

Choosy lawyers. It was always nice work if one could get it, but the average work-a-day lawyer simply could not afford to pitch in that league; he had to take the <sup>cases along</sup> bad with the good, the dogs with the winners, and maybe pray a little when the going got too rough...

Well, maybe there was one other possibility: if a lawyer got famous enough and sought after enough he might adopt the strategy of Percy Foreman, the big-time Texas trial lawyer who, when asked why he demanded such large retainers, had ~~not so long ago~~ given this candidly engaging reply: "I have cultivated the image," he declared, "of having the jury believe that regardless of the facts of the case, the client has been adequately punished by the time we get to the courthouse." I sighed enviously; that again was nice work if one could get it.

Gene Canda used an effective strategy all his own, ~~and an~~ <sup>admirable one</sup> in court he liked to create the illusion that he didn't give a tinker's dam whether he won or lost his case; that his job was not to convict the accused but merely to present the evidence against him and sit down, after which it was up to the

jury to act as guardian of the public weal and <sup>of the</sup> forces of law and order against those of calculated evil and sin.

In short he tried to put the jury on its honor and act the part of the aloof and detached public prosecutor, an enviable and noble ideal but one ~~so~~ seldom encountered in real life. With this he slyly coupled creating an illusion of studied ineptitude and calculated bumbling. In fact he often raised the role of underdog to one of high art. Possibly it was corn but, <sup>as</sup> I already <sup>at times</sup> knew, it could be damned effective corn... X

"I can't really go into it now," Gene Canda was saying, again quickly glancing at me. "Suppose you call back in an hour, Mr.— ah...Yes, goodbye, sir," and he cradled the phone and turned to me murmuring, "As you were saying, Counselor?"

Acting on a swift hunch I decided that I would not make my intended pitch for hypnosis; that it probably wouldn't do any good, anyway and only further show our hand and alert the opposition. I also had another <sup>sudden</sup> hunch: that if <sup>Doc and I were ever going to see</sup> ~~ever we two were to get to see~~ Randall Kirk together we'd probably have to fight our way in...

"As I was saying, Gene, I simply want Doc Salter to work on my client to try to stimulate his recall."

"By hypnosis, you mean?"

"Yes, I already said that."

"But why hypnosis?"

"Because it can be most effective, I'm informed."

"Who informed you?"

"Well, Doc did and I've boned up myself <sup>a little</sup> ~~a little~~" I paused, not enjoying the role of cross-examinee. "How about it, Gene? You're busy and if you'll just give me the word either way I'll get out of your hair."

"What does old Doc Salter know about hypnotism anyway?" he countered, seeking more to pump me, I felt, than for any real enlightenment. *that might change his mind.*

"Plenty," I said, "but even if he didn't what's the harm? *in listening him try?*"  
*Should he fail*  
We'd simply be back where we are *today*

"That's not the way I understand it, Paul."

"What would you know about it, Gene?"

"Oh, I've got my sources," he said, and I thought of the mysterious Mr. Ah, his recent talkative phone-caller.

"Look, Gene," I said, "we don't aim to tell Kirk what happened, only to get him to tell us. Why make such a big production out of it?"

He shook his head. "My research indicates that hypnosis is not to be trusted and has no legal standing in court anyway," he announced.

I couldn't resist smiling. "Your research, Gene? Why, man, you've only known about the possibility of hypnotism in this case within the hour while meanwhile you've been trying to scrounge a father for the unborn child of a pregnant dame. Come off the lofty research bit, Gene, and give me the verdict" I got to my feet. "Do we get to see our man or don't we?"

I had stung him and his face reddened as he answered. "The answer is no, Paul—at least I'll so advise the Sheriff."

"Then I guess that means we gotta fight it out," I said.

He shrugged. "Looks like we slug it out, Paul, but that's up to you not me. Anyway, it won't be the first time."

"I'll see you in court, then," I said, affecting a confidence I did not feel and picking up my briefcase and hurrying on my way.

When I emerged from the courthouse I saw a man standing at the side of my car talking with Hugh Salter. As I drew closer I recognized our dignified circuit judge, Frank Maitland, the man who had been so helpful to me when I had been a callow young DA struggling manfully not to lose the courthouse and jail along with most of my early cases.

"Good morning, Judge Maitland," I said, responding warmly to his firm handshake. "And why aren't you out trout fishing on such a gorgeously overcast June day?"

"Ah, good morning, Paul," he said, shaking his head. "I'm afraid my fishing days are mostly over." He patted his leg.

"The way my arthritis has been flaring lately I'm lucky to be able even to <sup>climb</sup> ~~scale the heights~~ to the courtroom. ))

"Objection, Your Honor," Hugh Salter said with a twinkle. +

"You've just committed a grievous error."

"What's that, Hugh?" Judge Maitland innocently inquired.

"Didn't you know there's an immutable rule in the Upper Peninsula that what you suffer from is a four-syllable word invariably pronounced arthur-itis?"

"Objection sustained," the judge said, smiling and turning to me. "I'd ask you why you're not out fishing, Paul, except I see by the papers you've recently acquired other preoccupations."

"That's right, Judge," I said, realizing he was referring to the Randall Kirk case, and knowing further that this oblique reference was probably as ~~flat~~<sup>close</sup> as we would ever get to discussing the case out of the public courtroom—such was the air of delicate propriety and aloofness that both judges and lawyers had to cultivate in their pending cases—and which probably helped mightily to make judging the lonely job that it was.

As Judge Maitland and Hugh Salter reminisced on about some of their bygone trout fishing expeditions back in the horse and buggy days, I thought with a pang of all the accumulated erudition and sheer wisdom this arthritic old man embraced in his person and

wondered how it could ever possibly be replaced when finally he was cut down by time...I also recalled with a smile the sage advice he had given me years before as a young DA smarting over the jury loss of a particular revolting rape case.

"Look, son," he had said, tamping his inevitable smouldering briar pipe, "jurors in criminal cases always ask themselves two big questions when they retire to consider their verdict:

'Is the son-of-a-bitch guilty and, if so, do we want to see ~~the~~ *him* ~~bastard~~ punished?' It's the answer to this last question you've got to learn to live with, son."

Hugh Salter gave out with his booming laugh. "And do you mind the time, Judge," I heard him saying, "when at the last moment you won the daily fishing bet by lassoing that gorgeous brookie by the tail with your trout leader?"

"Ah, that I do, Hugh, and do you remember when you..." and away he went recounting another epic occasion when Hugh Salter had performed an equally prodigious fishing feat.

Despite his arthritis and his seventy-odd years, Judge Maitland was still as slender and erect as a young man, his powerful neck and shoulders reflecting his early days of hard physical labor in the rough and tumble of the U. P. iron mines and lumber camps. He possessed the head, the deep-set piercing eyes, the strong, curving, flaring nose and firm chin and full mobile mouth of a Roman emperor, the almost awesome strength of his features being tempered by an expression which might best be called kindly.

Judge Maitland was wise, he was patient, he was simple, tolerant and kindly—a fine lawyer and a gentle man. He abhorred pomposity, bombast and fake. He not only looked more like a judge than any man I ever knew but he was more like a judge than any judge I ever knew. Above all, he possessed an unquenchable earthy sense of humor. Judge Maitland was a man...

"Paul," he said, turning to me. "I see you're still on the poor man's marijuana, still smoking those incredible Italian cigars.

Tell me, where do you find them? No, let me guess. From the den of a"—he paused, *squinting and mentally* calibrating—"year-old bear?"



"Sometimes I think so, Judge," I said, laughing. "But they're not nearly as bad as they look—they're infinitely worse."

"Well, boys," Judge Maitland said, re-stoking his pipe with a strange and wonderful working-man's mixture called Peerless—which he occasionally <sup>also</sup> surreptitiously chewed in court—and sighing and picking up his heavy briefcase, "I must be off and away to the salt mines"—and Hugh Salter and I watched him as he limped across the areaway and into the back door of the courthouse.

