



# THE LOST STRADIVARIUS

*Arthur Train*

*illustrated by H. Raleigh*

Arthur Train (b. 1875, Harv. LL.B. 1899, d. 1945) enjoyed a respectable career as a prosecutor and private practitioner in New York City, but what made him rich and famous was his writing, particularly his tales of fictional lawyer Mr. Tutt. See Francis M. Nevins, *Mr. Tutt's Jurisprudential Journey*, 19 LEGAL STUDIES FORUM 57 (1995). Indeed, in the first half of the 20th century Mr. Tutt and his creator were a fiction-and-fact crossover cultural phenomenon comparable to (the more durable) Sherlock Holmes and Arthur Conan Doyle. Compare, e.g., J.M. Maguire, 57 HARV. L. REV. 258 (1943) & Arthur Train, 52 YALE L.J. 945 (1943) (both reviewing Train's *Yankee Lawyer: The Autobiography of Ephraim Tutt* (1943)), with WILLIAM S. BARING-GOULD, *SHERLOCK HOLMES OF BAKER STREET: A LIFE OF THE WORLD'S FIRST CONSULTING DETECTIVE* (1962). "After Train's death his once hugely popular character faded into oblivion," and Train followed. Nevins, at 57. Train's success with Mr. Tutt overshadowed his earlier work, including true-crime stories based on his years in public service. Some of those long-forgotten stories hold up pretty well today – certainly better than much of Mr. Tutt. What follows is Train's version of a headline-grabbing turn-of-the-century case – *People v. Flechter*, 60 N.Y.S. 777 (N.Y. App. Div. 1899) – involving shady figures, famous violins, colorful witnesses, fancy forensics, and contentious lawyers.

– *The Editors*

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**I**N THE YEAR 1885 Jean Bott, a native of Hesse-Cassel, Germany, emigrated with his wife Matilda to this country, bringing with him a celebrated violin known as “The Duke of Cambridge Stradivarius,”\* which he had purchased in 1873 for about three thousand thalers – a sum representing practically the savings of a lifetime. Bott had been leader of a small orchestra in Saxe-Meiningen as early as 1860, and was well advanced in years before he determined to seek his fortune in America. His wife was an elderly woman and they had no offspring.

“This violin, my husband and myself made up the family – I loved it like a child,” she testified at the trial.

So also did Bott, the old musician, love his instrument, and no hand but his own was ever permitted to lift it from its case or dust its darkly-glowing surface.

Whatever may have been its owner’s genius, he prospered little in the new world, and, although he labored conscientiously at his profession, the year 1894 found him still giving lessons upon the violin to only half a dozen pupils, and living in two rooms at 355 West Thirty-first Street. But Bott, having the soul of a true musician, cared but little for money and was happy enough so long as he could smoke his old meerschaum pipe and draw the bow across the cherished violin held lovingly to his cheek. Then hard times came knocking at the door. The meagre account in the savings-bank grew smaller and smaller. The landlord, the doctor and the grocer had to be paid. One night Bott laid down his pipe and, taking his wife’s wrinkled hand in his, said gently:

“Matilda, there is nothing else – we must sell our violin!”

“Even so!” she answered, turning away her face that her husband might not see the tears. “As God wills.”

The next day “The Duke of Cambridge Stradivarius” was offered for sale by Victor S. Flechter, a friend of Bott’s, who was a dealer in musical instruments at 23 Union Square. It so happened that Nicolini, the husband of Adelina Patti, was ambitious to own a genuine

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\* Antonio Stradivari, the most celebrated violin maker who ever lived, was born in 1649 and died in 1737, in Cremona, Italy.

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Stradivarius, and had been looking for one for a long time, and, although he was but an indifferent player, he had, in default of skill to play, the money to buy. The matter was easily adjusted by Flechter, and Nicolini drew his check for forty-five hundred dollars, which, properly certified, was tendered to Bott. But Bott had never seen a certified check and was unaccustomed to the ways of business.

“If I part with my violin I must have real money – money that I can feel – money that I can count. It was that kind of money that I paid for my violin,” said he doggedly.

