

Chapter 25

stroked his sparse gray beard and
Judge Maitland [^]looked down from his bench and nodded
at the court reporter who, swiftly getting his cue, hunched
forward to record what His Honor was about to say.

"This special July term of the circuit court for Iron
Cliffs County, Michigan," the judge began, "is convened for
the purpose of hearing, considering and acting upon the
petition of Paul Biegler, a duly licensed attorney admit-
ted to practice at this bar, for an order from this court
requiring the sheriff of this county to allow petitioner
access to his jail along with a qualified hypnotist for the
purpose of examining one Randall Kirk, client of the peti-
tioner, presently confined there awaiting trial on a charge
of first degree murder, and attempting by means of hypnosis
to stimulate the recall of his memory."

As Judge Maitland droned on with his summary of my petition I thought of what a wild, ^{crowded} several weeks had elapsed since the day Matt Wallenstein had turned down our request to visit Kirk, ~~and today's hearing.~~ First, the night of the turn-down, Parnell and I had met with Doc at the latter's house in emergency session to plot our course. Even Maida had volunteered to attend. All of us felt ~~that~~ there ought to be ^{some} way to get Kirk examined, but a quick dig at the law by Parnell and me had turned up little to encourage us ^{except} by way of analogy.

"Petitioner further avers," Judge Maitland was saying, "that he had made a diligent effort on his own to examine and stimulate the recall of his client; that he believes that Kirk is anxious to assist him in his defense; but because of amnesia, shock, somnambulism, unconsciousness or some other

reason he is unable to remember his whereabouts or activities during the critical period involved."

I glanced across at Eugene Canda, the blond curly-haired young prosecutor, who sat at his counsel table to my right accompanied by his client, Matthew P. Wallenstein— for once without his cowboy hat. I recalled the smooth brush off the young prosecutor had given me when, the day after our emergency huddle at Doc's, I had reluctantly visited him at his office to ~~try and~~ ^{and tried} persuade him to call off the sheriff from his anti-hypnotism kick. I had done so reluctantly because I felt I shouldn't legally need to, and had finally done so at all because I virtuously concluded that my client's need for swift memory recall possibly exceeded my own need to indulge my pride...

"Petitioner further avers," the judge pushed on, making

his record, "that he is advised that memory lost through amnesia, shock, somnambulism, unconsciousness or the passage of time may sometimes be recovered by hypnosis; that one Hugh Salter, a retired medical doctor with 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."

I glanced back at the electric clock on the rear wall and saw that the courtroom was virtually empty. There had been no publicity about my petition or the hearing and, ~~besides~~ ^{other than} the young reporter from the Gazette and a whispering trio of curious women sitting in the front row, I saw only Hugh Salter and Maida sitting across the middle aisle from them. Looking closer I saw a lone man sitting

in the back row who, despite ^{the} ~~his bald appearance and the~~
absence of ^{his} a blue beret, I recognized as Jason Spurrier.

Well, I suppose the bee-reaved husband does have a legitimate interest in the proceedings, I thought, mentally shrugging and turning back to Judge Maitland.

"The respondent sheriff by his counsel, Prosecuting Attorney Eugene Canda," the judge went on, "answers that the order should be denied because--and I am now quoting-- 'the so-called art ^{of} science of hypnotism has no standing in our courts; because its results would be inadmissible in any event, similarly to those obtained by use of a lie-detector or so-called truth serum; that the results of such an examination are in any case untrustworthy; that Dr. Hugh Salter is not qualified to give one; and, finally, that after diligent search respondent sheriff has been

unable to find any legal authority whatever for such a procedure sought by petitioner and therefore his petition should be denied." "

Judge Maitland paused and reached for his water pitcher to pour himself a drink but the pitcher was empty and the three bystanding ladies in the front row tittered and the ~~thirsty~~ ^{parched} judge cast ~~an eloquent~~ look of annoyance down at his deliquent sheriff that so ~~far~~ ^{the latter} stimulated ~~him~~ that he leapt to his feet and raced away with the empty pitcher to replenish it and restore judicial tranquility while through it all I sat and longed for ~~an invisible~~ ^{a hidden} movie camera...

What the judge had just quoted covered the gist of the ~~blatantly~~ ^{blatantly} affable brushoff Eugene Canda had given me when I'd made my pride-swallowing ~~visit to~~ ^{call at} his office several weeks before. On that occasion he had blandly denied ordering the sheriff to do anything concerning Kirk. "All I

suggested," he went on, "was that since the prosecutor is the statutory advisor to all county officers the sheriff should feel free to consult me on any future requests for examinations of Kirk. Surely, Polly"--there it was again-- "you recall all the headaches that advisory role used to give you, don't you?"

Bullshit I wanted to say, but did not; loss of temper was too risky and wearing a luxury ~~for me~~ to indulge with a man I so soon had to fight ~~in open court~~ for far bigger stakes; so instead I shrugged and bade Eugene Canda a polite farewell and got the hell out of there. That very afternoon I joined Parnell in a day and night ransacking of the county law library to find some legal authority to force the sheriff to grant what we sought. Though in the process we dreamed up some persuasive analogies, about the only thing

we discovered was how remarkably little law there was on the whole subject; it seemed the law had ^{disdained quite} ~~avoided~~ hypnosis as ^{leptily} ~~rigorously~~ as ~~the~~ medicine ^{had.}

"But we still have our analogies," I told Parnell, "and as old Dean Bates once told us graduating law kids, we lawyers live by our analogies."