"One thing, Paul," Hugh Salter said softly, "you and Parnell are going to have yourselves one grand judge to try your case before."

I nodded pensively and was just about to drive off when Sheriff Matt Wallenstein strode purposefully out of his jail and climbed in his patrol car and started it up with a roar. The combination made an impressive sight, I had to admit: the great silent Midwestern cowboy crouched impassively in his throbbing and gaudily emblazoned police car like a knight on a snorting charger, a car modestly equipped with not one but three revolving

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roof lights and enough assorted antennae*i*s and sirens and stop signs and squawkers and blinkers to make even the most resolute felon quail. I shut off my motor and walked over to his car.

"Off <sup>and away</sup> on patrol again, Sheriff?" I inquired.

"Yup, Paul, same old grind." He sighed, "Any luck with Gene Canda?"

"None," I said, "but I guess you know that already since you and the DA have apparently taken up using walkie-talkies."

"Real funny," he said, easing his car into gear. "Sorry, Polly, but that's the way the ball bounces."

"No, you're not sorry, Sheriff," I said. "Only worried that maybe you've lost a few votes. I may add that your concern is justified."

"No need to get sore, Polly."

Not sore, Sheriff, I wanted to say, just sad that so little moral character and plain guts could reside in such an imposing frame. Instead for the second time that day I said "I'll see you in court," turning away before I too blew my stack; after all,

good old Doc Salter had provided quite enough of that for one day.

"Doc," I said back at the car, "I too am just beginning to fight. For the first time in this goddam case, as the one and only Justice of Peace Willie Stone used to put it, I'm getting my 'dandruff' up."

"Good boy," Doc said as we sped away.

Chapter 24

Judge Maitland looked down from the bench at the court reporter and nodded and the reporter, getting his cue, quickly hunched forward, pen in hand, to take down what His Honor was about to say.

"This special term of the circuit court for Iron Cliffs County, Michigan is convened for the purpose of considering and acting on the petition of Paul Biegler, a duly licensed attorney admitted to practice at this bar," the Judge began, "for a court order requiring the sheriff of this county, Matthew P. Wallenstein, to allow petitioner access to his jail along with a qualified hypnotist for the purpose of examining and attempting by means of hypnosis to stimulate memory recall in the petitioner's client, one Randall Kirk, presently confined there awaiting trial on a charge of first degree murder."

Judge Maitland paused and then went on to summarize the rest of my petition, but since I already knew it by heart—after the Parnell and I way we had toiled and sweat over it—I instead ran over my notes

and then glanced restlessly around the room. There had mercifully been no publicity on my petition and the courtroom was virtually empty except for a trio of curious whispering women in the front row who, I suspected, had <sup>magically</sup> emerged from the walls. Across the <sup>middle</sup> aisle from them sat Hugh Salter and Maida, also in the front row, while in the very back sat a lone ~~extravagantly~~ <sup>intent</sup> bald-headed man who was—I looked closer—Jason Spurrier, of all people. Well, the bereaved husband doubtless <sup>has</sup> had a legitimate interest in the proceedings, I thought, shrugging and turning back to Judge Maitland.

"Petitioner further avers," he was saying, "that he has made diligent effort to examine his client; that he believes Kirk is anxious to assist him in his defense; but because of amnesia, shock, somnambulism, unconsciousness or some other reason is unable to remember his whereabouts or activities during the critical period involved."

The prosecutor, Eugene Canda, sat at his counsel table to my right accompanied by his client Sheriff Wallenstein—for once

without his cow-puncher's hat—while beyond them, in the other-  
wise empty jury box, sat Miles Gleason, the Gazette reporter,  
furiously scribbling away. I looked closer. Young Miles was  
growing a faint smudge of mustache and I wondered if anyone had  
~~inadvertently~~ told him he ~~resembled~~ resembled a budding Cronkite. <sup>h</sup>

Randall Kirk was not in the courtroom. He wasn't there  
because I didn't want him there, this for a number of reasons,  
one large and disturbing one being that he had lately taken a  
listless attitude, bordering faintly on hostility, toward our  
efforts to get him to remember, and I did not want to risk betray-  
ing this in court; we had quite enough to do without fighting  
the perplexing indifference if not hostility of our own client.  
Another reason was that Parnell and I had decided his presence  
wasn't necessary anyway; that the present issue was not whether  
he had truly forgotten what occurred but rather what he had told  
his lawyer and the latter's consequent plight in preparing his  
case for trial.

"Petitioner further avers," the Judge pushed on, making his

record, "that he has been advised that memory lost through amnesia, shock, somnambulism, unconsciousness or the passage of time may sometimes be recovered by hypnosis and that one Hugh Salter, a retired medical doctor with ~~long~~ years of experience in the study and application of hypnosis, might be able to induce such recall in the accused; and that petitioner believes such an effort is essential to a proper preparation of a defense to the pending murder charge."

Parnell also was not in the courtroom, having been in a frenzy of work since the day, over two weeks before, when the Sheriff had turned down Doc and me. In fact we had worked two days and two nights straight to get our petition drafted and the papers served, during which an equally busy Maida had made <sup>us</sup> sandwiches and endless gallons of coffee between her determined bouts with her electric typewriter. After that we had scoured the books, preparing our brief and our oral argument, but had yet to find that one magic case squarely holding that we had the right to do what we sought to do. Even now the old boy was off

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still ransacking the county <sup>law</sup> library for the elusive clinching  
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case.

"But look at our lovely analogies," I had tried to reassure him, ticking off our bright comparisons between what we sought and the case of an accused needing an interpreter or a psychiatrist or an expert at sign language or what not.

"Analogies be damned," Parnell had stormed. "Pat cases are what we need, Paul. To argue that interpreters and the rest are the same as hypnotists is much like saying that since all men and all monkeys are mammals therefore all men are monkeys!"

It was only by using all my persuasion, short of manual restraint, that I had kept him from flying back to our old law school library in Ann Arbor. <sup>"I need you here," I told him.</sup> ~~"The gypsies might get you," I had warned him.~~  
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"The respondent sheriff by his counsel, Prosecuting Attorney Eugene Canda," Judge Maitland went on, "answers that the order should be denied because—and I am now quoting—the so-called art or science of hypnosis has no standing in our courts; because its results would be inadmissable in any case, similarly to <sup>event,</sup> ~~those~~ results  
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*obtained*

in examinations had by the lie-detector or so-called truth serum; that the results of such an examination moreover are untrustworthy; that in any case Dr. Hugh Salter is not qualified to give one; and, finally, that after diligent search respondent sheriff has found no legal authority for allowing any such procedure sought by petitioner, and therefore his petition should be dismissed and the requested order denied<sup>9</sup>."

Judge Maitland sighed and looked out at the courtroom clock on the far wall, took a sip of water, and looked down at Gene Canda and me. "Are counsel ready to proceed?"

"Yes, Your Honor," we chorused, leaping simultaneously to our feet--the only method, I somberly reflected, by which some otherwise sedentary lawyers kept themselves moderately fit.

The Judge looked at me. "Call your first witness, Mr. Biegler," he said.

"I suppose in the natural order of things," I said, rising, "I should call the petitioner Paul Biegler to substantiate the allegations of his petition." I looked at Eugene Canda. "Unless

in the interests of saving time opposing counsel is willing to stipulate on the record that if I testified I would only repeat what I've already alleged in my petition."

"It may be so stipulated," Gene Canda popped up and said.

"Thank you," I said. "The petitioner will call Doctor Hugh Salter."

Hugh Salter strode to the witness stand where he was met by the court clerk—also the clerk of the county—ingratiating gray-haired Clovis Trepannier, and held up his hand and in ringing accents was fervently sworn by Clovis to "tell the truth, the whole truth, and nothing but the truth, so help me God." It was a memorable performance.

"When Clovis gets through swearing a witness," Judge Maitland had once ~~perceptively~~ said, "he bloody well stays sworn." Clovis had other talents; for one thing he had been in office so long that he had—again in the words of the Judge—"raised political incumbency to a dubious form of immortality."

