THE MURDER OF WILLIAM COLSTON

(Contributed by Mrs. R. G. Jayne)

The Colston family were already established in Portugal by the end of the 16th Century. When they first came there cannot be determined, but Thomas was trading as a cloth merchant and had married an English wife when, round about 1600, his cousin William, a boy of 13, was sent out to learn the language. For some reason Thomas did not take him into his own business, but apprenticed him to another English cloth merchant, called William Dunn.

Like many other he came into contact with the English Jesuits at São Roque and became a Catholic. As was usual in such cases he had to appear before the Inquisition and give an account of his previous life. In the report of his examination he says that he had been born in the city of Galway of English Protestant parents who had moved there from Bristol. The Colstons still kept up a close connection with that city, and William mentions that he had paid several visits to it.

After his conversion he appears to have settled down to the active and sometimes anxious life of an English merchant in Lisbon. In time he married and had at least one son, the one with whom we are concerned. The Colstons seem to have prospered exceedingly, and to have held highly respected positions among their fellow countrymen who no doubt found those who stood well, not only with authority but also with the Inquisition, a very present help in times of trouble. As events proved, William the younger was very popular and his son's death caused no slight indignation.

The Civil War had come and gone and brought with it

a share of trouble even as far afield as the British Community in Lisbon. There had been sharp dissensions centering about the Consulate and the Factory, the latter a hot-bed of faction at the best of times. Some major differences had been driven underground by the Restoration but any hope of peace and quiet was seriously menaced by an influx of tiresome young men «bred up in the late bad times», as Southwell puts it. These family problems had been shipped to Portugal much as a later instalment was pushed off to Australia in hopes that they might somehow pick up an easy living in some branch of the growing trade between the two countries. But any hope that they would settle down to a life of sober industry must have been shaken if not destroyed by the ragged remains of Schomberg's army which drifted about Lisbon, unpaid and hungry, and ready enough to dice and drink with any idle compatriot.

Among these imported nuisances was Allen Hutchinson, son of George Hutchinson and his wife Barbary Apsley — respectively brother and sister to Colonel Hutchinson, the austere regicide — and Lucy Apsley, his wife. Perhaps it is worth recalling that the Hutchinson brother's mother was a Byron of Newstead, a family which produced more than one example of undisciplined temper.

No two brothers, though tenderly attached, could have presented a wider difference in temperament. In contrast to the Colonel's severe deportment, writes Lucy, «George was «a man of the kindest heart and the most familiar deportment «in the world, and lived with his soldiers as if they had been «his brothers, living cheerful and merry and familiar with «them, in such a manner that they celebrated him and pro-«fessed the highest love for him in the world. Unfortunately «this induced them to become presumptuous and fall away in «their duty».

This may well have been a pretty faithful picture of George as a father, and if Barbary modelled herself on George as closely as Lucy did on the Colonel she doubtless doubled his indulgence.

But above all there should be accounted those «late bad

times» when education was at a standstill or at the best precarius, and subject to continual interruption, when a boy in his teens, with his father absent at the wars or in London, grew up as he willed in a household of women who from fear or fondness made no attempt to check him.

Then came the Restoration, and universal prohibition changed overnight to universal permission.

In this gay new world the young Hutchinsons found themselves oddly situated between a family whose head had played a distinguished part in terminating the former monarchy, and their mother's relations who were prominent members of the Court. It can hardly be doubted that the company of the latter was the more lively. It was Sir Allen Apsley who distressed Pepys by coming volubly drunk into the House along with Sir Allen Brodrick in a like condition, «and both did speak «for half an hour together and could not either be laughed or «pulled or bid to sit down and hold their peace, to the great «contempt of the King's servants and cause: which I am «grieved at with all my heart».

Young Allen no doubt lost no time in joining this joyous company.

