

MR. MUNSEY

BY ROBERT L. DUFFUS

I FIND difficulty in writing about Mr. Munsey's beginnings because it is so hard to think of him as anything but the completed Mr. Munsey. He must have crawled before he toddled, and toddled before he ran; his nose, like the noses of all normal infants, must sometimes have needed wiping; and there must have been aunts who poked jocosely fingers into his youthful midriff and called him Ootsie-Tootsums and other absurd names; but the thought of these occurrences merely induces in a modern observer a shuddering sense of *lèse majesté*. I am not indulging in unseemly levity. Mr. Munsey is an artist in deportment. He plays so well the part of the present Mr. Munsey that one can hardly believe he ever played other parts.

Yet the records testify that he obeyed the laws of growth like the rest of mankind; he did not fall out of a star or spring full-panoplied from an ocean wave, but was formed slowly in the womb of New England Puritanism. His energy is the accumulation of three centuries of ferocious combat with stubborn elements; the guiding principles of his career have resulted from the simple transfer of old-fashioned piety from the religious to the economic sphere. Or one may think of him, not inconsistently, as one of those mountaineers, full of the simple virtues of camp and field, who at intervals in human history sweep down from the hills to fall upon the cities of the plain.

Thanks to Mr. Munsey's foresight in publishing "A Munsey-Hopkins Genealogy," by Dr. D. O. S. Lowell, of the Roxbury Latin School, even his more remote origins are now open to respectful scrutiny. The

Munsey family, according to Dr. Lowell, first came to notice in Normandy. Ancestral Munseys, appearing variously on the roll of Battle Abbey as Mounchesny, Monceus, Mouncey and Monceals, assisted William the Conqueror in combining the best features of the Norman and Anglo-Saxon civilizations. The first known Munsey in America was at Ipswich, Massachusetts, about 1659. Stephen Hopkins, an ancestor of Mr. Munsey's on the maternal side, "was one of the twelve *Mayflower* passengers who had a title (Mr.) prefixed" to their names. Mr. Munsey's mother could count four *Mayflower* passengers in one line of descent among her ancestors and eight in another.

But more important than colonial or Norman blood in determining Mr. Munsey's course in life were the circumstances of his childhood. His father, though a man of "strong qualities and rugged honesty," was a failure in worldly affairs; his mother, like many other women in a similar situation, transferred her ambitions from her husband to her children. "The greatest regret of my life, since my income began to mount," wrote Mr. Munsey, in a sincere and plainspoken preface to Dr. Lowell's book, "has been that my mother was not with me to make free use of it. It would have enabled her to do the things and have the things that her fine, true nature craved. . . . My father . . . came on the stage of young manhood when Maine was a semi-wilderness. There were few openings for advancement in the rural sections. Saving up money as capital with which to make a start in life was a slow business. How far my father had progressed in this

respect when he married I do not know, but I do know that marriage put an end to it."

When it came Mr. Munsey's turn to adventure into the world he traveled light: he never married.

II

Frank Andrew Munsey, one of six children, was born at Mercer, Maine, on August 21, 1854. Six months later the family moved to Gardiner, Maine, and three years later to a farm near Bowdoin. "Here," says Dr. Lowell, "Frank Andrew lived until he was fourteen years of age, doing real work on the farm, laying the foundations for the future, and forming the habits which have characterized his life." Later the family lived in Litchfield, Livermore Falls and Lisbon Falls. At Lisbon Falls Mr. Munsey worked in a grocery store, where he picked up local color which was to serve him in a later essay in juvenile fiction. He was, as a boyhood friend describes him, a staid, thoughtful boy, not brilliant but pretty good in mathematics. He was "a splendid penman," and "his habits were faultless; he didn't even smoke."