Nicolini, in a rage, believing himself insulted, tore the check to bits and declared the transaction at an end.

Now the price agreed upon for the violin had been forty-five hundred dollars, of which Flechter was to receive five hundred dollars as his commission, and when, through old Professor Bott’s stubbornness, the sale fell through, the dealer was naturally very angry. Out of this incident grew the case against Flechter.

The old musician was accustomed to leave his treasured instrument in the lowest drawer of his bureau at the boarding-house. He always removed it before his pupils arrived and never put it back until their departure, thus insuring the secrecy of its hiding-place, and only his wife, his sister-in-law, Mollenhauer, a friend, and Klopton, a prospective purchaser, knew where it lay.

On the morning of March 31, 1894, not long after the Nicolini incident, Bott gave a single lesson to a pupil at the boarding-house, and after his midday meal set out with his wife for Hoboken to visit a friend. The violin was left in its customary place. It was dark when they returned, and after throwing off his coat and lighting the gas the old man hastened to make sure that his precious violin was safe, but when he pulled out the drawer it was empty. The Stradivarius was gone, with its leather case, its two bows and its wooden box.

Half-distracted the musician and his wife searched everywhere in the room, in closets, under beds, even behind the curtains, before they could bring themselves to admit that the violin had, in fact, disappeared. Frantically Bott called for Ellen, the servant-girl. Yes, there had been a caller – a young man with dark hair and a small, dark mustache – at about five o’clock. He had waited about half an



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hour and then had said that he guessed he would go. She had not noticed that he took anything away with him. In his despair the old man turned to his old friend Flechter, and the next day the dealer came to express his sympathy. He urged Bott to notify the police of the theft, but the old man was prostrated with grief, and it was the wife who, with Ellen Clancy, finally accompanied Flechter to police headquarters. But the police had no idea who had taken the old fellow's fiddle, and did not particularly care anyway. Later they cared a good deal.

Bott now began an endless and almost hopeless search for his beloved instrument, visiting every place where violins were sold, every pawnshop and second-hand store again and again until the proprietors began to think the old man must be crazy. Sometimes Flechter went with him.

Once, the two traveled all the way over to New Jersey, but the scent proved to be a false one. Bott grew thinner and older week by week, almost day by day. When the professor did not feel equal to going outdoors Mrs. Bott went for him, and on these occasions often called at Flechter's store to report progress, ask his advice and secure his encouragement.

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One day during one of these visits in the July following the loss of the violin Flechter handed Mrs. Bott a sheet of paper, saying:

“I have written something down here. If you have that printed and put a reward to it you will get your violin.”

The wording, partly printed and partly written in script, ran as follows:

### VIOLIN LOST. #500 REWARD.

No questions asked for return of instrument taken from residence of Jean Bott March 31, 1894, 355 W. 31st St. Absolute safety and secrecy guaranteed. Victor S. Flechter, No. 21 Union Square, violin maker and dealer.

Mrs. Bott thanked him and took the notice away with her, but its publication had no result. The old professor began to fail, he no longer had an instrument upon which to teach his pupils, and such as he could avail himself of seemed harsh and discordant. He had no appetite, and even found no solace in his pipe. Almost penniless they were forced to give up their lodgings and move to Hoboken. Mrs. Bott still kept up the search, but the professor could no longer tramp the streets looking for his violin. He sat silent in his room, slowly, surely, dying of a broken heart.

In course of time some one advised Mrs. Bott to lay her case before the District Attorney, and accordingly, during the summer, she visited the Criminal Courts Building and told her story to Colonel Allen, one of the assistants, who became greatly interested. The overwrought old woman had begun to suspect everybody, and even to accuse her husband's friend, Flechter, of a lack of any real interest. She thought he ought to be able to find it if he really made the effort. Allen began to take notice. The sleuth in him pricked up its ears. Why, sure, certainly, Flechter was the one man who knew what Bott's violin was really worth – the one man who could sell it to advantage – and he had been done out of five hundred dollars by the old musician's stupidity. Allen thought he would take a look into the thing.