It is nowhere stated what age he was when he went to Portugal, but he is invariably spoken of as a young man which at that time meant under thirty. The reasons for his going thither are nowhere made clear. Later on, when applying to the Portuguese Government for a pension, he declared that he had been forced to leave England because he had been converted to the Roman Catholic Faith and for the same reasons had renounced «great estates». This was in 1675 at latest, four years before Titus Oates began his disgraceful activities, when Catholics, owing to the protection of the Queen and the Duke of York, enjoyed unusual security. As to his claim to worldly possessions it would be nearer to the truth to say he had little or none to forego. Owthorpe, the family place had been inherited by the Colonel, the rest of the property being divided between him and his two brothers, Charles the son of a second marriage getting the lion's share. When the Colonel died, his widow and his eldest son sold Owthorpe to Charles, the rich

one of the family, and nothing fell to George's children but the subdivisions of a younger son's portion. However, the claim to a Portuguese State pension had to be based on the plea of exile and poverty resulting from a change of Faith, and to one who was down on his last shilling such trifling inaccuracies would give little trouble. The Portuguese Court seems to have made no question, especially when he added that he was first cousin to the Queen's Lord Chamberlain. This inaccuracy is at least easily provable. The Lord Chamberlain was Philip Stanhope, second Earl of Chesterfield, who had been Lord Chamberlatin from the Queen's arrival in England till 1665, and had remained a member of her Council; he was the grandson of Sir Thomas Hutchinson's second wife, and was therefore Allen's step-grandmother's great nephew and no relation. In short it is difficult to set aside the suggestion that he had left his country — if not for his country's good alone at any rate for his own.

On his first arrival in Lisbon he seems to have made a very favourable impression and to have been well supplied with funds. He was very well received by the members of the British community and frequently invited to dine by Mr. Parry, the Agent, or as we should style it, Chargé d'affaires. In spite of these opportunities he appears to have made no attempt to obtain a post or engage in any form of commerce. Instead he seems to have spent most of his time dicing and playing cards.

Among his gambling friends was — rather strangely — the middleaged and highly respected William Colston, who appears to have been more than a match for him, or perhaps to have had the proverbial rich man's luck. What happened is nowhere stated but the two fell out and Allen made some claim on Colston which the latter repudiated, and what was afterwards described as «a disgraceful» lawsuit ensued. Public opinion was all on the side of Colston and it is possible that there was some suggestion of blackmail about the case. Whatever it was Parry contrived to stifle it and peace was supposed to be restored between the two men.

Three months later, however, the two men met in a narrow passage leading into the Factory House. Most of the witnesses

declared that there was no quarrel or provocation between them, though some words must have been exchanged as later one of the onlookers remembered Colston saying something about «refusing to quarrel with a child». Suddenly they saw Hutchinson put his hand under Colston's coat and run his dagger into him up to the hilt. Then, drawing his sword and with his dagger in the other hand he endeavoured to escape but fell into the grip of two Portuguese, who were standing a little way off and were armed.

Colston lived for a few hours and then died «to the great trouble of all his friends». He left an estate of from 15 to 16 thousand pounds sterling roughly about £ 80.000 of our money and must have been one of the richest members of the Factory. He had prospered greatly and was on the point of retiring to England. By one of those grim coincidences which people love to recall, his body was sent there for burial by the «Concord», the ship on which he had intended to travel.

Meanwhile the two Portuguese who had caught hold of Hutchinson had let him go and he ran to take sanctuary in the nearest church, probably the old S. Paulo, later destroyed in the great earthquake. But he was not allowed to remain there. The importance of the victim coupled with the ruthlessness of the crime caused an immense stir. Among the most appalled was Parry, who writes with all the heat of one who has misplaced his benevolence. «I have prosecuted «the malefactor with all possible diligence and have gotten «him into prison, notwithstanding the Carta de Seguro granted «to him. But because I fear that the Judges here will not do «justice upon him unless they are even forced to do it by a «high hand (for Hutchinson spares no money and they are «easily corrupted). I could wish if it seemed good to your «Honour that a letter were written by His Majesty to the Prince «about it».

At this point the poor Envoy seems to have found himself between a Factory seething with indignation and the embattled influence of Hutchinson's friends and powerful connections in England. In his next letter to the Privy Council Parry endeavours to put the case impartially in an optimistic attempt to get justice done and at the same time explain his own position.

In his letter dated March the 2nd he says: «I received «your Honour's of January 13th (which had crossed with his), «recommending to me the protection of Mr. Hutchinson so far «as to save his life if his case will bear it. He is a person for «whom I have a great kindness and he was always very «welcome to me and was very frequently at my table; nothing «ever troubled me more than this murder of his; which if I «could have found any tolerable excuse for doing so I would «readily have made use of it for his defence; but the attempt «was so malicious and scandalous in all its circumstances, that «upon the representation of it to me by the most sober mer«chants of this Factory, persons that to my knowledge have «been very kind to him, at their petition I could not either «in honour or conscience but endeavour to bring him to a fair «trial according to the laws of this country». But lest Allen's friends should be unduly alarmed at this prospect, he hastens to add: «These are so favourable in cases of murder that could «it be proved that the person he killed gave him the least pro«vocation, either in word or deed, he would be acquitted».