"And sometimes die by them" Parnell grumbled. "What we really need is one pat case."

But the pat case still eluded us, and at that very moment I knew the absent Parnell was still pawing ^{over} the books in the same building trying to find the one case that might bolster our contention that what we sought was essentially no different from the undoubted right of a lawyer to have a psychiatrist join him in examining an insane client or an interpreter to help him interview a ~~foreign~~ ^{speaking} client or an expert

→ non-English-speaking

in sign language to help ~~him~~ communicate with a dumb client--

all in turn ultimately aimed at helping him ^{to} intelligently

prepare his case so that ~~him~~ justice might be ^{done} served...

The red-faced sheriff had returned from his errand of mercy and the judge took a discreet sip of ice water and then looked down at Gene Canda and me. "Are counsel ready to proceed?" he inquired.

"Petitioner is, Your Honor," I said ^{arose and} ~~after rising~~.

At that moment the heavy mahogany main courtroom door breathed open and in strode a tall woman wearing dark glasses and a kind of peasant kerchief tied tightly over her iron-grey hair. Despite her apparent disguise I recognized her at once as the be-profiled Viola Axholm. She advanced to take the nearest seat but paused when she saw ^{the} ~~that~~ others [^] ~~were~~ already sitting in the front row. She then headed for the back row but when she saw Jason Spurrier ~~already sitting~~

~~there~~ she tossed her head ~~reprovingly~~ and abruptly retreated to a middle bench. I ~~turned~~ and glanced ~~back~~ at Hugh Salter who somehow seemed to shrug with his eyes.

in the respondent
"And ~~are you~~ ready?" Judge Maitland said to Eugene Canda when this little tableau was over.

"Your Honor," Gene Canda said, rising, "the respondent is ready to proceed but I wonder whether the petitioner is."

The judge looked down over the tops of his glasses.

"I believe the petitioner just stated he was ready, Mr. Canda," he said, "so please try to restrain your efforts at sarcasm and explain what you mean."

"I do not see his client here, Your Honor, and I had assumed that his alleged loss of memory was what this hearing was all about," Eugene Canda said, still exploring sarcasm.

"Shouldn't the accused surely be present?"

"Mr. Biegler?" Judge Maitland said, deftly passing the ball back to me.

"Your Honor," I said, rising, "I did not ask my client to attend this hearing for two ~~main~~ reasons: one, because Hugh Salter asked me not to because he feared that for my client to witness a public wrangle ~~over and over~~ over the subject of hypnosis and its utility might affect his ultimate susceptibility and response to hypnotic suggestion even should Your Honor finally rule with us. The other reason is that I do not think his presence is necessary ~~anyway~~ because the issue here is not whether he has truly forgotten what occurred that fatal night but rather what he has told his lawyer and the latter's consequent plight in preparing his case for trial. It is I, a lawyer trying to prepare his case, complaining here, not my client."

Judge Maitland thoughtfully took another sip of water as I soberly reflected that ^{the big} an unstated reason I had not wanted Randall Kirk present was that he had lately shown a listless attitude toward the whole idea of recovering his memory and, even more disturbing, a growing hostility to the idea of attempting it by hypnosis--~~actually~~ neither of which I wished to ^{unveil before} ~~betray to~~ the judge or opposing counsel.

"Mr. Canda?" Judge Maitland said, unleashing ^{further} hostilities,

"Your Honor, I still think the man who apparently claims he forgot everything should be present," he said and sat down.

"Mr. Biegler?"

"I can only add, Your Honor, that the truth or falsity of my client's claim of loss of memory could not be decided

here even if my client were present because that is a
decision that can ultimately be made only by ^{at trial} the jury, ~~at~~
~~his trial~~. But since Mr. Canda has in his answer already
mentioned the subject of a lie-detector test I now state
my willingness to agree to such a ~~private~~ test if he will
so that he may better inform himself ^{on} whether my client
indeed suffered any loss of memory."

Judge Maitland turned to Eugene Canda, but he was
already on his feet, red-faced and already talking. "That
last crack is simply a cheap grandstand play," he blurted,
"since counsel well knows that the results of any such
tests are ~~always~~ inadmissible."

"I did not mention their admission at any trial," I
shouted back, "but I'll stipulate to that too if the prosecu-
tor will."

441

"Gentlemen, gentlemen," the judge put in, holding up his hand. "I rule that the presence of the accused is not necessary at this hearing at this juncture though I reserve the right to change my mind should developments indicate otherwise." He nodded at me. "Call your first witness, Mr. Biegler."

Chapter 26

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

Hugh Salter arose, gave Maida a courtly bow, and strode up to the witness stand where he was met by the court clerk, skinny gray-haired Clovis Trepannier, one warning hand already raised like a traffic cop's to swear the approaching witness. Clovis was also the county clerk and had been in office so long that Judge Maitland ^{had} once said of him: "That man has raised political incumbency to a form of immortality."

