

## **The Prisoner's Counsel Act**

According to what is now a fairly well-accepted line of research on crime and the British novel (Schramm, Grossman), the literary treatment of crime changed after defendants in felony cases gained the right to be fully represented by counsel (in 1836). While the implications of that change have been provocatively explored, some aspects of the underlying assumption are open to question. Criminal defendants in the United States had always had this right—and hence one would expect American and British literature to differ in this respect—i.e., American literature would reflect the inaccessibility of the criminal defendant's motives even when the British still adhered to a mode of criminal trial in which “the accused speaks.” Further, since felony cases were the sole exception, one would expect to see different kinds of legal disputes (felonies, misdemeanors, civil disputes) treated differently. Moreover, commentary on these developments has focused on *novelistic* treatments of crime, yet one would expect the same effects, only more intensively, on the stage, and particularly in melodrama. This line of thought prompts various questions: was American literature different from British literature in this respect? Might British literature have been influenced by American treatments of criminal trials? Does nineteenth-century drama – and melodrama in particular – differ from fiction?

## **Henry Hagerman murder case (1818)**

This case (in the [NY City Hall Recorder](#)) raised a host of questions about evidence and prosecutorial discretion, and also gave rise to one of the first American plays (a “musical farce”) about court reporting: *The Knight of the Rum Bottle & Co., Or, The Speech-Makers* (on [google books](#) and [archive.org](#)), evidently challenging the accuracy of the short-hand transcription of lawyers' speeches, as given in *Trial of Henry B. Hagerman, Esq., on an indictment for an assault and battery, with intent to murder, committed on William Coleman, Esq., editor of the N.Y. evening post, taken in short hand by David Bacon* (1818) (available from the [Cornell Univ. Library](#)).