«If he should be contemned (Parry continues) he would «probably suffer no other punishment than banishment to «Castromarim in the Algarve, or to some place of theirs in «Africa, it being unusual to put a gentleman to death for «Murder, though ever so notorious, and that he is a gentleman «I shall be very ready to verify when there is occasion for it; «which is all the favour I can possibly do him: for if there «was no provocation I cannot be his advocate, and if there «were he needs none».

His cause was now on trial and Parry did not intend to concern himself with the proceedings since there were procurators appointed by Colston's family to press the case. He had, however, requested that the accused should be kept in prison, partly to prevent further murders which would probably have been committed had he gone abroad among his infuriated compatriots. It is hard to see why this did not happen. Hutchinson had possessed himself of a Carta de Seguro and instead of using it to fly the country, as no doubt Parry prayed he would — he had the impudent imprudence to come into the actual places where the merchants met, and in a very affronting manner passed through the midst of

them, having some Hecks with him ready to have drawn upon anyone that should have said anything to him; and Parry goes on to relate that this was «a thing so scandalous even to the «Portuguese that some of those who were of Mr. Colston's «acquaintance said they would have killed him if they had been «present. Therefore I thought it necessary to hinder his going «abroad: ...In answer to a letter from Sir Allen Apsley, I have «given him an account of my proceedings, and my reasons for «them, wherewith I doubt not all Mr. Hutchinson's relations «will be satisfied».

In spite of all he could do Parry's efforts to cage Hutchinson seem to have failed for on March 24th he writes: «The Prince has passed an order for the making good of the Carta de Seguro. I wish he would make better use of it than he does». In short the Apsleys were at work, on the Prince probably through the Queen, his sister, bye-passing the envoy.

By the latter part of April Parry received further instructions from London to which he replied ambiguously:

«I received your Honour's of Feb: 28th wherein you are «pleased to advise me that, though the fact of Mr. Hutchinson «was allowed to be wilful and determined murder, yet it was «not thought fitting to write a letter to the Prince to demand «justice, because none had been refused, but that if any obstruc-«tion of justice were countenanced by the Prince's authority, «his Majesty would interpose as the case should require»:

The Prince, it seemed, in spite of the Carta de Seguro which he was legally obliged to grant, had not ordered Hutchinson's release without advising Parry and asking him if he had anything against it. Parry, as has been seen, had grave objections, and in reply petitioned for the continuing of Mr. Hutchinson in prison, «for the preventing of the ill «consequences of his liberty, which it was assumed he would «make worse use of than the first time».

The Prince, however, felt bound to stand by the Carta de Seguro and let the prisoner go free while he awaited trial.

This is not the only sign of the Apsley faction's activities;

in addition, paws had been buttered, consciences soothed and memories refreshed.

Parry reports that «now he, Mr. Hutchinson, is at liberty, «the procurators of Mr. Colston (the father) are prosecuting «with all the vigour they can, but t'is thought he will be «acquitted, for there are now two Portuguese that swear that «Mr. Colston struck Mr. Hutchinson with his hand, and, though «the judges confess that they are convinced in their own «consciences that the witnesses swear false, yet they say that «they must give sentence *secundum allegata et probata,* and «that a Cuff proved to be given will excuse any Murder. «I observe that your Honour says that the provocations to «this murder are very differently stated in the letters wrote «from hence, but upon the most strict enquiry I can make «into all the circumstances of the fact, I do not find that at «the time the fact was committed, or at any time before, there «was any other provocation given than this — that Mr. Colston «all along disowned the debt and refused payment, and upon «Mr. Hutchinson's pressing at their last meeting for satisfaction, «Mr. Colston asked whether he should fight with a child? «I do not doubt that we shall have as much justice as the «Portuguese themselves in a like case, which frequently is «none at all, and for that reason murders are very frequent «here. But if your Honour should think fit that his Majesty's «resentment of the Fact should be made known to this Court «by way of Don Francisco de Mello or some other way, t'is «possible that the Judges may be induced to a more strict «enquiry into the nature of the fact and give judgement «accordingly».