Hugh Salter sat facing me, his big hands grasping the arms of

*witness*  
his chair like a condemned man defiantly occupying an electric  
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chair. There was an amused glint in his eyes as though he were  
saying, "We doctors have our problems, granted, but at least we  
don't go through all this ritualistic hogwash."

"Your name, please?" I began.

"Hugh Salter," the witness answered in his low rumbling  
voice that echoed and reverberated like that of a man talking  
out of a well.

"Where do you live?"

"Chippewa, this county," he boomed.

"Your profession?"

"Medical doctor, finally retired and ~~let~~ <sup>but</sup> out to pasture."

"Where did you practice?"

"This county."

"For how long?"

"Hm, let's see--good heavens, just short of forty-six years.

Incredible."

"What schools did you attend?"

Eugene Canda was on his feet. "We concede that the witness is eminently qualified as a medical doctor—we question only his qualifications as a hypnotist able to stimulate memory recall."

"Thank you," I said. "I will get on with that." I consulted my notes. "Doctor," I said, "are you familiar with the psychological phenomenon known as hypnotism or hypnosis?"

"I am."

"For how long?"

"Ever since I started practice and I'm still at it."

"What stimulated your initial interest?"

"The possibility of alleviating pain in pregnant women who had reached term."

"You mean in <sup>expectant</sup> mothers about to deliver?"

"I do."

"Will you please tell us about that?" I said, and Hugh Salter nodded and got underway.

"First off," he began, glancing at Judge Maitland, "In all candor I must admit that there are few things I or anyone can say

about hypnotism or hypnosis that will not precipitate from some  
of one's fellow practitioners <sup>of the art</sup> ~~at least~~ <sup>at least</sup> a small avalanche of  
irate dissents <sup>sent</sup> to the scientific equivalent of the Times. One  
of the reasons for this wry state of affairs is that, for all  
the centuries of investigation of the art or the science—or  
black magic, if you will—of hypnosis, so little is still known  
about the phenomenon." He smiled. "In this hypnosis is like  
love: everybody conceives himself an expert on the subject but  
few can tell what it <sup>us</sup> <sup>really</sup> is. With this small caveat I shall make a  
few observations on my experiences with the thing."

I glanced around and observed Jason Spurrier leaning forward  
in his seat as Hugh Salter cleared his throat and proceeded to  
take court and counsel on a guided tour of his long use of hypnosis  
in relieving pain at childbirth; of the hundreds of women he had  
used it on; on the relatively small number of patients in <sup>whom</sup> ~~which~~ he  
had failed to induce hypnosis—in fact all he had told us at his  
home only a few weeks before and more.

"Why don't they feel pain?" I asked, and Doc rumbled on  
about that, craftily larding his discourse with such impressive

five-dollar words as 'synapses' and 'neurons' and other mystifying terms, and I recalled his recent remark about people never being so much impressed as when they didn't quite understand what they were hearing...It was not that he was gilding the truth, but our competition was keen--the combined resources of a prosecuting arm of the state against one lone man-- and the stakes high--the freedom and future of that man, and the old boy was really pouring it on.

"Now, Doctor, I believe you said earlier that you have kept up your interest in hypnosis since your retirement?" I went on after he was done.

"I have" he said, "in fact rather more so."

"Do you belong to any societies or organizations devoted to the propagation, investigation, and development of hypnosis?" I asked.

"I do," he answered, and he ticked off an imposing list of those; next I inquired about whether he kept up on the literature of the subject and he took us on another guided tour: this time of

his library, naming some of the many books he possessed, the long list of esoteric journals and periodicals he subscribed to; then <sup>of some of</sup> the meetings and symposia he had attended. "For all that," he concluded, "one of my proudest possessions is an original copy of Dr. Esdaile's book about his memorable experiences with hypnosis in India."

I paused. I was coming to the hard part--the candid admission that Doc had had no actual practical experience with memory recall; it would never do to wait and let Eugene Canda lovingly bring that out. "Passing now to memory recall," I said, "have you studied the literature on that subject?"

"Extensively," he said.

"Have you seen it attempted by others?"

"I have."

"Successfully?"

"Yes, many times."

"Have you ever attempted it yourself?"

"I have not."

I glanced at Gene Canda and predictably he was joyously scribbling away on his legal pad. "Doctor, do you think you are qualified to attempt recall of memory?"

"I do," he said, and somehow from him it did not sound like an idle boast.

"Will you please summarize for us the theory and practice behind attempting to induce such recall?"

"Of course," he said, and he proceeded to review many of the things he had <sup>already</sup> told us on what now seemed that distant Saturday night at his house—so much had happened so swiftly in the meantime. He explained that the normal waking mind was sometimes known as the objective or conscious mind while that of a sleeping or hypnotized person more nearly approached the subjective or subconscious mind, which largely controls memory; that indeed simple relaxation alone was often an aid to achieving the latter state—hence the popular picture of analyst in his darkened room purring to his patient lying <sup>flat on his back</sup> ~~prone~~ on the famous couch.

"That is why so many people can go to bed puzzling over a



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tantalyzing name or a face or date poised just on the tips of their tongues, as the saying goes, and wake up crying 'Eureka, I've got it!'—their subjective mind has simply had a chance to take over from the teeming 'world is too much with us' waking mind." Doc pondered a moment. "Hypnosis when successful not only hastens the process but often makes it more complete—especially with meaningful memories." He smiled, rather grimly.

"And I would suspect that any memories the defendant Kirk might dredge up <sup>about that night</sup> might just prove faintly significant." Again he paused.

"There is no great mystery about it. Hypnosis doesn't create recall, or plant memories, or undertake to tell the subject what he is to recollect. All it does is unlock, when it works, what's already there."

"Are there more than one kind of type of buried memories?"

I pushed on.

"Yes there are. It is now pretty well agreed that memories recalled under hypnosis are of two general kinds: revived and regressive."

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"Please explain."

"Where an event is recalled in its pristine state, raw and unembellished, uncolored by subsequently acquired knowledge or attitudes or by still later events, that is revived memory, the pure quill, as it were."

"Yes?"

"Memories recovered that are colored by these other factors I've just mentioned are called regressive memories."

"Can you illustrate?"

"This very case might provide one."

"How so?"

"Well, if Kirk killed Mrs. Spurrier and truly can't remember it and has not remembered it since <sup>—</sup> coupled with all the attendant horror and remorse and just plain fear—any memory of his we might recover of that event would be a revived one."

"Yes?"

"Whereas if he has periodically recalled what he's done but out of horror or remorse or whatnot has now banished it from his present memory, any successful recall would be regressive."

All this was highly sensitive and touchy territory and I swiftly veered away. "Now, Doctor," I continued, "do you know of any qualified students of hypnosis in this area who might attempt such memory recall if you should be found not to be so qualified?"

Hugh Salter pondered the question. "Not to my present knowledge," he answered, I felt rather ambiguously.

"You may take the witness," I said, turning to Gene Canda and sitting down.

Prosecutor Canda arose and advanced toward the witness, pausing near the busy court stenographer's littered work bench.

"Doctor," he began bluntly, aiming for the groin on his first question, "what makes you think you can make a man remember things he's forgotten if you've never tried it before?"

"I don't think I've said I could make anyone remember, young man," Hugh Salter answered softly—softly for him, that is. "I only mean to say that I think I've qualified to attempt to stimulate his recall."

"In what way?"

"By hypnosis, of course, the thing I've been running on about."

"I don't mean that—I mean in what way do you think you are qualified to try?"

"Well, it's a long story, young man, part of which I've already given, and I'm not too sure you'd understand if I told you."

"Will you try?"

"Well, as I've just told this august assemblage, I've read extensively on the subject, including scores of case histories; I've watched actual attempts at memory recall and age regression by others—some of which had rather amazing results, I may add; I'm a pretty old hand at inducing hypnotic trance, and"—he widened his hands—"all and all I think I could give the attempt a pretty good whirl."