Now, there lived in the same boarding-house with Allen a friend of his named Harry P. Durden, and, to Durden, Allen recounted the story of the lost violin and voiced his suspicions of Flechter. Durden

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entered enthusiastically into the case, volunteering to play the part of an amateur detective. Accordingly Durden, accompanied by a Central Office man named Baird, visited Flechter's place of business and represented themselves as connoisseurs in violins and anxious to procure a genuine Strad. for a certain Mr. Wright in St. Paul. Flechter expressed entire confidence in his ability to procure one, and did almost succeed in purchasing for them the so-called "Jupiter Strad."

All this took time, and at last, on April 28, 1895, poor old Bott died in his boarding-house in Hoboken. After the funeral the widow settled up her affairs, changing her boarding-place temporarily, and, having no ties in this country, determined to return to end her days in the Fatherland. On May 21 she wrote to Flechter, who had lost all track of her, that her husband had died, that she had moved to 306 River Street, Hoboken, and that she thought seriously of going back to Germany. Two days later Flechter wrote the following letter to the Central Office man, who had given his name as Southan, an employee of the alleged Mr. Wright:

MR. SOUTHAN, care of H.P. Durden.

*Dear Sir:* Write to inform you that I have a genuine Strad. to offer you and would like to see you at your earliest convenience.

Very respectfully yours,  
VICTOR S. FLECHTER.

When Allen saw this letter it seemed to him absolutely to confirm his suspicions. Now that the only person in the world who had been authoritatively able to identify the "Duke of Cambridge" Stradivarius was dead Flechter was offering one for sale.

Then occurred the strangest thing of all. On May 28, five days after Flechter's letter to Southan, Mrs. Bott received the following extraordinary epistle. Like the notice given her by Flechter in his office, it was partly written in printed capitals and partly in script.

May 28, 1895.

TO MRS. BOTT, 306 River Street, Hoboken, N.J.

*Dear Madam:* I wish to inform you that the violin taken from your house some time ago will be returned if you are willing to abide by agreements that will be made between

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you and I later on. It was my intention first to dispose of it, but on account of its great value and the danger it would place me in by offering for sale being a violin maker and dealer and not being able to sell with safety for such a large sum of money I concluded to wait. I have now thought the matter over and come to the conclusion that a little money is better than none and if you are anxious for the return of the violin and willing to pay a sum of money, small compared with the value of the violin, I think we can make a deal. You can put a personal in the New York Sun saying I am willing to give a sum of money for the return of the violin. No questions asked. Mrs. J. Bott. When I see your personal in the Sun I will let you know how the exchange can be made. CAVE-DWELLER.

This letter appeared to be written in a somewhat similar hand to that which penned the offer of the reward, which, according to Mrs. Bott, was Flechter's. By this time the widow and Allen were in close communication. The "Cave Dweller" letter, could it be shown to be in Flechter's penmanship, seemed to fix the crime on the violin dealer. Flechter's store is two flights up and looks out into Union Square. Before the window hangs a large gilded fiddle and the walls are decorated with pictures of famous musicians. In the rear is a safe where the more valuable instruments are kept; in the front sits Flechter himself, a stoutish man of middle height, with white hair and mustache. But on June 23, 1895, Flechter was out when Durden and Baird called, and only his clerk and office-boy were on hand. Durden wished, he said, to see the genuine Strad. about which Mr. Flechter had written him. The boy went to the safe and brought back a violin in a red silk bag. Inside was inscribed:

*"Antonius Stradivarius Cremonis fecit Anno Domini 1725."*

The figures 17 were printed and the 25 written in ink. Durden examined it for some fifteen minutes and noted certain markings upon it.

On June 26 they called again, found Flechter in and asked to see the violin. This time the dealer took it himself from the safe, and, at their request, carried it to 22 Gramercy Park, where Durden said he

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Found Flechter in and Asked to See the Violin

desired some experts to pass upon its genuineness. On the way over Flechter guaranteed it to be a genuine Strad., and said it belonged to a retired merchant named Rossman, who would expect to get four thousand dollars for it. He himself would want five hundred dollars, and Durden should have five hundred dollars, so that they must not take less than five thousand dollars.