His Majesty's resentment may have been taken for granted by Parry; in any case it seems to have been well under control. The truth was that the question was a thorny one, not only in Lisbon but also in London, where branch houses on the Continent could always count on a backing from the City, especially against the type of public nuisance bred at Court and only too familiar as impenitent debtors and disturbers of public and domestic peace. Better shift responsibiliy to Lisbon: at length the Privy Council seem to have made this clear to Parry.

The latter replies regretfully: «What your Honour writes «about the business of Mr. Hutchinson, that the Judges must «proceed according to the evidence, if there be no just exception «against the witnesses, and that if the murderer be upon a «fair trial acquitted, his Majesty can't gratify the Prince of «Portugal with his punishment, should he desire it, is agreeable «to all law and reason. Mr. Hutchinson has the same liberty «as if he were formerly acquitted, though he be not so as yet»:

After this Parry decided to let the matter drop and his letters for some time are taken up with other business.

But Colston's father and the other merchants who had been his friends would not let the case rest and in the end they carried it to England. In the Domestic State Papers of the following year (June 1677) there are notes of an enquiry held by Mr. Secretary Williams under the statute of Henry VIII for the trial of murders committed beyond seas, into the murder of William Colston. The evidence is thus summarized:

No provocation had been given by Colston to Hutchinson while they walked together. They had had a lawsuit which had been *burnt* by the consent of both parties three months before, after which there had been neither provocation, nor quarrel between them. Hutchinson put his hand under Colston's coat and ran the dagger up to the hilt. Then he drew his sword and with the dagger in one hand and the sword in the other endeavoured to escape, the witness following with sword drawn. Two Portuguese were posted with their arms about two chambers off, who secured Hutchinson; Stanley and Pargiter (two British factors) were by all the while.

Parry, who was in England, was called on to give evidence. He stated that Colston and Hutchinson had been playing a game of dice and quarrelled. There had been several borrowings between them «which not agreeing on,» a lawsuit followed, which Parry describes as very scandalous. Possibly there were charges about the weight of the dice and so forth. At length it was decided to burn it (presumably the dossier) and Parry succeeded in patching up a reconciliation. Hutchinson, though outwardly friendly, nourished a grudge and said he

sought Colston all day all over the town, and at last finding him, appears to have challenged him to fight.

A witness was called who said he did indeed remember that Colston told Hutchinson that he would not fight him, but not that Colston said that he would not fight with a child, nor did he give Hutchinson any blow.

On Hutchinson's account it was pleaded that he had been cleared by a jury of 35. Exception was taken to the Judge by the merchants and another Jury was appointed, half Portuguese and half English, who agreed with the former verdict. After which on a trial Hutchinson was acquitted. «Therefore (the «statement continues) the acquittal may be pleaded here. For, «seeing that they had jurisdiction to acquit him, it were very «hard if they should not be able to aquit him»:

Mr. Solicitor: «The ground of acquittal was that a blow was given».

At this point Parry contributed the information that the two witnesses on whose evidence Hutchinson was acquitted were prosecuted for a false oath in this case, so the justice himself had told Parry.

The lawyer acting for Hutchinson had to fall back on the plea that the statute of Henry VIII did not apply here, as it only related to crimes committed in the King's own dominions over-seas, and that if he were triable in England it must be before the Constable and Marshal by the Civil Law.

Finally the Lord Chief Justice brought proceedings to a close by asking: «If the Prince of Portugal had given Hutchinson a pardon under the Great Seal, should that not have foreclosed a trial here»?

It was further pointed out that the trial was made upon proclamation, and not on the prosecution of Colston's friends.

Perhaps his old father was dead, and no one else minded very much whether the murder was avenged or not: nothing could bring him to life again. So the graceless Allen was left free to ruffle it with his Hecks in Lisbon.

As might be expected it was not long before he was in acute money difficulties, and was applying for a pension from the Portuguese government. In January 1679 there is an entry in the Chancellaria books that the Prince Regent had been pleased to assign him one, based on his statement «setting «forth an account of his person, quality and parentage, together «with the titles to the great name he holds in England. He is «first cousin to the Lord Chamberlain to the Queen, my beloved «sister. He has quitted his country and his large estates solely «to be converted to our Holy Faith... and at present goes in «great want and misery. He shall therefore be allowed 120 «milreis a year on account of the sufferings which have befallen «him through his conversion».