But the stored energy of the long line of frustrated Munseys and Hopkinses was at work in the boy; and joined to it was his principal characteristic, a will almost ferocious in its intensity. In the eyes of a country lad a telegraph operator was mysterious and romantic; Mr. Munsey therefore learned telegraphy and was sent to take charge of the Western Union office at Augusta, the State capital. But it was not long before the Augusta telegraph office, like the Lisbon Falls grocery store, was to him, in his own words, like "the cage to a tiger yearning for the boundless freedom of the jungle." He picked up an acquaintance with James G. Blaine and other prominent citizens, but this merely added to his discontent. "Their lives had scope," he said many years later, "mine had none. I chafed bitterly under the limited possibilities of my environment, where energy and ambition counted for so

little. My very soul cried out for an opportunity to carve out for myself a bigger life. . . . But the opening did not come my way. There were always sons or relatives, or people of political influence, who stood before me in line for the place. I was pretty nearly as good a business man, at that age even, as I am now, and the tantalizing part of it was I knew it."

Mr. Munsey went into the publishing business (and incidentally into the literary business) by accident. "Railroading, steel, manufacturing, shipping, banking, or any other of the great staple industries" would have suited him just as well. But Fate, with an ironic glint in her eye, shoved him into the ink pot. After his arrival in Augusta he had procured a position in a local publishing house for one of his boyhood friends. As time passed and this friend inconsiderately prospered and was offered a job in New York "at a handsome advance in salary," Mr. Munsey saw that he had made a mistake: he should have taken the position himself. The incident turned his thoughts toward publishing, of which he presently acquired just enough knowledge, as he has said, "to be dangerous."

He worked out plans for a boy's weekly magazine, which was to be called *Munsey's Golden Argosy*. He had saved \$500 out of his salary as a telegraph operator, an Augusta broker agreed to put in \$2500, and his friend in New York offered to go into partnership with \$1000 more. He landed in New York on September 23, 1882, with \$500 worth of manuscript and \$40 in cash. Benjamin Franklin entering Philadelphia with a bun under each arm was hardly a more modest figure.

III

When Mr. Munsey arrived in New York he was a tall, blond young man of twenty-eight, with eyes and features which, if his earlier photographs do not lie, were singularly and deceptively mild. He threw himself into a decade of appalling strug-

gles and toils, besieging a Troy more stoutly defended than Homer's and emerged at the end wealthy, successful, arrogant—in short, the Mr. Munsey now known to fame. I doubt that anyone can read the story of those ten years without thinking more charitably, or at least more philosophically, of him. For if he is inclined to be uppity in his old age he is merely giving back without excessive interest what was inflicted upon him in his youth.

He found that the publication he had planned, illustrated and printed on good paper was impossible. Next his broker friend in Augusta abandoned him. A New York publisher agreed to get out the magazine, making Mr. Munsey editor; three months later the publisher failed. Mr. Munsey offered to settle the debts by taking over the bankrupt enterprise. He borrowed \$300, and with that as his capital jumped into the maelstrom. He has written most appealingly of what followed. He lived through "four years of toil and disappointment, with never a vacation, never a day for play, and rarely a night at the theatre." "With a determination to keep the *Argosy* alive at all hazards, a determination that amounted almost to an insane passion," he says, "I went on and on." He undertook a circulation campaign "that in its intensity and ferocity crowded a life's work into a few months." He wrote "The Boy Broker,"—"6000 words a week dragged out of me, dragged out at night after the awful activities of the day, a complete switch from red-hot activities to the world of fancy, where by sheer will force I centred my thoughts on creative work and compelled myself to produce the copy. What a Winter, what awful chances and what a strain on human vitality and endurance!" Sometimes he couldn't go out to dinner unless the mail brought a subscription check to pay for it.

He was indefatigable. The possessing and dominating instincts grew stronger within him. Neither then or afterwards would he tolerate a partner or an equal in any enterprise of his. He was "editor,

advertising manager, office boy and chief contributor." He had twenty salesmen on the road east of the Mississippi before he had a stenographer or a bookkeeper in his New York office. He borrowed \$95,000 and spent every cent on advertising. He gave away eleven million, five hundred thousand copies. "The Boy Broker," written at night, added 20,000 to the circulation. "Five years of poverty," he says, "five years of awful struggle and now the earth was mine—rich at last, richer than I had ever dreamed of." But his expenses, alas, outran his mounting income. "Merciful Heavens! how the bills fell due, how the notes fell due! The cry from in town and out of town, from men on the road and from all the four corners of the earth, and in a thousand voices, was money, money, money! The whole world had gone money mad." In later years Mr. Munsey has had much to say about money; is perhaps even more conscious of money than most rich men; one begins to see why.