Clovis always made a memorable performance out of swearing and seating a witness and some said it was his principal means of campaigning. Modulation was not in him and he was a little deaf to boot so that his mildest utterance ^{often came} ~~tended to come~~ out as a prolonged declamatory hoot.

"Clovis swears 'em and sits 'em all in the same shout,"

the Judge had once more ^{terse} ~~simply~~ put it, and he now gave

Hugh Salter the full treatment, his shrill high-pitched

former-altar-boy voice ~~throbbing like an old movie Wurlit-~~ ^{vibrating throughout the tall} ~~zer.~~ ^{chamber.}

~~zer.~~ "You do solemnly swear," he sang with evangelical

fervor,

"that you will tell the truth, the whole truth, and nothing but the truth, so help you God, (pointing) please be seated!"

"I do," Hugh Salter said, wedging himself into the witness chair and facing me with an amused glint in his eyes that plainly said that while doctors might have their own little quirks they at least did not subscribe to any such clanking medieval hogwash...

"Your name please?" I asked.

"Hugh Salter," the witness boomed in his low rumbling voice that reverberated eerily in the big and all but empty

~~courtroom.~~ *chamber.*

"Where do you live?"

"Town of Chippewa, this county."

"Your profession?"

"Medical doctor finally ~~let~~ *turned* out to pasture."

"Where have you practiced?"

"Always in this county."

"For how long?"

"Well now--good heavens--just short of forty-seven years."

"What schools did you attend?"

Eugene Canda was on his feet. "Respondent concedes the eminent qualifications of the witness as a medical doctor," he said. "We question only his qualification) as a hypnotist able to stimulate memory recall." ✓

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

"I am."

"For how long?"

"Ever since I've been in practice," he answered, "and I'm still at it."

"What first stimulated your interest?"

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

"Meaning expectant mothers about to deliver?"

"Yes."

"Could you tell the court more about that, please?"

"Glad to," Hugh Salter boomed, turning toward Judge Maitland. "First thing," he began, "I must say that hypnosis is something like love: those who have had any experience with it ~~are~~ ^{Stet} prone to pose as experts, whereas in solemn truth nobody can tell much about it. With this small caveat I shall tell something about my experiences with the phenomenon."

Hugh Salter cleared his throat and proceeded to take court and counsel on a guided tour of his long use of hypnosis; of the hundreds of women he had used it on; and of the relatively few patients in whom he had failed to induce hypnosis--much as he had unfolded the ^{same} story to us at his home a few weeks before. As he boomed along I turned around as though to consult the courtroom clock and noted the absorbed attention of the few people in the room, particularly two: Jason Spurrier and Viola Axholm.

"Why don't they feel pain?" I asked, and Doc rumbled on about that, deftly larding his discourse with such five-dollar words as 'synapses' and 'neurons', and I recalled his recent remark about people never being so much impressed as when they ~~didn't~~ ^{don't} quite understand what they were hearing-- and this time he was really pouring it on.

"Now Doctor," I said when he was done, "did I correctly hear you say earlier that since you retired you have kept up your interest in hypnosis?"

"You did and I have," he said. "In fact rather more ^{now} so since I have more time."

"Do you belong to any societies or organizations devoted to the research and development of hypnosis?"

"Many," he said, and he ticked off an imposing list of those, next taking us on a guided tour of the periodical literature he subscribed to and the many books he owned, and some of the more recent meetings and symposia he had attended. "For all that," he wound up, "one of my proudest prizes is an original copy of Doctor James Esdaile's book about his memorable experiences in India with hypnosis" and he gave us an urbane little lecture on that.

I paused. I was coming to the hard part--the candid admission that Doc had had no actual practical experience with stimulating memory recall; it would never do to wait and let Eugene Canda lovingly bring that out. I mentally sighed and braced myself, as I spoke. "Doctor," I said, "passing now to memory recall. First I ask you, have you studied the literature on that subject?"

"Extensively."

"And is that literature itself extensive?"

"Very."

"Have you seen it attempted by others?"

"I have."

"Successfully?"

"Many times."

I paused and swallowed. "Now Doctor, have you ever attempted ^{memory recall} ~~to~~ yourself?"

"I have not."

"Why not?"

"Actually I never had any real occasion to. When I was practicing I used hypnosis for other purposes, as I've ^{just} said, and was probably far too busy ever to try the memory thing."

He half smiled. "Now that I've joined the geriatric set *whole vast deserts of* on my hands and have ~~the~~ leisure, I don't have anybody to practice on."

I stole a sidelong glance at Gene Canda and predictably he was joyously scribbling away on his trusty legal pad. "Doctor," I said, "will you please tell the court whether you think you are qualified to attempt the hypnotic recall of memory?"

Hugh Salter turned to Judge Maitland and spoke quietly.

"I do indeed, Frank—I mean Your Honor, sorry—though I would not want to guarantee the results. Few who really

know anything about it would risk that."