Once at Allen's boarding-house Flechter played upon the violin for Durden and the supposed Southan, and then the former asked to be allowed to take the instrument to a rear room and show it to a friend. Here Mrs. Bott, with a man named Pierre Josephs, positively identified the violin as that of her husband, clasping it to her bosom like a long-lost child. This was enough for Durden, who gave the instrument back to Flechter and caused his arrest as he was passing out of the front gate. The outraged dealer stormed and raged, but the Car of Juggernaut had started upon its course, and that night Flechter was lodged in the city prison.

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The next morning he was brought before Magistrate Flammer in the Jefferson Market Police Court and the violin was there taken out of its case, which the police had sealed. At this, the first hearing in this extraordinary case, Mrs. Bott, of course, identified the violin positively as “The Duke of Cambridge,” and several other persons testified that, in substance, it was Bott’s celebrated violin. But for the defendant a number of violin makers swore that it was not the Bott violin at all, and more – that it was not even a Stradivarius. One of them, John J. Eller, to whom it will be necessary to revert later, swore that the violin was *his*, stolen from him and brought to Flechter by the thief. On this testimony the magistrate naturally decided that the identity of the instrument had not been established and ordered that Flechter be discharged and the violin returned to him.

Ordinarily that would have been the end of the case, but Allen had his own private views as to the guilt of the dealer, and on August 28 the Grand Jury filed an indictment against Flechter accusing him of feloniously receiving stolen property – the violin – knowing it was stolen.

Great was Flechter’s anger and chagrin, but he promptly gave bail and employed the ablest counsel he could afford. Whether or not he did anything else will always remain problematical. It is a case full of mysteries. Surely the strains of this wonderful instrument must have had a “dying fall” even when played by the loving hand of old Jean Bott.

Now began the second act of this tragedy of errors. The case was called for trial with the People’s interests in the hands of James W. Osborne, just rising into the limelight as a resourceful and relentless prosecutor. I say the *People’s* case but perhaps *Allen’s* case would be a more fitting title. For the defense Arthur W. Palmer held the fort, directing his fire upon Osborne and losing no advantage inadvertently given him. The noise of the conflict filled the courthouse and drowned the uproar on Broadway. Nightly and each morning the daily press gave columns to the proceedings. Every time the judge coughed the important fact was given due prominence. And every gibe of counsel carried behind it its insignia of recognition – “[*Laughter*].” It was one of those first great battles in which the professional value of com-

pressed air as an explosive force and small pica type as projectiles was demonstrated. It was a combat of wind and lead – an endurance contest during which the jury slept fitfully for three long weeks.

Two things, the prosecution claimed, proved Flechter's guilt: First, the fact that the violin found in his possession was "The Duke of Cambridge"; Second, that the "Cave-Dweller" letter was in the same handwriting as Flechter's notice of reward.

Of course the latter proposition carried with it the necessity of proving in the first place that the notice itself was in Flechter's penmanship. Flechter said it wasn't, and that he had never told Mrs. Bott that it was. He claimed that his brother-in-law, John D. Abraham, wrote it. Mrs. Bott, he alleged, was an old lady and was mistaken in her testimony when she swore that he said, "I have written something down." He did not say so. Mr. Abraham said the same thing. He had written it himself sitting in an armchair, all but the words "355 W. 31st Street," which had been put in by a certain Mr. Jopling who had been present. Mr. Jopling swore that that was so, too.