For six years longer the battle went on. At 115,000 circulation the *Golden Argosy* wavered and stuck. In 1889 Mr. Munsey started *Munsey's Weekly*, which "lasted two and a half years and lost over \$100,000." In 1891, he transformed the weekly into a monthly and ran it for two years at twenty-five cents a copy, losing money all the while. Why was it, he asked himself that "out of eighty millions of people there were not over 250,000 magazine buyers? Was the Sunday paper crushing the life out of the monthlies as well as the weeklies?" For two years, while the dollars drained out of his pockets and his credit stretched nearer and nearer the breaking point, he meditated. Finally he decided that "if a magazine should be published at ten cents and made light, bright and timely it might be a different story." Mr. Munsey arrived at this conclusion just as John Brisbane Walker and S. S. McClure arrived independently at a somewhat similar one. Neither Mr. Walker nor Mr. McClure, however, ventured upon ten cents. *McClure's* came out at fifteen cents in

May, 1893, and the *Cosmopolitan* at twelve and a half cents (it was later raised to fifteen) in July.

Mr. Munsey was assured that his scheme was impossible. The news company which had been handling his magazines refused to take the ten cent *Munsey's* at a price which would pay expenses. But the Munsey-Hopkins will power did not weaken. He persuaded a paper manufacturer, even in that year of hard times, to grant him credit. He advertised, also on credit. He called upon the ultimate consumer to come to his rescue. The response was instantaneous. No chewing gum or collar ever leaped to fame more swiftly than Munsey's new magazine. The circulation had been about 20,000; it went to 40,000 in October, 1893; to 60,000 in November; to 100,000 in December; to 150,000 in January, 1894; to 200,000 in February; to 250,000 in April. By March, 1895, it was 500,000; by December, 1899, it was 650,000; in 1903 it was 700,000; in 1908 it had reached 800,000. By this time Mr. Munsey was publishing not only *Munsey's* and the *Argosy* but also the *All-Story* and the *Scrap-Book*, with a combined circulation of more than two million copies, or, as he proudly put it, "a thousand tons of magazines." A thousand tons of magazines is not to be despised. And Mr. Munsey had really and truly achieved this miracle single-handed. "The magazine," he said, "came through because I came through, lived because I lived, was the vehicle merely of what I did."

At forty, twelve years after his arrival in New York, Mr. Munsey had turned the corner. He could now go out to lunch without waiting for the postman to bring a subscription check. He could and did mingle in the "great, big world." The Munsey-Hopkins lineage was vindicated; the blood of those farmers and craftsmen who had toiled so long and patiently and obscurely now flowed in the veins of one of the rulers of America. The poor boy had become rich and famous.

IV

The reader who will turn back to the files of *Munsey's Magazine* in the early nineties will not only find that publication considerably better than the *Munsey's* of today, but better than anything that Mr. Munsey is publishing today. The breath of life was in it as never in any Munsey newspaper. It was literally "light, bright and timely," but it was not trivial. Month after month it gave space to articles on modern art, with excellent accompanying illustrations. It had a literary department, which kept up in chatty fashion with the fiction of the day. It had a theatrical department, baited with photographs of stage beauties; it gave two or three pages monthly to well-chosen light verse; it made obeisance at the feet of the captains of industry, who had not then been taught their places; and it took up current events in a serious way. Its fiction sometimes reached a pretty high level. Indeed, Mr. Robert H. Davis, who took over the function of selection after Mr. Munsey turned his attention to more austere concerns, would have made *Munsey's* the best fiction magazine in the country if Mr. Munsey had been willing to pay what good fiction cost. As it was, Mr. Davis developed swarms of promising young writers, who were snapped up by more generous publishers as soon as their talents became known.