Gene Canda stroked his chin and consulted his notes and hurled another probing question while I thought of a terrier worrying a bear. "Doctor," he went on, "Mr. Biegler's petition alleges that the defendant Kirk may be suffering from, and I

quote, 'amnesia, shock, somnambulism, unconsciousness or some other condition.' "

"Yes?"

"Now may I assume you helped advise him during the drafting of that petition."

"Naturally, sir."

"But you still can't tell us now which of these accounts for Kirk's lack of memory?"

*Things*  
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"I cannot."

Gene Canda stepped back and hurled his fastest ball. "Why not?" he inquired softly as I held my breath.

Hugh Salter grunted and answered steadily. "Because that knuckle-headed sheriff of yours there won't let me at him."

Judge Maitland tried to stifle a smile, rather unsuccessfully, I felt, and I began to breathe again. Gene Canda, slightly flushed, was back at the witness. "But how could you tell which condition it was if you could get at him?" he bored in.

"I'm not sure that I could be able to, but still I might make him remember, *which is the important thing.*"

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"But how could you?"

"Again it's a long story, but in many cases amnesia, lack of recall, is simply the mind's retreat from what it dare not face. Hypnosis when successful, may unlock that buried memory."

"Are you suggesting that Kirk was so horrified by what he did to Constance Spurrier he has blotted it from his mind?"

I half arose to object and then worriedly settled back; that gnawing question was in our case and wouldn't go away, and a losing objection now might only rub it in...

"It is entirely possible," Hugh Salter calmly replied. "But there can be blocked memories without guilt—take the cases of the thousands of people still among us who witnessed and somehow survived the unspeakable horrors of the concentration camps and gas chambers."

"Are you suggesting that all those survivors are amnesiates?"

"Amnesiacs is the word I suspect you seek, young fellow... No, I am not, but only that most of those who survived those horrors—physically and mentally—probably only dare recall as much as they can live with and still remain sane."

"And those who remember all?" the DA fairly purred.

Doc shook his head sadly. "They are either a rare psychological phenomenon or I condole with their torment." He looked out at the clock and grunted. "But we're getting off the track, young man. All I suggest doing is what psychiatrists and analysts do every day—to probe the buried memory, remove the block, unlock the unconscious, and when lucky let memory and truth prevail."

"Are you suggesting then that a good psychiatrist might do with Kirk what you propose to attempt by hypnosis?"

"I am."

Gene Canda stepped back with folded hands. "Then why don't you people get yourselves a trained experienced psychiatrist instead of a fumbling hypnotist?"

A slow smile spread over the face of Hugh Salter. "Are you suggesting, young fella," he fairly purred, for him, "that if I were a psychiatrist that you and your cowpoke sheriff would cheerfully let me have at Kirk?"

By the rush of blood up Gene Canda's crimson neck I knew

that Doc had him fairly cornered. The dilemma was deadly: if the prosecutor said yes he not only confirmed the validity of possible memory recall but as well the persuasiveness of our chief analogy; if he said no he would petulantly appear dead set against any means of helping Kirk remember and so help us prepare—or possibly end--this nagging case.

Gene Canda, still ruddy, resourcefully appealed to the Judge. "Please, Your Honor," he said, "I thought I was supposed to be asking the questions here, not the witness."

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Judge Maitland pondered his ruling. "Your point is well taken, counsel," he said, "but since I also think the question is a good one I'll ask it myself. If Dr. Salter were a qualified psychiatrist do you think your client would still object?"

"I—I'd have to ask him, Your Honor."

*that,*  
"Then suppose you do," the Judge said.

So while Gene Canda conferred in a whispered huddle with the sheriff, and Judge Maitland ~~quickly~~ *quietly* took himself a wee chew of Peerless--somehow he never spat, which always mystified me--the missing Parnell came puffing into court and headed for my table



and whispered hoarsely in my ear. "I found it, Polly, I found it, I found it! Right on the goddam nose."

"Found what?" I asked, knowing.

"The case, the goddam lovely case that holds flatly that a lawyer's got a right to fetch a hypnotist to jail to work on his forgetful client."

"Wonderful, Parn, I whispered back. "Where is it?"

"Right here in my briefcase," he said, rummaging, and then handing me a hefty volume of the second series of the American Law Reports. "Tell me, how's Hugh doing?"

"If that ~~crafty~~ old man had ever taken up law," I said soberly, "all the rest of the county bar might just as well have retired and taken up trout fishing—with the possible exception of yourself, Parn. He's terrific. But let me at that case."

*the practice of*  
^

Eugene Canda was on his feet speaking to the judge. "Your Honor," he said, "I have conferred with my client and he is not now prepared to say what his attitude would be if Dr. Salter were a psychiatrist. He suggests further, that since the witness

isn't one, he is still opposed to allowing any hypnotist in his jail, especially one who admits he has never before attempted memory recall."

Judge Maitland frowned slightly and turned to Hugh Salter.

"Doctor," he said, "are there any essential differences between the means employed by psychiatrists and hypnotists in stimulating recall?"

"Well Frank—I mean, Judge—I'm no psychiatrist, of course, and I may be way out of my depth, but in a general way I'd say that their goals are the same: to relax the subject, probe the unconscious and allow the buried memory to flow. The one uses hypnosis, the other his art."

"Any other differences?"

"Generally the approach of psychiatry is apt to take longer, is perhaps less amenable to being done in jail and is perhaps more easily hampered by any intellectual limitations in the subject. Moreover in this case it would be a whale of a lot more expensive"—he grinned—"since I propose doing the job for nothing."

"Any further questions, Mr. Canda?" the Judge inquired,  
again trying and failing to stifle a smile.

"No, Your Honor."

"Mr. Biegler?"

"None, Your Honor," I said, rising. "But my associate  
Parnell McCarthy has just handed me a case which I haven't had a  
chance to read and which may possibly resolve this hearing in a  
hurry. May I suggest a brief recess?"

"You may," Judge Maitland said, smiling. "Anything to spare  
the busiest and most forgotten man in this room--our poor court  
<sup>reporter.</sup>  
<sup>stenographer.</sup> He looked out at the clock. "We'll take a ten-  
minute recess," he said.

Chapter 25

After recess Judge Maitland nodded at me and I got up trying to banish my exultant look. "Your Honor," I began, "during recess I have read the case I referred to just a while ago. It is the California case of Cornell versus Superior Court decided as recently as 1959," and I paused and gave the citation. "The similarities between that case and this are as many as they are remarkable."

I paused and consulted the open book lying on my table.

"There as here the petitioner, one Harold Cornell of San Diego, was the lawyer for a man accused of murdering a woman," I continued. "There as here the petitioner claimed that his client was unable to recall his actions and the events during the critical period involved. There the petitioner alleged that his lack of memory might have been caused by virtually the same things as here--differing only in that Cornell added possible intoxication. There as here the petitioner sought to bring a hypnotist to the jail to stimulate recall in the accused but the sheriff turned them down. Finally, there as here the petitioner asked the trial

court to compel the sheriff to admit counsel and the hypnotist to the jail in the interests of adequately preparing a defense. In fact the parallels between the two cases are faintly eerie."

"What happened?" Judge Maitland inquired.

"The petitioner lost before the trial court but won on his appeal to the supreme court, that is, the lawyer and hypnotist got in to examine the accused."

"Proceed."

"There as here the respondent sheriff made virtually the same defense as Sheriff Wallenstein has made here, and there as hopefully here, the court brushed aside all their arguments and claims and entered the order. In fact the only real differences I can offhand discern in the two cases is that the petitioner there was called Cornell rather than Biegler and <sup>there</sup> the case had to go beyond the trial level for justice to prevail"—I smiled—"a situation I trust will not prevail here."

"That remains to be seen," Judge Maitland said, smiling faintly. "Are you through?"

"Presently, Your Honor, but with the courts indulgence I'd

*interesting*

like to quote a few highlights from the opinion of the California court."

"Highlight away."