Whether the Portuguese were really taken in by this astounding statement is difficult to guess; at any rate he got his pension.

A year later found him petitioning again: This time he declared that he had a sister who was still in England «in the power of his parents», who wished to come to Portugal and become a Catholic. He also prayed that his pension should be continued to her should she survive him (to this there is a note appended to the effect that the foregoing is not to serve as a precedent).

Things were not going well with Hutchinson. The unpunished murder of Colston had closed English doors to him and any form of English employment. The hand to mouth life of a gambler has many lean times. With his sister beside him he might regain a respectable footing, and should she be lucky enough to make a good marriage there would always be bed and board for him. The matter got as far as the issue of passports for Portugal for himself, his sister Lucy, and three servants. From this it looks as if he had gone to England in hopes of taking her back with him, but ten years later he was still trying to get her out so it seems as if she were less desirous to leave England than he had anticipated. The three servants, which sounds rather an imposing suite for two needy young people, were no doubt some young men or women who invariably chose that disguise when going abroad to enter one of the nunneries or seminaries on the Continent. Travelling in this

manner no questions seem to have been asked about their identity and their supposed masters took all responsibility for them.

In 1683 Allen once more appears in Parry's letters. The Envoy and the Factory were at that moment much exercised by the treatment of British merchants and seamen thrown into prison on New Year's Day on the charge of having large sums of money stowed away on ships about to sail for England. This offence, which has a strangely modern air, was a criminal one and the offenders were smuggled into dark dungeons, all access to them being forbidden. The Factory bombarded Parry and wrote to Whitehall with all vehemence of a bad conscience, declaring that such treatment was contrary to the Articles of the Treaty, demanding immediate intervention by the King and Council and complaining that nothing was done to rescue freeborn Englishmen from such outrageous assaults. In short, nothing less than the lives and estates of all the Factory were threatened: a naive admission that everyone was more or less engaged in this profitable traffic.

On February 11th they attained a climax of protest.

«...all rigour imaginable seems to attend the proceedings «in the prosecution of the prisoners. A Judge who was none «of our Conservator was deputed by the Prince... and he «proceeded to the examination of the prisoners using as inter«preter one Hutchinson, a person wholly depending on the alms «of the Prince, and his Ministers, and who turned his religion, «and ever since bears a spleen to us all, and by whose insi«nuations many of the prisoners have been trepanned into «several confessions extorted from them by indirect means»:

General consternation had seized the whole mercantile community. Everything done in secret, nothing could be gathered but frightful tragical circumstances towards the poor prisoners — these dark Inquisitionlike examinations which continued for ten days without the least light of what was being done... intimidation of the prisoners by the aforesaid interpreter, who, sometimes by delusions of the Prince, his clemency and goodness to pardon them, and his rigour to take away their lives and estates, if they would or would not confess, but

above all deceiving them with the pretended confessions of others against them, which together with the lonesomeness, darkness, tediousness and loathsomeness of their misery and dungeons, and the harshness and moroseness of their jailors, trepanned them into confessions, one against the other and against themselves. They threatened Mr. Smith with the rack, and brought Mr. Low before it, showing a ladder to mount the gallows in case he should not confess, and commanding the jailer to put him in a worse dungeon than the one he is in, he was at last brought to acknowledge some part of their allegations and to comply with their desires, «which way of proceeding we do conceive is most abominably detested by all Englishmen».

This panic stricken letter with its frantic «derangement of epitaphs» — who could tell whose names and doings had been trepanned out of the unhappy Low and Smith? — only concerns us in so far as it shows that the wretched Hutchinson had now sunk to the level of a common police spy. There are only three more allusions to him in letters from Lisbon and among them only one word of pity.

In July 1688 Parry again writes:

«I do not find that Hutchinson (whom I named formerly) «had any hand in the contrivance of this business (the arrest «of the merchants) but the poor man being necessitous and «depending on this Court, was fain to be the Interpreter when «called upon, inclinable perhaps to go with the torrent, seeking «to please; Mr. Bird, whom he caused to confess, doth seem to «think he had no malice in it, which makes me take this occasion «to speak of him».

The careful judgement of the Envoy and the wide charity of Mr. Bird deserve to be taken into the balance when weighing the demerits of this one poor victim of evil times.

Note — *The major part of this article is derived from notes and transcriptions which Miss Rose Macaulay has most generously allowed me to use.*

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