In the early days Mr. Munsey himself wrote a great deal. We find him, for example, expatiating on horsemanship, and later on the automobile, and hanging wreaths on successful business men and politicians. Even then he could hardly say too much in praise of "the intelligent and wealthy portion of the community, who as a rule do things well." Was he not practically one of them? Were not his magazines "earning more money than any other publishing proposition of any kind whatsoever in America?" But Mr. Munsey was not a mere article writer. He also wrote fiction. He wrote "Afloat in a Great City"; "The Boy Broker"; "A Tragedy

of Errors"; "Under Fire"; and "Derringforth." Of these the first two and the fourth were boys' stories, intended for publication in the originally juvenile *Argosy*; the others were for readers who were supposed to have grown up. Yet, as may easily be seen, the thread of a common philosophy and a common literary method ran through them all.

"In a good story," wrote Mr. Munsey, in his preface to "The Boy Broker" (that midnight tour de force), "plot and action are but the setting to the gem—the means of conveying a lesson in disguise in such a way that the reader will not suspect he is being taught." The hero of this narrative, Herbert Randolph, goes to New York as Mr. Munsey did, "to become what is known as a successful man, to make a name for himself—a name that would extend to his native State and make his parents proud of their brilliant son." Arrived in New York, he makes the acquaintance of a rough but honest newsboy, finds a job in a broker's office, falls in love with "the light-hearted merry daughter of the senior partner," and gets into a peck of trouble through the wicked machinations of a boy who had sought a position in Mr. Goldwin's office for the purpose of robbing it. He is kidnaped, rescued by his newsboy friend, and turned out on the streets to hunt a job. By dint of good fortune and energy he emerges from these disasters, is vindicated of the false charges against him, gets rich and marries the light-hearted merry daughter previously mentioned.

Fred Worthington's experiences in "Under Fire" are even more appalling and his ultimate triumph even more dramatic. Fred is the son of the village shoemaker and works in Mr. Rexford's grocery store. He aspires to the hand of the daughter of the village doctor, which naturally leads an unscrupulous rival, first to try to have him knocked on the head by a thug, then to lure him into a billiard den and get him drunk, next to spread lying stories about his alleged dishonesty, and finally to set

the grocery store on fire in the hope that Fred will be convicted of the crime. Mr. Munsey goes so far as to let Fred be tried for arson, but he comes out all right in the end, marries the girl and gets rich. All Mr. Munsey's heroes get rich.

Let us now turn to "Derringforth," a romance for adults, which represents the author's later period. "Derringforth" was published serially in *Munsey's Magazine* between March, 1893, and July, 1894, and was later issued in two volumes, cloth-bound and neatly boxed, for the small sum of a dollar and a half. It did not increase the magazine's circulation until Mr. Munsey lowered the price to ten cents; on the other hand, it did not prevent the magazine from going to 250,000 after Mr. Munsey had lowered the price. "It had been love since infancy. There is nothing sweeter than such love." What member of the younger generation would suspect Mr. Munsey of such sentiment? Yet it is his. "Derringforth" is a robust, well-tailored novel. Its hero is Phil Derringforth, "tall and straight, with soldierly bearing and fine presence"; its heroine Marion Kingsley, who was "tall and willowy" and "played the violin with considerable skill." "Her eyes," Mr. Munsey tells us, "were intelligent and pleasing. The lines of her face were good and her coloring was exquisite. . . . She showed the effect of careful training. She knew nothing of the lighter novels. Her reading had been confined to standard authors."

