Charles Scribner's Sons, 1936) and *Yankee Lawyer: The Autobiography of Ephraim Tutt* (New York: Charles Scribner's Sons, 1943).
- 29 Train, "The Human Element," *Tutt and Mr. Tutt*, *supra* note 27 at 5.
- 30 Train, *My Day in Court*, *supra* note 24 at 481.
- 31 *Id.*, at 482-483.
- 32 Train, "The Liberty of Jail," *Tut, Tut! Mr. Tutt*, *supra* note 27 at 88.
- 33 Train, "Hocu-Pocus," *Id.*, at 119-154.
- 34 Wigmore shared his thoughts in the introduction to Train, *Mr. Tutt's Case Book*, *supra* note 28.
- 35 Train, *My Day in Court*, *supra* note 24 at 115.
- 36 *Id.*, at 489.

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- 37 *Id.*
- 38 Dorothy B. Hughes, *Erle Stanley Gardner: The Case of the Real Perry Mason* (New York: William Morrow and Company, 1978), p. 50.
- 39 *Id.*, at 53.
- 40 Quoted in Charles W. Morton, "The World of Erle Stanley Gardner," 219 *Atlantic Monthly* 1, 81 (Jan. 1987).
- 41 Francis L. & Roberta B. Fugate, *Secrets of the World's Best-Selling Writer: The Story-Telling Techniques of Erle Stanley Gardner* (New York: William Morrow and Company, 1980), p. 91.
- 42 Francis M. Nevins, "Samurai at Law: The World of Erle Stanley Gardner," 24 *Legal Studies Forum* 43 (2000).
- 43 J. Dennis Bounds, *Perry Mason: The Authorship and Reproduction of a Popular Hero* (Westport: Greenwood Press, 1996), p. 39.
- 44 Erle Stanley Gardner, *The Case of the Velvet Claws* (New York: William Morrow and Company, 1933) and *The Case of the Sulky Girl* (New York: William Morrow and Company, 1933).
- 45 Hughes, *supra* note 38 at 96.
- 46 Fugate & Fugate, *supra* note 41 at 173.
- 47 Hughes, *supra* note 38 at 135.
- 48 Bounds provides a full listing of Mason artifacts in the appendix of *Perry Mason*. As noted there, theater-goers could see Perry Mason plays, and stay-at-home consumers could purchase Perry Mason comic books and board games.
- 49 Peterson, *supra* note 5 at 445.
- 50 Train, "The Human Element," *Tutt and Mr. Tutt*, *supra* note 27 at 3.
- 51 The regular office staff includes scrivener Ezra Scraggs, office boy Willie Toothaker, runner Bonnie Doon, and chief clerk Minerva Wiggin. The latter has a law degree, but rather than practicing law, she tends to serve as the firm's conscience. Because Wiggin "drew her grey hair back from her low forehead and tied it in a knob on the back of her head, wore paper cuffs and a black dress, she looked nearer to fifty than forty-one, which she was." Train, "Samuel and Delilah," *Tutt and Mr. Tutt*, *supra* note 27 at 112.
- 52 Train, "The Bloodhound," *Tut, Tut! Mr. Tutt*, *supra* note 27 at 6.
- 53 Erle Stanley Gardner, *The Case of the Sulky Girl* (New York: Pocket Books, 1958), p. 139.
- 54 Cohn, *Creating America*, *supra* note 2 at 85.
- 55 The study is discussed by Michael Asimow in "Bad Lawyers in the Movies," 24 *Nova Law Review* 533 (2000).
- 56 *Id.*, at 538-539.