"In answering the sheriff's contention that hypnosis had no standing in court and that ~~anyway~~ such evidence would not be admissible in any case, the court said this argument had, and I quote... 'no application to the problem... Admissibility of evidence... is not the question here presented. Cornell is now seeking to learn facts that may be of assistance in preparing for the defense of the crime charge.' "

"Hm... Any more?"

"The court then flatly declared that this right is a constitutional one, similar to the right to have an interpreter or psychiatrist present. On the issue of using hypnosis at all it declares. 'The use of hypnotism for the purpose desired is recognized by medical authorities, citing the 1954 edition of Encyclopedia Britannica which discussion, I may interpolate, Doctor Salter has just told me was written by one of the country's out-

standing authorities on hypnosis and memory recall, Dr. Milton

H. ~~W.~~ Erickson. The court concludes thus: 'There is no substantial legal difference between the right to use a hypnotist in an attempt to probe into the client's subconscious recollection and the use of a psychiatrist to determine sanity.' "

"Well, well. Any more?"

"In view of the sweeping scope of this California case I shall not repeat the arguments in our accompanying brief more than to remind the court that hypnosis has further legally been recognized in this country by its inclusion as a specific defense in some situations, this in the latest draft I have seen of the Model Penal Code--which argument I shall not now belabor."

"That might be carrying coals to Newcastle, mightn't it?"

Judge Maitland mildly observed. "Anything else?"

"Just this, Your Honor. The court wound up its opinion by directing that an order issue, and I quote, 'to the sheriff permitting the petitioner to examine the accused with the aid of a hypnotist. The order shall further provide that such examination be conducted in private unless the accused waives that right.'

The decision, I may add, was unanimous."

"Gracious of the California court to so thoughtfully provide me with the form of my order," Judge Maitland said, smiling.

"If it comes to that, that is."

"I am through," I said, "but possibly the court might wish to take an informal recess so that it and counsel may examine the case at greater length."

"You've taken the words out of my mouth, counsel," he said, holding out his hand. <sup>"Fetch"</sup> "Bring up the book."

While the Judge and Gene Canda were poring over our new case, Parnell and I held a whispered conference at our table. >

"Don't ever leave me, Parn," I whispered, taking and squeezing his hand. "I don't know how I ever paid the rent before we became partners. Now if we can only sign up Doc..."

"It was nothing at all, Paul," Parnell said, beaming, "once I got the bugs outa me britches and begun looking in the right places."

"Right places, <sup>me</sup> eye. I've been scouring the digests and all for nearly two weeks and didn't even come close. All I came



up with was that California psychiatrist case, <sup>that</sup> your new case  
cites and leans on, <sup>by way of analogys</sup> but lacking the necessary citators up here  
I couldn't <sup>chaos</sup> track it down to your big prize."

"That's why I wanted to go back to Ann Arbor," Parn said.

"There's nothing more frustratin' for a lawyer--short of losin'

his case--than to stumble on a close authority and then can't  
<sup>warmly</sup>  
track <sup>it</sup> ~~the goddam thing~~ down."

"Yes," I said. "I feel much the same way when I'm stalking  
an elegant rising trout and a scow-load of beer-drinking plunkers  
comes clanking round the bend. Tell me, how did you ever find it?"

"Well, for days I've been vainly scourin' the books under  
Jails and Sheriffs and Mandamus and Preparation for Trial--the  
whole bit."

"So did I," I said. "And what happened?"

"Then just a few minutes before I came in here I was hit  
between the eyes with a sudden inspiration...Actually, two inspira-  
tions," he added, prolonging the suspense.

"For God's sake tell me, Parn?"

"One, that I'd been lookin' in the wrong places and two, that

I'd better start looking under a brand new heading."

X  
"Tell me <sup>where</sup> I entreated him, clasping my hands in an

attitude of prayer.

<sup>under</sup>  
"Hypnotism," he said.

"Hypnotism!"

"Hypnotism," Parnell repeated. "So for a starter I quick  
looked under that heading the American Law Report indexes and—  
presto—the case all but jumped out and bit me." He shook his  
head. "Sometimes I think I'm getting overtrained—I'd looked  
every goddam place but the obvious one."

"Well what do you know? Were there a lot of other entries  
under hypnosis? Maybe we can come up with something else."

"Surprisingly, no. Just one or two other entries on stuff  
apparently not in point. Correction, I ran across one long entry  
in old 40 Lawyers' Reports Annotated 269 that offhand looks  
against us, though I'll check it more carefully. The romance  
between the law and hypnosis remains as budding as it is uneasy."

Just then we heard the Judge's gavel fall and like monks ~~at~~ <sup>called to</sup>

*immediately*  
evening prayer, ~~we~~ fell silent and attentive.

"Counsel and I have gone over your California case," Judge Maitland said, "and, while I was already finding myself somewhat persuaded that the order should issue, I must say I regard it as conclusive on the main issue before us, namely, the right of defense counsel to visit his client in custody along with a qualified hypnotist to attempt memory recall. The only question on which there remains any reservations is that of Dr. Salter's qualifications." He addressed himself to Eugene Canda. "Does the respondent have anything to offer on that?"

Gene Canda half rose from his chair. "We renew our objections on that score," he said.

"Any counter testimony?"

Gene Canda turned slowly around and looked back at the clock—or could it have been at Jason Spurrier?—and turned back to the Judge. "No, Your Honor," he said.

"And the petitioner?"

"Nothing further, Your Honor," I said.

"Very well," the Judge said, turning to Hugh Salter and telling him he could step down, <sup>from the witness chair.</sup> When Doc was back in his place beside Maida, the Judge said, "I shall now make my ruling on that," then briefly consulted his notes and turned to the court reporter.

"While it is true that the proposed hypnotist here has had no practical experience at memory recall" he began, "it appears he has considerable background in the subject from both study and personal observation. It further appears that there is no one else in this <sup>Lake Superior</sup> area who can attempt the stimulation if he can't. In any case I find and hold him so qualified and I shall accordingly enter an order granting the relief prayed for. I comfort myself by reflecting that if the Doctor should fail it won't have done any harm."

Gene Canda was on his feet. "Your Honor," he said, "may I address myself to your last remark?"

"Proceed."

"It is my understanding that hypnosis can do harm."

"I thought we'd just closed the testimony," Judge Maitland

said, smiling a little, "but I'll reopen if you have any proof beside your understandings/. Do you, Mr. Canda?"

I heard a scraping sound behind me and turned just in time to see Jason Spurrier disappearing out the rear courtroom door.

"Well, not exactly, Your Honor," the prosecutor said, a little flustered. "But I thought you might want to question Dr. Salter on the subject."

The Judge looked down at Hugh Salter and questioned him from where <sup>the latter</sup> he sat. "Do you see any harm, Doctor, in attempting recall on the defendant Kirk even if you should fail?"

"I do not," Doc boomed, <sup>out into</sup> ~~in~~ the big empty chamber. "The only harm I can see is that I or someone fails to try."

"Thank you, Doctor," the Judge said, turning to the reporter and saying, "I shall now dictate my order when the reporter is ready," and the alerted reporter nodded and the Judge began dictating his order, pausing and consulting both his notes and the *California* Cornell case when he came to the crucial part.

"It is further ordered," he went on, "that the petitioner

accompanied by the hypnotist, Dr. Hugh Salter, may examine the accused in the county jail at such time that may be convenient and that such examination shall be conducted in private." Judge Maitland paused and addressed Gene Canda and me. "Any comments from counsel?" he said.

Both of us indicated no and then I heard "Your Honor" and Hugh Salter was on his feet.

"Yes, Doctor?" the Judge said.

"I have a couple of small suggestions," Doc said a little sheepishly.

"Let's have them, Doctor."

"The way your order is presently phrased it could well be interpreted to mean that we are allowed but a single examination. The fact is it may and quite likely will take more than one effort. My other point is that it also seems to say that Mr. Biegler must be present at any or every examination. While I have no personal objection to that I do know from experience that the exigencies of inducing hypnosis frequently call for the subject and operator to be strictly alone. Perhaps you may wish to fix your order so

that there may be as many examinations as need be held either in the presence or absence of Mr. Biegler."