"Derringforth" has no less than four villains, all of them bent on destroying the hero's happiness if not his life. There is "J. Harrington Van Slump, a sleek old man of full three score, very bald but otherwise well preserved"; there is Martin Strum, a vicious money lender; there is a false friend, Burrock; there is a jealous rival, Stanley Vedder. But the tragedy, for it is a tragedy, turns less on the efforts of these undesirable characters than on the foolish ambition of Marion's mother, who wishes to expose her daughter to the perils and fascinations of a year in fashionable

society before allowing her to become engaged. There is also a missing letter, which causes an immense amount of havoc. Derrington wins and loses fortunes against enormous odds in Wall Street (this at twenty-four), and wipes out his enemies, only, in the end, to marry the wrong girl and expire in the last chapter. All of Marion's admirers, in the meantime, have disposed of themselves by marrying some one else or breaking their necks by falling off horses. The reader drops a furtive tear as Derrington, the Old Guide beside him, slips silently into eternity; while Marion, her lesson learned at last, faces the Dawn of Another Day.

Mr. Munsey's plots are put together like a Ford automobile. One may make fun of them if one likes, but they run. The indomitable Munsey-Hopkins will power exhibits itself in all of them. "I wrote and re-wrote the early chapters many times," he says of "Afloat in a Great City." "It was midnight toil—work done by candle light after long days at the office. I wrote that story with a special purpose. I wanted something to advertise and put my faith to the test by plunging on it to the extent of ten thousand dollars." Let the literary snob who sneers at Mr. Munsey's art ask himself whether he would have sufficient confidence in his own wares to do the same.

One thought may already have occurred to the reader, as it has occurred to me. When Mr. Munsey failed to go into the motion picture field he missed a gigantic opportunity. He had, when he wrote "Derrington," the magic touch that makes kitchen and parlor one.

V

It would be unfair to Mr. Munsey and his art to leave this phase of our subject without touching upon his philosophy as revealed in his works of the imagination. A few excerpts, will, however, have to serve:

No true success can be obtained except by operating on the solid principles of truth and honesty.

In this country there is always a chance for an honest, ambitious and determined boy to succeed

by careful thought, patient endurance, and hard work.

Why do boys go to destruction by visiting iniquitous dens, by keeping low and vulgar company, by drinking, smoking and gambling . . . when they might be refined, respected and supremely happy?

Billiards is a fascinating game and from the very fact of its fascination it is extremely dangerous to boys.

A cruel world this seems sometimes when one reflects how unevenly the joys and sorrows, and luxuries and misery are distributed among brothers and sisters, neighbors and countrymen.

God's tender care for the human race is thoughtfully manifested in the faculty He has given women of finding relief in tears from an overburdened soul.

Happiness always follows a generous act.

He was wholly wrapped up in his business. He could not look beyond that and had no feeling for others. . . . I often pity such men, for though they may have wealth in abundance they know not how to enjoy it. . . . They have starved their nobler nature that is nourished on higher things, until it is dwarfed and shriveled, and the baleful results of such an unnatural mode of life are pictured in their countenances.

To these sentences from his earlier works may be added two or three of a later date:

The literary profession is a business like everything else.

The wages of labor will never come down until the supply exceeds the demand.

We must have a substratum of plain labor. Modern life and modern civilization cannot exist without it.

Nothing succeeds without ownership interest in the management.

Mr. Munsey went through the muck-raking craze almost unmoved. "The people of this country," he wrote in 1913, taking a retrospective squint at the period then just past, "have come to realize that prosperity rests in upbuilding, not in destruction. That these muckraking articles, taking them as a whole, did some good as well as a lot of harm, there can be no question. But *Munsey's Magazine* never went in for them. Its whole attitude has been for constructive work, for upbuilding." Mr. Munsey would not bite the economic system that fed him.

Magazines whose editors were less tenderly solicitous passed *Munsey's* in the race for popular favor. Little by little the Munsey publications, although they continued prosperous, ceased to be signifi-

cant. But by this time Mr. Munsey was tired of the magazine game, and scenting new battles and greater conquests, turned his attention to daily journalism.