Well, there it was out in the open; the old boy had come through and ~~said he could, and~~ somehow ^{coming} from him it had not sounded like an idle boast. "Doctor," I pushed on, over the big hump, "please summarize for us the theory and practice behind such attempted recall?"

"Very well," he said, and he proceeded to review and ^{again} amplify much that he had told us on what now seemed that distant Saturday night at his house--so much had happened since. 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 unconscious state, which largely controls memory; ^{and} that indeed simple relaxation alone was often an aid to achieving the latter. "Hence the famous psychoanalytic couch," he concluded, "which, contrary to the popular notion,

was not ~~designed~~ ^{invented} merely to furnish cartoon gags for the New Yorker ^{magazine} but rather to help relax and ~~so possibly~~ unlock the unconscious mind of its occupant."

"Can you give us ^{an} ~~A~~ ~~simple~~ example?" I put in.

"Perhaps the most familiar ^{one} ~~example~~ is the person who goes to bed puzzling over a tantalizing name or face or date that just eludes him. 'Eureka' he ~~suddenly~~ ^{out in the night and} cries ~~when~~ ^{up --} ~~he~~ wakes ~~in the night~~ ^{suddenly there he} and ~~there~~ he has it. The subjective mind ~~has~~ simply had a chance to take over the busy waking mind."

"And ~~the~~ ^{merely} hypnosis when successful ~~simply~~ assists in that?"

"Yes. One might say that the use of hypnosis only organizes and concentrates this effort and, when successful, hastens the achievement of the favorable state." He pondered

a moment. "Memories are not so much lost as buried and
all that successful hypnosis ^{ever} does is aid in the disinterment.
Hypnosis does not create or suggest the recall but ^{simply} ~~merely~~
unlocks what's already there."

"Are there different kinds of buried memories?"

"Yes. It is now pretty well agreed that recalled
memories are of two general types, revived and regress-
ive."

"Please explain."

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

"Yes?"

"Memories recovered that are colored by these factors

I've just mentioned are called regressive memories."

"Can you illustrate, Doctor?"

"This very case might provide an excellent one."

"How so?" I inquired, a little startled.

"Well, if Kirk indeed killed Mrs. Spurrier and truly can't remember doing so, and has recalled nothing about it since--with all the attendant horror and remorse and plain fear--any memory we might now recall would be a revived one."

"Yes?"

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

"I see," I said, swiftly veering away from such sensitive territory. "Let me ask you, Doctor," I continued, "do

you know of any qualified students of hypnosis in this area who might attempt such memory recall on Kirk if you are found disqualified?"

Hugh Salter seemed to be studying the far courtroom clock as he pondered his answer. "None that I am presently aware of," he answered, I thought a little ambiguously.

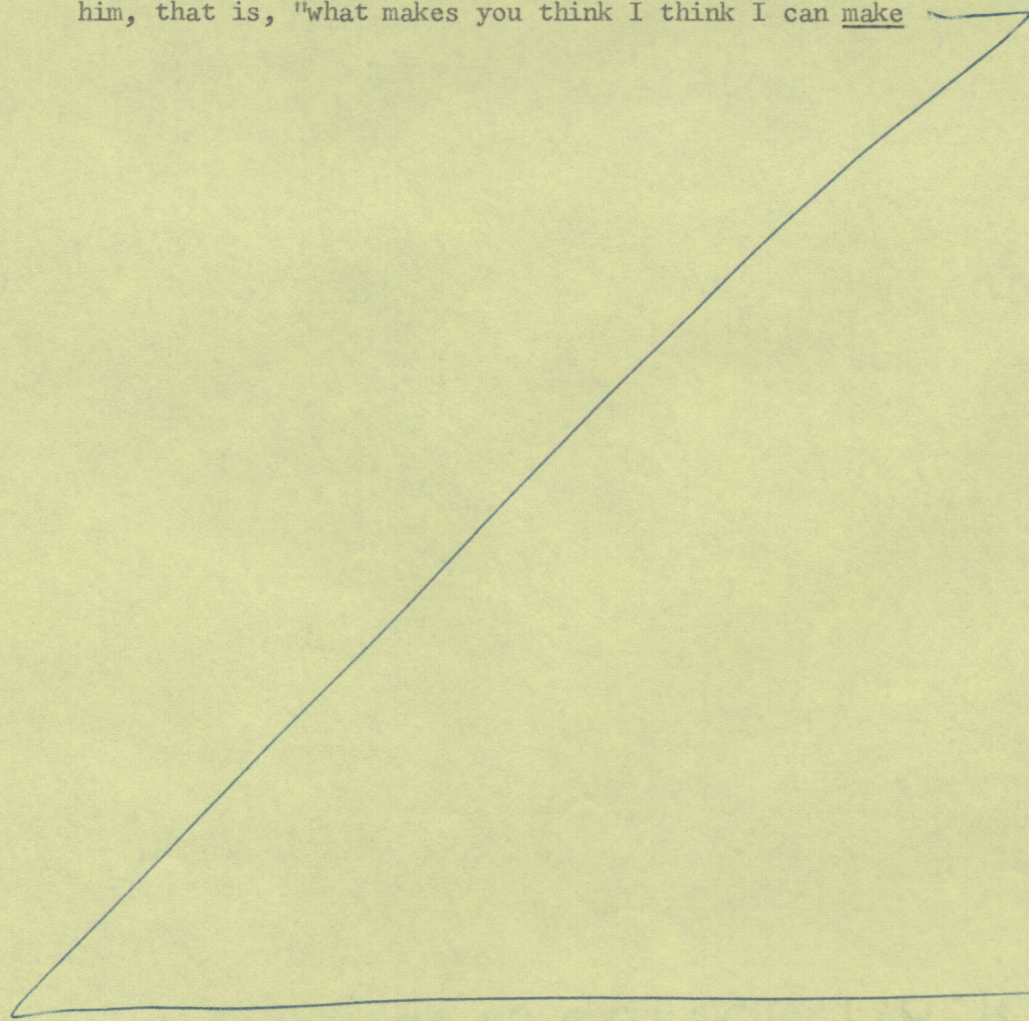
I turned to Eugene Canda. "You may take the witness," I said, sitting down.