"Thank you, Doctor," the Judge said. "Your points are well taken and I shall so amend my order to reflect your helpful suggestions," which he proceeded to do, and then he adjourned court, stuffed and lit his pipe, came down and chatted with us for a moment—"I now see why you beat me fishing so often, Hugh," he teased. "You hypnotized the unsuspecting old Judge, you calculating old scoundrel"—and then disappeared into his private door marked "Judge's Chambers."

The Sheriff came over to our table, gamely managing a wan smile. "When'll you and Doc want to have at him, Polly," he inquired, "so I can spray the place with essence of arbutus?"

"You mean, Sheriff," I needled him, "you're not going to try to appeal the Judge's order?"

"Hell no, Polly," he said, still in there counting votes, "I don't want to ~~go and~~ get the circuit judge sore at me, too. Might you and Doc be comin' over today?"

"I'm not sure, Sheriff," I said, looking inquiringly at Doc.

"Not today, Paul," Doc said. "I want to do some last-minute reading. Let's discuss it later."

When we were alone I turned to Doc. "I approve of your brushing up on your reading, Doc, but again not today. I've just decided we're all stopping off at the Halfway House and celebrate with a champagne supper."

"I'll have to phone Amanda then," Doc said, grinning. "She threatens to ~~quit~~ <sup>leave me</sup> every time I fail to warn her I won't be home for one of her gorgeous meals."

"And I'll have to phone Ripley," Maida said. "Tell me, Boss, <sup>(Believe-it-or-not)</sup> are you losing your mind? Champagne yet!"

"We gotta live it up, doll, while we're ahead. Next week we and our case may be in the depths of despair."

Parnell turned to me. "Congratulations, partner," he said. "You've won a brilliant first round."

"No, Parn," I said soberly, "we won the first round—and by we I mean all of us. But let's not get sentimental and start crying in our beer. Let's be off to the Halfway House and do it in our



champagne. Believe it or not, folks, tonight I don't even  
want to go fishing."

"T'is a miracle," Parnell said, quickly crossing himself.

Chapter 26

During the gala supper Parnell so far relaxed that, amidst  
the popping corks, he had himself a full bottle of gingerale. (2 wds.)

During a lull Doc and I agreed to meet and take our first crucial  
crack at memory recall two days hence.

"What time would be best, Doc?" I inquired.

"How about mid-afternoon—say about 3?"

"Fine, I'll pick you up."

"You know," Maida said, "that Jason Spurrier person is  
beginning to give me the creeps. He's all over like a gnome. He  
ran into me alone in the hall just before court convened and  
introduced himself and, you're not going to believe this, I think  
~~he~~ wanted to make a date."

"The bee-reeved husband is recovering uneventfully and begin-  
ning to feel his oats," I said. "Anyway I must say I admire his  
taste."

"That deserves a quarter, Paul," Maida said, and she rummaged  
and gave me one.

"Tell me, Maida," Doc said, "what precisely did he say?"

"Well, after a few pleasantries he ran on about how lonesome it was up here, with his wife gone and his fishing pal Randy Kirk in jail and that sort of thing?"

"What sort of thing?"

"Well, I can't remember all he said, but a gal knows when she's being propositioned..."

"To do what?" Doc persisted.

"To come out to his fishing camp for a quiet supper, I think."

"Did he put it that bluntly?"

"No, but I knew what he meant. After all, Doc, I've been propositioned by experts. They say that fishing shack of his—as he modestly calls it—is fancier than most of the big houses of the mining company brass up on the hill in town, I've been dying to see it."

*full of fireplaces and picture windows and all.*

"What did you say?"

"Oh, I passed it off with some platitudes of condolence—time would be the great healer, he would meet new people and all that—and then he left, hinting in his oblique way that I'd be

hearing from him again." She sipped her champagne. "Maybe he wants to get me alone and pump me about our case."

"Don't downgrade yourself, doll," I said. "All he probably seeks is to bask in the blinding spell of your beauty." I held up my hand. "Nope, no more quarters—we're having a victory special today, two heartfelt compliments for the price of one."

"Maybe, Parnell mildly put in, pausing <sup>before pronouncing</sup> judicially, "maybe he's one of those old-fashioned champions of feminine equality who still believe that women should be obscene but not heard."

"My, my," Doc said, and then a new supply of champagne came along, and Maida giggled and held her ears against the popping corks.

"I wonder why that big dumb sheriff ever wanted to stop Doc here from examining Randy Kirk in the first place?" Maida said over <sup>the</sup> dessert.

"It is a puzzle," I said, "but I guess he did so largely so as not to further offend his miffed DA, whom he'd apparently neglected to clue in about those earlier exams out at the clinic." I sighed. "It probably boils down to a simple matter of votes."

He probably thinks Gene can help him <sup>m</sup>ore than I can, that having a live  
young <sup>incumbent</sup> ~~incumbent~~ DA in his corner is better than having an aging ex-DA."

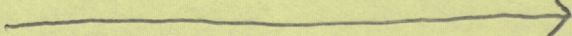
"Surely you're not suggesting, Paul, that the Sheriff would prejudice a man's very freedom and whole future simply for a handful of votes?" Maida said. "Don't tell me you've grown that cynical?"

Parnell took over, turning to Maida. "Don't you know, my sheltered child," he said softly, "that there are only three things the average American would cheerfully lay down his life for: Motherhood, the Flag, and above all the divine right of—ah—<sup>screwing</sup> ~~exploiting~~ his fellow Americans for his own private gain? Get with it, gal. The Sheriff was merely celebrating one of our most cherished national ideals."

"How can you say such a dreadful thing?" Maida said. "Why, you sound plain subversive."

"I am," <sup>)</sup> the old boy amiably agreed. "Guess I'm a pure Marxist—but of the Groucho <sup>type</sup> ~~type~~ variety."

"Hm," Maida said, giving up and turning to me, "then why should that smart DA Gene Canda have taken the stand he took?"

"That, Maida," I said, "is even more puzzling. First, I suppose, because he thought it would help him ultimately to win the case and convict Kirk—as indeed he may do yet. Second, because I'd guess he may honestly have thought that hypnosis is a lot of tommyrot—he seems to be getting ~~some~~ <sup>dubious</sup> advice on 

it somewhere. Finally, for the sheer heady delight of exercising raw power, of throwing his weight around." I sighed.

"I know something about the beguilements of the latter--after all I was DA once myself" ))

"Power?" Maida said. "Paul Biegler the indolent fisherman and that nice crew-cut Gene Canda lusting for power? I can't believe it."

"Pure naked brutal power," I said. "The District Attorney is one of the most powerful men in his community, if not the most. To steal from Whitman, I know; I was there; I saw."

"You gotta be kidding, Paul."

"No, Maida," I said soberly. "For one thing, virtually every powerful political mover and shaker in this country from President on down--at least among those who've had legal training-- was <sup>once</sup> a prosecutor or chief investigator or official noser-outer of some sort somewhere along the line. The DA's office is the greatest little training academy for power in the land. For one thing, it gives its incumbents their first heady and unforgettable draught of raw power." ))

"Then how in the world did you escape it?"

"Just lucky, I guess," I said, smiling, "as the ~~busy~~ <sup>visiting</sup> whore lady told the social worker when asked how she got that way. In my case I guess the trout reprieved me. You see, Maida, I fish not so much because I think fishing is so terribly important but because, at least I keep telling myself, most of the other concerns of men are equally unimportant—and not nearly so much fun."

"You're pulling my leg."

"Don't go putting ideas in my head, my dear," I said, leering like Groucho.

"Paul's right," Hugh Salter cut in. "Look at what that curious New Orleans DA fellow did not so terribly long ago, arresting one of the town's leading citizens and forcing him to stand trial for conspiring to murder John F. Kennedy. That he was able to do so at all on his flimsy evidence was an exercise of sheer naked power. Incidentally, you may recall that one of state's star witnesses in that strange case was allegedly treated

by hypnosis to jog his recalcitrant memory. I meant to remind you of it, Paul, as an additional argument in your case today, but / clean forgot."