But, on cross-examination, it developed that Mr. Abraham had been practicing making copies of the notice at the suggestion of the lawyer for the defense, and, when Mr. Jopling took the stand, he was called upon to explain an affidavit made by him for Assistant District Attorney Allen, in which he affirmed that he did not know *who* wrote the words "355 W. 31st Street." His explanation did not explain, and, anyhow, there did not seem to be any particular reason why Abraham and Jopling should have written Flechter's notice for him, except to create doubt as to his guilt. Besides, even if Flechter did *not* write it and Abraham *did*, it would still remain almost as bad for Flechter if it was shown that "Cave Dweller" was his own brother-in-law. But Mrs. Bott was a woman who appealed strongly to a jury's sympathies, and she was clear that Flechter had said that he had written the notice. Moreover, she recalled that the date had first been written *May* and that Flechter had erased it and inserted *March* in its place. A microscopic examination revealed the fact that such an erasure had been made. When the smoke cleared the credibility of the defense appeared badly damaged. But the precise point was of little importance, after all. The great question was:

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Who was “Cave-Dweller”? On this point a number of witnesses testified from a general knowledge of Flechter’s handwriting that the “Cave Dweller” letter was his, and three well-known handwriting “experts” (Dr. Persifor Frazer, Mr. Daniel T. Ames and Mr. David Carvalho) swore that in their opinion the same hand wrote it that penned the notice.

It is not unlikely that Flechter’s fear of a conviction led him to invite testimony in his behalf which would not bear the test of careful scrutiny. Many an innocent man has paid the penalty for uncommitted crime because he has sought to bolster up his defense with doubtful evidence without which he would have been acquitted.

Naturally the chief point against Flechter, if it could be established, was his actual possession of the Bott Stradivarius when he was arrested. Upon this proposition Mrs. Bott was absolutely positive beyond the possibility of error. So were eight other witnesses for the prosecution. Then the defense produced a violin alleged to be the one exhibited in the police court and to be the same one brought by Flechter to Durden’s house, and asked Mrs. Bott and her witnesses what they thought of it. Mrs. Bott could not identify it, but she swore no less positively that it was an entirely *different* violin from the one which she had seen before the magistrate. Then Osborne hurled his bomb over his enemy’s parapet and cried loudly that a monstrous wicked fraud had been perpetrated to thwart Justice. That the defense had faked another violin and was now trying to foist the bogus thing in evidence to deceive the Court. *Ten witnesses* for the prosecution now swore that the violin so produced was *not* the one which Flechter had tried to sell Durden. Of course it would have been easy to fake a violin, and the case sheds great light upon the possibilities of the “old violin” industry.

The star witness for the prosecution to prove that the instrument produced in the police court *was* the Bott violin was August M. Gemunder, and his testimony upon the trial before Recorder Goff is worthy of careful examination, since the jury considered it of great importance in reaching a verdict, even requesting that it should be re-read to them some hours after retiring to deliberate. Gemunder testified, in substance, that he belonged to a family which had been

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making violins for three generations and had himself been making them for twenty years, that he was familiar with Bott's Stradivarius, having seen it three times, and that he firmly believed a large part of the violin produced before the magistrate *was* the missing Bott – certainly the back and scroll. Moreover, he was able to describe the markings of the Bott violin even to the label inside it. It should be mentioned, however, that in the magistrate's court he had been called only to *describe* the Bott violin and not to *identify* the one produced as the Bott itself. He further swore that the violin now offered by the defense on the trial was not the one in evidence before the magistrate, but was one which he had sold some years before to one Charles Palm. The defense, on the other hand, called among its witnesses John P. Frederick, a violin maker, who testified that he was familiar with the Bott Strad. and had seen it in 1873 at Bott's house, Grenecher Castle, in Germany; that he had repaired it in this country in 1885; that the instrument in court was not a Strad. nor even a good imitation of one, and, of course, was not the "Duke of Cambridge," but that it *was* the identical instrument produced before the magistrate, and one which he recognized as having been sent him for repair by Charles Palm in 1885.

Thus both sides agreed that the fiddle now offered in evidence was a bogus Strad. once belonging to a man named Palm, the only element of conflict being as to whether or not it was the Palm violin which Flechter had offered Durden for sale, or, in fact, Bott's famous "Duke of Cambridge."