VI

Like Jim Hill, Mr. Harriman, Napoleon Bonaparte, and the former emperor of Germany, Mr. Munsey had early been brought to believe in amalgamation. He arrived at this position logically—indeed, it is the only one at which a successful, large-scale business man logically can arrive. He was impressed by the folly of small-scale production. "We have passed by the period, and passed it forever," he said, in discussing the affairs of his magazine, "when small volume and big profits will rule in the business world." He reasoned exactly as Havemeyer did when he took a profit of one-eighth of a cent a pound on sugar; exactly as Ford did when he sold cars at less than cost, knowing that increased sales and the resulting economies of quantity production would repay the temporary losses many times over. He came to believe in amalgamating not only industries but also political parties. Finally he felt himself called upon to amalgamate newspapers, of which, he thought, there were "fully sixty per cent" more than there ought to be. He said:

Suppose the God-given genius of some of these really great men who now control a single great metropolitan journal were utilized to govern the policies of a hundred or of a thousand newspapers, what a tremendous power that would be! There is no form of industry that lends itself to combination more naturally and readily than newspaper building. . . . With a central ownership big enough and strong enough to encompass the whole country our newspapers can afford to be independent, fearless and honest. . . . A million dollars a year for the general editorial department for a chain of a thousand newspapers will mean only a thousand dollars to each newspaper.

Inasmuch as at the time this remark was made there were not more than twenty-five hundred daily newspapers of all descriptions in the United States (there are fewer now, thanks partly to Mr. Munsey) this, conception was sufficiently grandiose. Com-

pared with Mr. Munsey, Messrs. Hearst and Scripps were men devoid of imagination, unable to see beyond their own noses. Such was the dream. What is the reality? The question was thus answered by Mr. Philip Schuyler in the *Editor and Publisher* a few months ago:

In 1920 Munsey said his investment in the New York *Herald*, the *Sun* and the *Telegram* amounted to \$11,500,000. His total investments in newspaper properties he then announced as more than \$16,000,000. Since that year he has paid the reported sum of \$2,000,000 for the *Globe* and well in excess of \$2,000,000 for the *Evening Mail*, bringing the total investment up to more than \$20,000,000. He bought the New York *Star* and the New York *Continental* in 1890 and sold them in the same year. He paid a half million for the New York *Daily News* in 1901 and sold it in 1904 for little more than junk. He paid \$600,000 for the Boston *Journal* in 1902 and put a million more in it before he sold it for a song. In 1908 he tossed a million into the Philadelphia *Times*, which he bought in 1901 for \$200,000 and sold sixteen years later for \$500,000.

Of sixteen newspapers (counting the Paris edition of the New York *Herald*) upon which at one time or another Mr. Munsey has laid hands, he has either killed or sold all but the *Evening Sun* and the *Evening Telegram*. At this moment both of these newspapers are probably earning him a handsome profit, for the circulation he has bought and jammed into them is considerable. But they have no general or permanent significance. They merely reflect Mr. Munsey, and when he is dead they will reflect some one else. He has acquired no following in daily journalism; he has created nothing. Indeed, he is not so much a force as a portent in journalism. He has demonstrated that newspapers are not institutions, like schools and churches, but commodities, like motor cars. He has legitimized journalistic murder. He has invented a new and effective method of doing away with free speech. Perhaps this consoles him for his inability to own and edit one thousand "independent, fearless and honest" American newspapers.

VII

Mr. Munsey sits at a desk near the centre of a large, oblong room. At one end of this

room is a huge fireplace wherein no fire ever burns; on the mantel are a large portrait of Theodore Roosevelt and a portrait, no whit smaller, of Mr. Munsey. The windows look out on City Hall Park. At this height of seven stories above the street the tumult of lower Manhattan is subdued. Everything is subdued. Even the sunlight, striking in across the great rug, creeping over the shining top of the great desk, tentatively illuminating the dusty volumes of *Munsey's Magazine* against the farther wall, loses some of its aggressiveness. In Mr. Munsey's room no one ever speaks in a tone of enthusiasm; no one ever laughs unguardedly; no one walks noisily. Sometimes Mr. Munsey is in a good humor and every employé, down to the obscurest in the bowels of the building, knows it; sometimes he is in a bad humor and that, too, is known.