411

Chapter 27

For all his scrubbed, youthful, choir-boy appearance
Prosecutor Canda was a crafty groin-fighting cross-
examiner, and as he arose and advanced smiling toward
the witness he aimed for that target on his very first
question. "Doctor," he said, "what makes you think you
can make a man recall what he's forgotten if you've
never tried it before?"

"Young man," Hugh Salter answered softly--softly for
him, that is, "what makes you think I think I can make



anyone recall anything? What I've just said ^{I believe} is that I think
I may be qualified to make an honest try at it."

"In what way?"

"By hypnosis, of course, the thing I've just been run-
ning on about."

"I don't mean that. ^{I mean} what makes you think you are quali-
fied ^{even} to try?"

"Well, it's a long story, part of which I've just
tried to give you."

"Will you please try again."

"Fair enough. Let's see. First, I've read a lot on
the subject, including scores of case histories; I've watched
actual attempts at memory recall and age regression by others,
some of them rather amazing; then I'm a pretty old hand at
inducing hypnotic trance myself and"—he widened his hands—

"all in all I think I could give it a pretty good whirl."

Gene Canda consulted his notes before aiming another verbal kick at the groin, and as he delivered it I thought of a darting terrier worrying a trapped bear. "Doctor," he said, "Mr. Biegler's petition speaks of, and I quote, 'amnesia, shock, somnambulism, unconsciousness or some other condition.'"

"Yes?"

"Now may I assume that you helped him draft that portion of his petition?"

"Naturally. *Other parts, too.*"

"But you still can't tell us which of these things may account for Kirk's alleged loss of memory?"

"True, I cannot."

Gene Canda stepped back and lofted another quick kick.

"Why not?" he all but purred as I held my breath.

Hugh Salter grunted and answered steadily. "Because for some baffling reason that eludes me that bull-headed sheriff of yours won't let me at him so I might find out."

Judge Maitland tried to stifle a smile as I began breathing again. Now slightly flushed, Gene Canda was back worrying the witness. "But how could you tell which condition it was," he bored in, "even if you could get at him?"

"I'm not sure ^{that} I could, but I still might make him remember, which is the important thing."

"But how could you do that if you could not tell what caused the loss of memory?"

"Again it's a long complex story, but in many cases amnesia is simply the mind's retreat from what it dare not remember. Hypnosis may unlock that buried memory."

"Are you suggesting, Doctor, that Kirk was so horrified at

what he'd done to Constance Spurrier he blotted it from his mind?"

I half rose to object, but sat down again; that gnawing question was implicit in our case and wouldn't go away and *any* losing objection now might only etch it deeper.

"That's entirely possible, young man," Hugh Salter answered calmly, "and I might find ^{that} out if I were only allowed to do my stuff. At the same time I must say that there can be blocked memories without guilt."

"Such as?"

"Well, to take a classicly macabre example—the cases of those thousands of innocent people still living who witnessed and somehow survived the unspeakable horrors of the concentration camps and gas chambers?"

"Are you saying all these survivors are amnesiates?"

"No, only that most who survived probably dare recall

only as much as they can stand and ^{still} remain sane." He smiled faintly. "I might add that the word I think you were just groping for, young man, was amnesiacs."

"What about those who still remember everything?"

Hugh Salter closed his eyes for a moment and shook his head. "They are either rare psychological cases," he said somberly, "or I condole mightily with their torment." He sighed and looked out at the clock. "All I'm suggesting by the use of hypnosis here, young man, is what psychiatrists and analysts are doing every day--a chance to probe the buried memory, remove the block, burst the dam, unlock the unconscious--call it what you will--so that with luck memory and the truth might prevail."

Eugene Canda paused and placidly folded his hands, which from bitter experience I recognized as a signal for a quick

groinal kick from an innocent ^{looking} formation. "Doctor," he all but purred, "are you now saying that a good psychiatrist might do with Kirk what you propose for the first time to attempt by hypnosis?"

"I certainly am. In fact it's the commonest way."