All this technical testimony about violins and violin structure naturally bored the jury almost to extinction, and even the bitter personal encounters of counsel did not serve to relieve the dreariness of the trial. One oasis of humor in this desert of dry evidence gave them passing refreshment, when a picturesque witness for the defense, an instrument maker named Franz Bruckner, from South Germany, having been asked if the violin shown him was a Strad., replied, with a grunt of disgust: "*Ach Himmel, nein!*" Being then invited to describe all the characteristics of genuine Stradivarius workmanship, he tore his hair and, with an expression of utter hopelessness upon his wrinkled face, exclaimed despairingly to the interpreter:

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“Doctor, if I gave you lessons in this every day for three weeks you would know no more than you do now!” – an answer which was probably true, and equally so of the jury burdened with the almost impossible task of determining from this mass of conflicting opinion just where the truth really lay.

The chief witness for the defense was John J. Eller, who testified that he had been a musician for thirty years and a collector of violins; that the violin in court was the same one produced before the magistrate, and was not Bott’s, but *his own*; that he had first seen it in the possession of Charles Palm in 1886 in his house in Eighth Street and St. Mark’s Place, New York City, had borrowed it from Palm and played on it for two months in Seabright, and had finally purchased it from Palm in 1891, and continued to play in concerts upon it, until, having loaned it to a music teacher named Perotti, in Twenty-third Street, it was stolen by the latter and sold to Flechter. It appeared that Eller had at once brought suit against Flechter for the possession of the instrument, which suit, he asserted, he was still pressing in the courts, and he now declared that the violin was in exactly the same condition in every respect as when produced in the police court, although it had been changed in some respects since it had been stolen. It had originally been made of baked wood by one Dedier Nicholas (an instrument maker of the first half of the nineteenth century), and stamped with the maker’s name, now covered by a Stradivarius label. Eller scornfully pointed out that no Strad. had ever been made of baked wood, and showed the jury certain pegs used by no other maker than Nicholas, and certain marks worn upon the instrument by his, the witness’, own playing. He also exhibited the check with which he had paid for it.

In support of this evidence Charles Palm himself was called by the defense and identified the violin as one which he had bought some twelve years before for fifteen or twenty dollars and later sold to Eller. Upon the question of the identity of the instrument then lying before the jury this evidence was conclusive, but, of course, it did not satisfy the jury as to whether Flechter had tried to sell the Palm violin or Bott’s violin to Durden. Unfortunately Eller’s evidence gave the jury a chance to gain a side light on Flechter’s gen-

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eral character, without which the trial might well have resulted in an acquittal.

Eller had sworn that he was still vigorously endeavoring to get the Palm violin back from Flechter. As contradicting him in this respect, and as showing that the suit had not only been compromised but that he and Flechter were trying to put off the Palm violin as a genuine Stradivarius and share the profits of the fraud, the prosecution introduced the following letter from the witness to his lawyer:

CLIFTON HOUSE, CHICAGO, ILLINOIS.

March 23, 1896.

*Dear Counsellor:* Received your letter just now. I have been expecting Mr. Flechter's lawyer would settle with you; he got nine hundred dollars for the violin and Mr. Meyer arranged with myself for the half, four hundred and fifty dollars, which he proposed himself and have been expecting a settlement on their part long ago. I have assisted Mr. Palmer, his able lawyer, with the best of my ability, *and have covered Mr. Flechter's shortcomings of faking the violin to a Strad.*

Yours most sincerely, JOHN ELLER,  
Metropolitan Opera Co., Chicago, Ill.

From this letter it seemed fairly clear that although the defendant might be innocent of the precise crime with which he was charged, he was, nevertheless, guilty of having faked a cheap Nicholas violin into a Strad., and of having offered it for sale for the exorbitant price of five thousand dollars. The jury might properly have argued from this that if he were enough of a rascal to attempt to swindle Durden out of five thousand dollars by means of a bogus instrument he would not have hesitated to steal a genuine violin of the same value from Bott. And this luckless piece of evidence was what undoubtedly influenced the jury to convict him.

It will be recalled that ten witnesses for the prosecution had sworn that the violin offered in evidence at the trial was *not* the one produced in the police court, as against the defendant's five who asserted that it was.