"That's right, Doc," I said, slapping my leg. "And so help me I meant to use it, too, but ~~clean~~ <sup>also</sup> forgot when Parnell popped <sup>up with</sup> his clinching California case."

Doc raised his champagne glass and it looked like a thimble glued to a needle in his great bearpaw of a hand. "Let's forget ambition and the lust for power and drink to the simple miracle of our being here together tonight, alive and well."

"And full of booze," Parnell put in.

"Here's to all of those splendid things," Doc solemnly continued, "and that justice may prevail in our case."

Following which Parnell and Doc shortly drove off together to play at their inevitable rounds of cribbage while Maida and I drove to her apartment to continue our investigation into that other curious form of universal power that so irresistibly attracts a man and a maid.



Chapter 27

"Randall Kirk, this is Doctor Hugh Salter," I said in the former's cell the next afternoon, "the man who's going to try to get you to remember what happened."

"How do you do, Doctor," Randall Kirk said quietly, with a sort of constrained formality, gravely shaking hands.

"Hello, Kirk," Doc said briefly, looking around the tiny cell.

"Won't you gentlemen please sit down?" my client went on, gesturing. "Though as you can see the seating arrangements are <sup>pretty</sup> rather primitive."

"Nonexistent, you mean," Doc said, turning to me. "Paul, go fetch that stool," he said, and I went to the head of the jail stairs and returned with a sturdy campstool Doc had asked me to bring along for his first session. Doc opened and plumped it down in the open cell door, facing the one barred and narrow window, and turned to Randall Kirk, pointing, and said bluntly: "Sit down, Kirk."

"Yes, sir," he murmured, settling himself uneasily on the

stool, sitting tensely upright, ~~something~~ <sup>Terrible</sup> like an ulcerated  
<sup>an uncertain</sup> patient at a dentist's, and this being Doc's and my pre-arranged  
signal, I squeezed past Kirk and left the cell and retired to  
the head of the jail stairs, out of sight but not out of hear-  
ing, and there awaited developments, restraining a nervous  
impulse to giggle.

For a long time I heard nothing, and began wondering what  
they were up to, until I heard Doc's voice, grown miraculously  
soft and seductive as a woman's, suggesting to Kirk that he was  
closing his eyes and was about to fall asleep.

"Your eyes are closing, you are getting sleepy, your eye-  
lids are heavy, you are very tired, your eyes are closing," Doc  
kept repeating in a kind of monotonous litany in the, for him,  
unbelievably purring voice, until I felt my own head nodding.

Again there was silence and again the soft voice repeated  
the beguiling words, over and over, in what seemed irresistible  
waves of soothing rhetoric, a kind of off-beat lullaby, so  
beguiling and suggestive, in fact, that I had to light a cigar  
and resolutely blink my eyes and shake my head to banish the

gathering cobwebs, hazily recalling a recent indignant comment of Parnell's: "Polly, you're so goddam susceptible to suggestion that I swear if you were a woman you'd <sup>surely</sup> ~~surely~~ <sup>of been</sup> be a whore."

As the voice flowed and ebbed I again restrained a nervous impulse to giggle, at the same time feeling vaguely let-down and disappointed by the proceedings. While I scarcely expected Mesmer's scented atmosphere or soft music or any wooden vats, I had somehow been prepared for something a little more <sup>impressive</sup> ~~exotic~~ and mysterious than the picture of a gruff old country doctor huddled in a stinking cell trying to persuade a nervous skeptic clad in a <sup>Tanned dungarees and</sup> sweatshirt and squatting on a beat-up campstool that sleep was all he craved.

"Madam, what did you expect—chimes?" I thought, recalling the famous question asked by "The Man Who Came To Dinner," when the fortuitous guest had suddenly and magnificently burped and his involuntary hostess had been understandably distressed and perturbed. I had expected chimes...

I had naturally told Doc about the growing air of constraint and aloofness I had sensed in Kirk's recent demeanor and also his

lack of enthusiasm for what we were trying to accomplish, indeed  
the ~~faint~~ <sup>pained</sup> attitude of skepticism if not of open hostility I was  
beginning to feel. While I had not ~~directly~~ <sup>lately</sup> dicussed hypnosis  
with Kirk, I knew that he knew that <sup>still</sup> Doc planned to employ it; for  
one thing the fact had been rather luridly proclaimed in the  
Gazette and moreover <sup>via</sup> the grapevine, the jail was abuzz with it,  
and I wondered vaguely whether that had anything to do with his  
recent coolness.

Doc had brushed off my concern. "We will face what we have  
to face," he had said. "All we can do is try."

X I strained to hear, and Doc was still in there trying, repeat-  
ing his soft litany in a way reminiscent of those haunting midnight  
radio voices that used to recite poetry of cosmic significance to  
the accompaniment of a quavering organ. Doc's voice trailed off,  
and again all was silence, and I tried not to giggle or think of  
epic burps or chimes or the tremolo throbbing of ~~an~~ old movie  
organ) but to concentrate on the sober business at hand...

Then I heard a voice again, but this time it was not Doc's,

but instead Randall Kirk's, gradually gaining in volume. "I  
can't stand it, I can't stand it," he was saying <sup>shrilly</sup> with ~~increasing~~  
~~shrillness~~ "Please stop this indignity, stop it, I say...I  
regard this an insult to my intelligence...I can't stand this  
nonsense, I can't stand it, I tell you...I've never been hypnotized,  
I don't believe in such <sup>stupid</sup> childish folderol...I tell you I don't  
believe, I don't believe..."

Suddenly I heard the clatter of my poor campstool being knocked  
or kicked away and Randall Kirk now openly shouting: "Get away  
from me, please...Go away, I say...I demand that you leave...I can't  
stand it, I can't stand it..." and then the sound almost of sobbing,  
then only the uneasy silence of heavy breathing, and then Doc  
quietly joined me, a warning finger to his lips, and we made our  
way downstairs past the battery of silent curious inmates and out  
to the car.

"What's the pitch, Doc?" I asked anxiously, feeling both  
baffled and depressed.

"I failed," he said, widening his hands. "I just failed, is  
all."

*gather that,*  
"Yes, I ~~know~~ but what in the world happened?"

"Nothing. He simply didn't respond. I couldn't begin to reach him. Instead of relaxing he just sat there tense and resisting--and also suspicious--building up to the final outburst you must have heard."

"Yes I could scarcely miss that. The whole goddam jail must have heard it. But tell me--what do you make of it?"

Doc sighed and grew serious. "That we may be in for a rougher time, Paul, than any of us dreamed ~~of~~."

"You mean about getting him to remember?"

"Not only that, Paul, but even getting to first base.

Getting him hypnotized is only the first stage to getting recall, but without that we'll recover nothing." He wagged his head. "I couldn't begin to touch him, it was like trying to reach a cigar-store Indian."

In my despondency--or possibly out of free association-- I lit a new cigar and dragged away at it in silence. After all this crazy work and planning, work that had lately invaded even one's

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uneasy dreams, were our efforts to end only in failure? "What are we going to do?" I asked.

Doc ~~was not downhearted and~~ ~~he~~ smiled and shrugged. "We'll simply try again, that's all," he said airily. "Next time I'll try a different approach."

"What do you mean?"

"I used eye-closure today. Next time I'll probably use something else."

"But, Doc, hasn't this eye-closure thing worked for you in the past?"

"No, Paul," he said drily. "Probably because I've never used it before."

"But, Doc, I said, feeling even more mystified as well as put upon, "why in the world would you try something you've never used before? With so much riding, and all?"

"Testing," Doc answered ambiguously.

"Testing?" I repeated, my confusion and vague sense of being left out of things steadily mounting. "You mean you were testing

his response to some brand new approach?"