"Then please tell us, ~~why~~, Doctor," Gene Canda ^{quickly} said, taking a ~~small~~ little step backward with still-folded hands, "you people don't retain a trained psychiatrist to do the job instead of trying to palm off an inexperienced hypnotist?"

My heart sank ^{but rallied} as I saw a slow smile suffuse Hugh Salter's face. "Are you by any chance suggesting, young fellow," he inquired with ^{an} ~~the~~ innocent expression, ~~of a choir boy,~~ "that if I were a trained psychiatrist your cowpoke sheriff would cheerfully let me have at Kirk?"

By the rush of blood up Gene Canda's suddenly crimson neck I knew he knew that the witness had him fairly cornered:

7
H.H.

if he said yes he not only confirmed the validity of memory recall itself but also the persuasiveness of our chief analogy; if he said no he would, ^{not} only petulantly appear dead set against ^{the use of hypnosis but indeed} ~~using~~ any means of helping Kirk remember.

"Your Honor," Gene Canda said, still groggy but recovering swiftly and resourcefully appealing to the judge, "I thought I was supposed to be asking the questions here."

//
"~~I think~~ your intuition is correct, Mr. Canda," Judge Maitland said, "but since I ^{too} ~~also~~ think the question is a good one I'll ask it of you myself. If Doctor Salter were a qualified psychiatrist would your client still object?"

"I--I'd have to go ask him, Your Honor."

"Suppose you do just that," the judge said, reaching for ^{his} tinkling water pitcher.

So as Judge Maitland took his little drink and deftly ^{trim} dried his mustache and small beard and Gene Canda held his

whispered huddle with his perspiring sheriff, the missing
Parnell suddenly puffed his way into the courtroom from a
side door and headed for my table.

"I found it, Polly, I found it, I found it," he
whispered hoarsely in my ear. "I found the pat goddam lovely
case—right on the nose."

"What? Where?" I whispered back, knowing, motioning
him to be seated before in his excitement he toppled on the
floor.

"Right here in my briefcase," he said, crouching and
rummaging and then producing and thrusting at me a hefty
volume of the second series of the American Law Reports.

"How's old Hugh doing?"

"Parnell," I answered, "if that old boy had ever taken
up law the rest of our county bar might just as well have
~~locked~~ closed shop and taken up fishing—with the possible exception

of yourself. He's terrific and has just been cutting Gene Canda to ribbons. But ^{please---} let me read your case."

Eugene Canda was on his feet speaking to the judge. "I have just conferred with my client," he was saying, "and he is not ^{presently} ~~just~~ prepared to say what he would do if Doctor Salter were a psychiatrist. He further suggests that since the doctor isn't one he is still opposed to allowing any hypnotist access to his jail, especially one who candidly admits he has never before tried memory recall."

Judge Maitland frowned slightly as he turned to Hugh Salter. "Doctor," he said, "are there any essential differences between the means employed by psychiatrist) and hypnotists in stimulating recall?"

"Well Frank--wups, there I go again--while I'm not psychiatrist and may be wading ⁱⁿ over my depth, in a general way I'd say that while their means are admittedly somewhat different

their goals remain the same: to relax the subject, to probe the unconscious, to let the buried memory flow. One uses hypnosis, the other his art."

"Any differences?"

"In a general way I would say that the approach of psychiatry is traditionally more leisurely and thus apt to take longer, that it is perhaps less amenable to being done in a jail or ~~in~~ similar ~~disturbing~~ surroundings, and may possibly ~~be~~ more easily ^{be} hampered by any intellectual limitations in the subject. At the same time I must in fairness add that where

time is not of the essence the psychiatric approach is a demonstrably efficient and proven ^{stimulator} ~~stimulation~~ of memory."

He smiled a slow smile. "I forgot one ^{other} ~~more~~ little difference--

the use of psychiatry in this case would be a whale of a lot more expensive since I propose ^{doing} ~~to do~~ the job for nothing."

"Any further questions, Mr. Canda?" the judge inquired with just the shadow of a smile.

Gene Canda had had ^{quite} enough of bear baiting ^{for one day.} "No further questions," he arose and curtly said.

"Mr. Biegler?"

"None, Your Honor," I said, rising. "But my law partner Parnell McCarthy has just handed me a ~~recent~~ ^{new} case ~~which~~ ^{he tells me could} I haven't yet had a decent chance to read but which I ~~gather~~ ^{may} possibly resolve this hearing in a hurry. May I suggest a brief recess?"

"You may," the judge said, sighing. "Anything to spare the busiest and most forgotten man in any courtroom--the poor ^{over-worked} anonymous court reporter. We'll take ~~a~~ ^{ten minute} ^{recess}."

28
Chapter 27

Recess was over and Judge Maitland nodded ~~down at me~~
and I arose still clinging to the precious book that carried
Parnell's prize. ~~My~~ "Your Honor," I began, "during recess
I read the case I just referred to. It is the California
case of Cornell versus Superior Court decided as recently
as 1959" and I gave the citation. "The similarities between
that case and ours are as many as they are remarkable."