The testimony was all highly technical and confusing, and the jury probably relied more upon their general impressions of the credibility

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of the witnesses than upon anything else. It is likely that most of the testimony, on both sides, in regard to the identity of the violin was honestly given, for the question was one upon which a genuine divergence of opinion was easily possible.

Eller's letter from Chicago so affected the jury that they disregarded his testimony and reverted to that of August Gemunder, to whose evidence attention has already been called, and who swore that it was "The Duke of Cambridge" which Flechter had tried to sell to Durden. Alas for the fallibility of even the most honest of witnesses!

The case was ably argued by both sides, and every phase of this curious tangle of evidence given its due consideration. The defense very properly laid stress upon the fact that it would have been a ridiculous performance for Flechter to write the "Cave-Dweller" letter and state therein that he was "a violin dealer or maker," thus pointing, unmistakably, to himself, and to state further that for one in his position to dispose of it would be difficult and dangerous. The only explanation for the "Cave-Dweller" letter which they could offer, however, was that some one interested in procuring Flechter's downfall had caused it to be sent for that purpose. This might either be a business rival or some one connected with the prosecution.

While Palmer was summing up for the defense he noticed Assistant District Attorney Allen smiling, and, dramatically turning upon him, shouted: "This is no laughing matter, Colonel Allen. It is a very serious matter whether this man is to be allowed to-night to go home and kiss his little ones, or whether he is to be cast into jail because you used your brains to concoct a theory against him."

Another consideration, which seems deserving of weight, is that if Flechter did steal "The Duke of Cambridge" it would seem to have been a piece of incredible folly and carelessness upon his part to leave it in such an exposed place as the safe of his store, where it could be found by the police or shown by the office-boy to any one who called.

Yet the positive identification of August Gemunder and the fatal disclosures of Eller, coupled with the vehement insistence of the prosecution, led the jury to resolve what doubt they had in the case

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against the prisoner, and, after deliberating eight or ten hours and being out all night, they returned a verdict of guilty. Flechter broke down and declared bitterly that he was the victim of a conspiracy upon the part of his enemies, assisted by a too credulous prosecuting attorney. Everybody admitted that it was an extraordinary case, but the press was consistent in its clamor against Flechter, and opinion generally was that he had been rightly convicted. On May 22 he was sentenced to the penitentiary for twelve months, but, after being incarcerated in the Tombs for three weeks, he secured a certificate of reasonable doubt and a stay until his conviction could be reviewed on appeal. Then he gave bail and was released. But he had been in jail! Flechter will never forget that! And his reputation was gone, his family disgraced, his future and his business ruined.

A calm reading of the record of the trial suggests that the case abounded in doubts more or less reasonable, and that the court might well have taken it from the jury on that account. But a printed page of questions and answers carries with it no more than a suggestion of the value of testimony the real significance of which lies in the manner in which it is given, the tone of the voice and the flash of the eye.

Once again Flechter sat at his desk in the window behind the great gilded fiddle. There it hung, a gigantic suggestion of his crime, a mockery of his trade, for to him the violin no longer signified either gold or music. There he sat, a convicted felon, waiting for the footsteps of possible purchasers upon the stairs. To him, as to poor old Bott, the great Stradivarius had brought only sorrow. But for him the world had no pity.

At last, after several years, the case came up in the Appellate Division of the Supreme Court in 1899. Flechter had been led to believe that his conviction would undoubtedly be reversed and a new trial ordered, which would be tantamount to an acquittal, for it was hardly likely in such an event that a second trial would be considered advisable upon the same evidence. But to his great disappointment his conviction was sustained by a divided court, in which only two of the five justices voted for a new trial. Again Fortune had averted her face. If only one more judge had thought the evidence

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insufficient! The great gilded fiddle seemed to Flechter an omen of misfortune. Once more he gave bail, this time in five thousand dollars, and was set at liberty pending his appeal to the highest court in the State. Once more he took his seat in his office trying to carry on his business.

But time had dragged on. People had forgotten all about Flechter and the lost Stradivarius, and when his conviction was affirmed little notice was taken of the fact. It was generally assumed that having been sentenced he was in jail.