Though chilly, Mr. Munsey is not without kindness. Toward those whose wills do not defy his own he may be even genial. In a business bargain he feels it his right to take the last penny. When an employé of long standing quit in a huff Mr. Munsey sent him next day a check for half a year's salary. He has no sympathy for the masses of people, but he has some for individuals. He works incessantly, for he has grocery stores, real estate holdings and other non-journalistic interests. He reads little, for his eyes trouble him; perhaps he used them too hard in those old, terrible days when he was putting the *Argosy* on its feet. He does not even read his own newspapers

carefully; he takes the day's news on the say-so of one of his editorial writers. But no editorial writer ventures to tell him what to think.

In his leisure moments he attends the opera or the theater, dines out, travels, and superintends operations at his estate at Manhasset. He has a taste for fancy book bindings and for bronzes. To be happy he must be active. Every Winter he fights off the order to safeguard his health by going South. He still takes an ingenuous delight in his money and his power; like a boy with a new jack knife he likes to haul them out and look at them once in a while; that is one reason why it is hard to hate him. He is still a little incredulous; one imagines that he wakes at night in his apartment at the Ritz, and pinches himself to make sure that he has not dreamed it all, sweating lest he find himself back in the grim offices of the old *Argosy*, or the Western Union's tiger cage at Augusta. And one imagines that, feeling sure all is as it is, he smiles to himself in the darkness: this friendless boy from Maine has made a stir in the big world, sits at the speaker's table at big dinners, is mentioned for ambassadorships, is feared, is flattered.

But he is surely a little sad, too. He will be seventy on August 21. One may do without a partner all one's life, but at seventy one cannot avoid thinking of that grim partner whom sooner or later all men must take. And what will then be left of Mr. Munsey's edifice?

WHERE THE LAW FAILS

BY HOMER H. COOPER

THE president of a corporation which conducts a large hotel in a mid-western city was stating its predicament to his lawyer.

"As you know," he began, "we have been operating for about thirty years in a twelve-story building on ground leased for ninety-nine years. Although the building was the best of its kind and perfectly adapted to our purposes when we erected it, it has become obsolete. For instance, the walls are solid, and in consequence the windows are so deep set and the openings are so small that insufficient light enters even our best outside rooms. The elevators are out of date and improperly distributed. Replacement by a modern type of elevator in sufficient numbers is impossible without virtually rebuilding. The ceilings are several feet higher than in modern hotels, and so we have fewer rooms in twelve stories than our newer competitors have in eight. We have no ample ball-room, no restaurant other than the main dining-room on the third floor, and no modern plumbing. The ornate woodwork and decorations of the early nineties now look cold, forbidding and unsanitary. People of means simply won't stay at such hotels.

"We are losing business steadily. Mere repairs and remodeling will not do. We must have a new building. Now, here is our ninety-nine-year lease. I want you to look it over and advise me if we have the right to tear down the existing building and replace it with a new, better and bigger one."

Before reading the lease the lawyer asked some questions. He ascertained that the hotel company, although now solvent,

faced ruin if it continued operations in the old building, but that plans had been arranged to finance a new building if investment bankers could be assured of the security of the lease on the site.

"The principal demand of the underwriters," explained the client, "is that we must prove to them that the landlord will not and cannot end our lease if we tear down the present building."

"Can't you get your landlord to agree to it?" asked the lawyer.

"I think not. Our original landlord has died. His will left the land to his grandchildren, who, as I understand it, are incapable of making any new contract because they are all minors."

"You are right about that," said the lawyer. "Leave the lease with me and in a few days I'll let you have an opinion."

Some time later, after the lawyer had taken down a hundred heavy books from the shelves of his library, he sent for the hotel president.

"I am afraid you are in a sad predicament," he began. "From my search of the authorities I am clear that the building, even though you erected it and paid for it, now belongs to your landlord. It is part of the realty. By your lease you have agreed to maintain it in good repair during the entire term of ninety-nine years and to deliver up possession of it at the end of that time. All you have and are entitled to is the use of the building so long as you pay rent and keep the other covenants. If you damage it materially without specific authority, or tear it down, you commit something the law calls waste—and waste is good ground for the forfeiture of a lease.