I paused and flipped open the heavy book. "There as
here the petitioner was the lawyer for a man accused of
murdering a woman," I ran on. "There as here he claimed his
client could not recall his actions or the events during the
crucial period involved. There as here he alleged that his
client's lack of memory might have been caused by virtually
the same things--except that there he added possible intoxi-
cation. There as here he sought to bring a hypnotist into

the jail to stimulate recall but the sheriff turned him down.
Finally, there as here he asked the trial court for an order
compelling the sheriff to admit him and the chosen hypnotist
to ~~the~~ jail so that they might adequately prepare a defense."

I closed the book. "The parallels between the two cases are
faintly eerie. In fact the only major differences I can so
far see is that there the lawyer was called Harold Cornell
while here ~~it's~~ ^{it is} yours truly."

"Hm," Judge Maitland said, ~~wanting~~ ^{dutifully} flickering ^a pained
smile over my little joke. "Proceed."

"There the petitioning lawyer lost before the trial ^{judge} ~~court~~
but won on his appeal to the California supreme court, that
is, he and his hypnotist ^{finally} got in to examine the accused.

"Go on."

"The defense made there was virtually that made ^{here} by
Sheriff Wallenstein ~~here~~ ^{MM} The only other difference I can

offhand discern is that there the lawyer had to go beyond the trial court for justice to prevail--a situation I trust ^{and pray} may not prevail here."

Again the vestige of a ~~quinted~~ smile. "Any more?"

"Before I sit down I'd like to quote or paraphrase a few highlights from the California court's opinion."

"Highlight away, ^{"the judge said, thoughtfully adding:} The court reporter need not take this

^{down} since the published opinion will speak for itself."

"In answering the sheriff's contention there that hypnosis had no standing in our courts and that the evidence obtained would be inadmissible, ^(began) the California court said that admissibility of evidence was not the question there presented but, and I quote, 'Cornell is now seeking to learn facts that may be of assistance in preparing for defense of the crime charged.' The court then flatly declared that the right is a constitutional one ^{as into} ~~as is~~ the right to have an interpreter

or psychiatrist present--as I've already argued it in our

accompanying
brief."

"Yes, I recall your argument. Any more highlights?"

"Yes, Your Honor. On the issue of using hypnosis at all it favorably quoted from the 1954 edition of Encyclopedia Britannica which states, 'The use of hypnotism for the purpose desired is recognized by medical authorities.' "

I paused to locate another glittering quote when I heard a "psst" behind me and turned ~~X~~ around to find Hugh Salter beckoning me to the dividing rail. "Excuse me, Your Honor," I said, joining Doc for a brief whispered conference.

"Your Honor," I said, our huddle over, "Doctor Salter has just told me that the Britannica article, I just quoted from was written by one of the country's outstanding authorities on hypnosis and memory recall, Dr. Milton H. Erickson."

"How do you spell that, ^{last name,} Hugh?" the judge said, ^{busily} taking notes, and Doc told him. "Anything else?"

"The California court wound up 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.' " I closed the book I held. "That, Your Honor, was the principal analogy I used in our brief before my associate found this new case. In view of its sweep I shall not repeat those analogies nor ^{again} belabor the argument I made ^{there} about the legal recognition of hypnosis in the latest draft of the Model Penal Code."

"That's merciful," the judge said. "Are you through?"

"Yes, Your Honor," ^{I said, and sat down.}

He then held out his open hand, beckoning with his fingers.

"If you ^{can} cease embracing that book, ^{long enough for me to look at it} you so lovingly hold for a

~~say~~ please fetch it up."

"Yes, Your Honor," I said, moving almost as fast as the sheriff had earlier when he'd replenished the judge's ~~water~~ ^{pitcher} pitcher. Delivery made, Parnell and I huddled at our table.

"Don't ever leave me, ^{partner,} Parn," I said, taking and squeezing his hand. "Now if we could only sign up Doc."

"T'was easy once I looked ⁱⁿ the right place," the old boy ~~said,~~ ^{modestly} beaming ~~nevertheless~~ ^{nevertheless}.

"Maybe so, Parn, but in ⁱⁿ weeks I couldn't find it, Gene Canda ~~apparently~~ ^{couldn't find it,} didn't, and now you've ~~done~~ ^{found} it—just in the nick of time. How'd you ever work it?"

"Well, all along, lad, I had the mistaken bug in me arse ~~that I ought~~ to be lookin' under jails, sheriffs, mandamus, trials, trial preparation and the like ^{-- stuff like that -- lookin'} at everything and everywhere but where I should of ~~looked~~ ^{found} the first place." "Gettin' overtrained He wagged his head. "Overtrained

I guess."

"And you found it under what?"

"Hypnotism, lad."