"No, Paul, testing his response to one of the oldest and most elementary approaches in hypnosis. It failed, but I think I learned something."

"What, in God's name?"

"That we're up against a far tougher proposition than we knew."

We were talking in circles, I felt, and I also felt a disloyal surge of resentment against what seemed Doc's enigmatic failure to confide in me. "Doc," I began slowly, "I've worked hard on this case, as you know, just as we're all working hard on it. Now I've lost <sup>my share of</sup> ~~big~~ <sup>Not</sup> cases in the past, and I'm prepared to take my lumps again. That's part of the risk of this crazy <sup>trial</sup> business. But win or lose I've always liked to know where I was heading, and that if finally I did lose I'd at least know I'd done my best, given it the old college try. But lately..."

I paused, putting out my hands.

"Yes, Paul," Doc said quietly. "Out with it."

"Doc I know we're old friends," I went on, "and I know ~~that~~"



we trust each other implicitly, but..." Again I paused, groping for words.

"Yes?"

"Yet I've got the funniest feeling lately, Doc, that you're not being candid with me, that you're not leveling. There, I've up and said it, and if I've offended you I'm sorry."

Doc stroked his chin and watched incuriously as a booze-ravaged trusty jail inmate staggered out of the courthouse boiler-room under the clumsy weight of a steaming mop and pail and, like an ant with too ungainly a burden, wrestled open the malevolent back door of the courthouse and sidled in crabwise to begin the nightly swab-down.

"Yes, Paul," Doc said slowly, turning and looking at me.

"I confess I haven't been entirely candid with you. The main reason is that I am getting some ideas about this case that are yet far too nebulous to confide even to myself." He sighed and looked away. "You've just said you trust me—as I do you, or I bloody well wouldn't be here—and I must now ask you, in fact I must insist upon it, that you trust me implicitly until we play

out this skein. I must ask you one other thing: that you ~~do~~ not only trust me but do so without question." He sighed. "I'm having quite enough problems lately grappling with my own questions. For now I can tell you only this: when I know what I need to know, you'll know." He put out his hand and I took it. "Is it a deal, Paul?"

"It's a deal, Doc," I said morosely, not only because I did so trust and admire the man but because, in the glum circumstances, I saw no other course; for better or worse, hypnosis held the key to our case.

"Good boy," Doc said, sitting up briskly. "Then the first thing I must ask you is to stop all visitors from getting to see Randall Kirk—as of today, right now, as of this very moment if possible."

I yearned to ask him why, but I'd just promised not to bug the man, so instead I said: "I'll try, Doc, but Randall Kirk may have something to say about that. Bad enough sitting on one's can all day up in that stinking cell without adding <sup>*total solitude.*</sup> ~~that~~. But I'll try."

"Not try, Paul, you've simply got to make him go along."

He looked away and sighed, <sup>"Damn it,</sup> "God-dammit, Paul, it—it may be the most crucial decision in this case."

Again I quelled my gnawing curiosity and instead said, "But what'll I tell him, Doc? After all he's a grown man and I'm just his lawyer, not his ~~goddam~~ jailer. <sup>And anyway</sup> About the only visitor the poor bastard ever sees is his old fishing buddy, Jason Spurrier."

"Tell him the truth," Doc said, <sup>g</sup> almost harshly. "That you and all of us regard memory recall as crucial to his case and that you don't want anyone—~~not~~ anyone—to possibly distract him from that vital goal. There's one other thing—after you've got his consent to that I want you to ask him straight out why he carried on so today, what he's got against hypnosis and, above all, why, if he so hates it, he didn't tell us <sup>so</sup> before now. Have you got it?"

"Will do, Doc," I said, still mystified, <sup>g</sup> and feeling rather more like a witless errand boy than the presumably suave and poised trial attorney in a pending murder case. "I've been wondering about that myself."

"Good. Then I want you to find out if the jail people keep a record of all inmate visitors, with time and dates, and also whether they permit inmates to telephone outside or for outsiders to phone <sup>into</sup> them."

"I can answer that now, Doc. They do keep track of all visitors, who and when, but I'll check it again."

"And phone calls?"

"Only in emergencies, say Kirk wanting to phone me or my needing to phone him. But ~~again~~ I'll check <sup>it</sup> again."

"One final thing. Try to find out who visited Kirk during the past several days."

"Got it, Doc," I said.

"Good, Paul, and you'd better do it now. I'll wait <sup>here</sup>. I've brought a new book—on you know what."

So Doc's mystified errand boy obediently took off and was back in twenty minutes, ready to report. "Mission accomplished, Doc," I said, "but it wasn't easy. First of all I had to wake him up, he'd already fallen into one of those deep slumbers of his."

Then he put up so much resistance to the idea of having no visitors that I had to all but threaten to quit the case before he'd reluctantly agree."

"Very interesting. Go on."

"You know, Doc, this is my day of funny feelings—I also had the funniest damn feeling that Kirk was not only on the verge of letting me quit but of actually firing me. So much so in fact, that I retrieved my stool," I added, tossing it in the back, ~~away~~.

"Hm," Doc said. "My, my. And did you ask him about his reaction today about hypnosis and why he didn't tell us earlier about his aversion?"

"Yes, of course, but he seemed reluctant to discuss it. Simply said he'd never believed in such nonsense but that only today when he was actually confronted with it did he realize the extent of his dislike. I even asked him if he'd ever witnessed or studied the phenomenon and he replied curtly that he hadn't." I grunted. "I think it's fair to say that Kirk's attitude toward hypnosis is about as primitive and visceral as mine was before you recently

enlightened me. He still believes that, hypnotically speaking, eating raw rhubarb cures the—" I paused.

"Mumps," Doc said, loyally coming through. "I trust you gave him polite hell for his attitude today."

"That I did, Doc. I gave him quite a stern little lecture on the importance of this whole memory thing, of his need to get with it, to overcome any aversion or phobia about hypnosis, just as mature people with holes in their teeth have to overcome their fear of the dentist's drill. In fact I poured it on, pointing out that if we failed on this memory thing the skin would not be off our ass—or should that be plural, Doc?—but his."

"And his response?" Doc said, ignoring my problems with the subtler <sup>nuances</sup> niceties of American idiom.

"He remained as unmoved as your stoic cigar-store Indian."

I shook my head. "I can't fathom what's come over the guy. He's grown morose, suspicious and uncommunicative."

"And sleepy," Doc said. "Did you pass the word about no visitors?"

"Yup, told the day jailer on duty and left a note on the Sheriff's desk--naturally he was out on patrol, still out there terrozing incipient felons and burning up the roads rolling up that cl<sup>R</sup> mileage--and I'll write him a formal request first chance I get." I shrugged. "Guess we can't do more than that unless we post a special guard."

"Who knows?--it may just come to that," Doc said, smiling.

"And how about records of visitors and phone calls?"

"They still keep 'em--in fact more carefully since a recent attempted jail break in which a so-called visitor was involved. Phone calls in or out are still limited to emergencies."

"And Kirk's recent visitors?" Doc inquired.

"Good old faithful Jason Spurrier saw him in his cell the other day, right after our court session, and again yesterday. He's not been in today. Maybe he's got the mumps."

"Any others?"

"Yesterday a woman brought him a homemade Cornish pastie."

"Who?"

"Ingrid Berquist--she was Mrs. Spurrier's personal maid, the local gal who found her body."

"Hm, interesting. Any others?"

"Then a week ago two old college classmates touring through the Peninsula beautiful stopped by to say hello. And then, oh yes-- Doc, you're not going to believe this--a resourceful salesman tried to peddle him a set of books on Yogi. No sale, I may add, and that's the works on visitors." I smiled. "Any other errands, Doc?" I reached for the car door. "Can't I run get you a six-pack?"

"No, Paul," Doc said, smiling, "but you can drive me home to my neglected gardening and then go about your fishing and forget your woes and grievances and, above all, all your probing lawyer questions."

"That, Doctor," I couldn't resist saying, "is the most forthright and unenigmatic statement I've heard from you today."