Then something happened which once more dragged Flechter into the limelight. Editors rushed to their files and dusted the cobwebs off the issues containing the accounts of the trial. The sign of the gilded fiddle became the daily centre of a throng of excited musicians, lawyers and reporters. The lost Stradivarius – the great “Duke of Cambridge” – the nemesis of Bott and of Flechter – was found – by Flechter himself, as he claimed, on August 17, 1900. The amazing discovery occurred in this wise. A violin maker named Joseph Farr, who at one time had worked for Flechter and had testified in his behalf at the trial (to the effect that the instrument produced in the police court was *not* Bott’s Stradivarius), saw by chance a very fine violin in the possession of a family named Springer in Brooklyn, and notified Flechter of the fact. The latter, who was always ready to purchase choice violins, after vainly trying for a long time to induce the Springers to bring it to New York, called with Farr upon Mrs. Springer and asked to examine it. To his utter astonishment she produced for his inspection Bott’s long-lost Stradivarius. Hardly able to control his excitement he immediately returned to New York and reported the discovery to the police, who instantly began a thorough examination of the circumstances surrounding its discovery.

The District Attorney’s office and the Detective Bureau were at first highly suspicious of this opportune discovery on the part of a convicted felon of the precise evidence necessary to clear him, but it was soon demonstrated to their pretty general satisfaction that the famous Stradivarius had in fact been pawned in the shop of one Benjamin Fox on the very day and within an hour of the theft, together with its case and two bows, for the insignificant sum of four dollars.

## *Arthur Train*

After the legal period of redemption had expired it had been put up at auction and bid in by the pawnbroker for a small advance on the sum for which it had been pawned. It lay exposed for purchase on Fox's shelf for some months, until, in December, 1895, a tailor named James Dooly visited the shop to redeem a silver watch. Being at the same time in funds and able to satisfy his taste as a virtuoso, he felt the need of and bought a violin for ten dollars, but, Fox urging upon him the desirability of getting a good one while he was about it, was finally persuaded to purchase the Bott violin for twenty dollars in its stead. Dooly took it home, played upon it as the spirit moved, and whenever in need of ready money brought it back to Fox as security, always redeeming it in time to prevent its sale. One day, being at Mrs. Springer's, where he was accustomed to purchase tailor trimmings, he offered it to her for sale, and, as her son was taking violin lessons, induced her to buy it for thirty dollars. And in the house of the Springers it had quietly remained ever since, while lawyers and prosecutors wrangled and thundered and witnesses swore positively to the truth, the whole truth and nothing but the truth, to prove that Flechter stole the violin and tried to sell it to Durden.

On these facts, which did not seem to admit of contradiction, Recorder Goff ordered an oral examination of all the witnesses, the hearing of which, sandwiched in between the current trials in his court, dragged along for months, but which finally resulted in establishing to the Court's satisfaction that the violin discovered in the possession of the Springers was the genuine "Duke of Cambridge," and that it could not have been in Flechter's possession at the time he was arrested.

On July 7, 1902, eight years after Bott's death and the arrest and indictment of Flechter for the theft of the violin, a picturesque group assembled in the General Sessions. There was Flechter and his lawyer, Mrs. Springer and her son, the attorneys for the prosecution, and lastly old Mrs. Bott. The seals of the case were broken and the violin identified by the widow as belonging to her husband. The Springers waived all claim to the violin, and the Court dismissed the indictment against the defendant and ordered the Stradivarius to be delivered to Mrs. Bott, with these words:

## *The Lost Stradivarius*



**Bought the Bott Violin for Twenty Dollars**

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“Mrs. Bott, it affords very great pleasure to the Court to give the violin to you. You have suffered many years of sorrow and trouble in regard to it.”

“Eight years,” sighed the old lady, clasping the violin in her arms.

“I wish you a great deal of pleasure in its possession,” continued the Recorder.

Thus ended as a matter of record the case of *The People against Flechter*. For eight years the violin dealer and his family had endured the agony of disgrace, he had spent a fortune in his defense, and had nevertheless been convicted of a crime of which he was at last proved innocent.

*GB*