"Hypnotism?" I ~~said~~ ^{repeated} as though I'd never ~~before~~ heard the word ^{before.}

"Hypnotism," Parnell ~~repeated.~~ ^{And when} ~~when~~ ^{sudden} the hunch came ^{through} to me this morning, for a starter I quick thumbed the American Law

Report indexes and--bang--the case jumped right out and bit

me ^{on the nose.}

~~Bang~~ ^{Just then} ~~went~~ the judge's gavel and the room ^{also went bang} fell silent ^{suddenly} as a monastery called to evening prayer, ^{even} ^{to the three clacking} ^{quietly}

"I've read the California case," Judge Maitland said,

"and regard it as conclusive on the issue of the right of counsel to visit his client in custody with a qualified hypnotist to attempt memory recall." He smiled faintly. "So that

I shall not discourage the future ~~practice of~~ filing ~~helpful~~ ^{of supporting} briefs I may say I was already veering that way on the basis

behind me.
was ~~not~~ ~~clacking~~

of the ^{argument and} analogies presented in ~~the~~ petitioner's brief. There
remains only ^{the} ~~one~~ question ^{of} the qualifications of Dr. Hugh
Salter." He looked at Eugene Canda. "Does the respondent
still question those?"

Gene Canda half rose from his chair. "Yes, Your Honor,"
he said, "and we renew our objections on that score?"

"Do you have any counter testimony to offer?"

"Well no, Your Honor, we just feel that the Doctor's
own testimony sufficiently reveals his lack of qualifications."

"Do you have anything further to offer, Mr. Biegler?"

"No, Your Honor," *I said.*

"Very well," the judge said, clearing his throat and
glancing down at the court reporter to alert him. "While it
is true that the proposed hypnotist here has had no practical
experience at memory recall," he began, "it appears he knows

hypnosis and has had a considerable background in memory recall
both from ^{well} ~~study~~ ^{his reading and from} and personal observation. Moreover," he went
on drily, "it ^{further} appears there is no one else around ~~here~~ to do
the job if he can't. So I ~~accordingly~~ ^{found} find and hold him quali-
fied and shall now dictate an order granting the relief prayed
for, ^{comforting} ~~may comfort~~ myself by reflecting that should the ^{good}
Doctor fail no ^{great} harm will ^{have been} be done."

"Your Honor," Gene Canda said, hurriedly rising, "may I
address myself to your last remark?"

"Proceed."

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

"I thought we'd closed the hearing," Judge Maitland said,
"but I'll gladly reopen if you have any proof on that."

Gene Canda was looking behind us and I heard a quick
shuffling and looked back in time to see Viola Axholm disappear-
ing out the door she'd entered. I looked farther. Jason

Spurrier was not to be seen. I looked at Doc and ~~again~~ he gave me ^{one of his oddly} his expressive optical shrug ^{S.}

"Do you have any proof, Mr. Canda?" the judge repeated sharply.

"No, Your Honor, but I thought you might want to question Dr. Salter on the subject."

"Very well," the judge said, turning to Hugh Salter ^{sitting} down in the courtroom and motioning him to remain where he sat.

"Doctor," he said, "do you see any possible harm in using hypnosis in attempting memory recall with the accused Kirk even ^{though} it should fail?"

Doc thought a moment before answering. "In the hands of an inept or inexperienced operator it just might ^{cause harm,}" he said, "just as ~~could~~ ^{might} any attempts at hypnosis by such an operator.

It's a complex subject but I'll go into it if you like."

"No need. How about the attempt by an experienced operator with hypnosis?"

There was
"I would say no real chance of harm," Hugh Salter replied.

"The only possible harm ~~here~~ I can see is if I or someone should fail to try."

"Any questions?" the judge asked Eugene Canda.

"No questions."

"I shall now dictate my formal order," the judge said,

and he turned to the reporter and, occasionally consulting

his notes and ~~the~~ *Parnell's* Cornell case, began *patiently* grinding it out. "There,"

he said when he was done. "Court ~~is~~ *stands* now adjourned and the *woovers of*

~~devotees of~~ *stand to* lung cancer are cordially invited to smoke."

With that he ~~He then~~ packed his own briar pipe with a strange and wonder-

workingman's ful mixture called Peerless, lit it, and, with his robe gently

behind him, flapping, left the bench and disappeared *in a cloud of smoke* behind a heavy door

marked "Judge's Chambers" ~~in a thin cloud of smoke.~~

"Congratulations," the sheriff said, gamely coming over
and offering his hand. "Just let me know when you and Doc
want to do your stuff so I can spray the joint with essence
of arbutus." ~~he said in a low, hoarse voice~~ ^{quick} I thanked him and ^{he promptly} he left with Eugene Canda.

pumped his hand and he shortly

When the courtroom was empty except for us four, Hugh
Salter made an announcement. "You are all invited to my
house tonight for a champagne supper to celebrate winning
the first round. Where's a phone so I can warn Amanda?"
~~now pay~~

Three days later I found myself trudging up the steep iron-shod stairs to Randall Kirk's third-floor cell, Hugh Salter padding along behind me. Kirk was waiting for us, standing in his open cell door, looking even paler and more gaunt than when I'd last seen two days before. That he apparently hadn't shaved since then ^{seemed to} add to his ~~most~~ haunted look.

"Randall Kirk, this is Doctor Hugh Salter," I said, and Doc thrust out his big paw and Kirk recoiled from it as though it were a lethal weapon and then flushed and grabbed Doc's hand briefly and dropped it like a hot coal. Our first session at memory recall, I saw, was off to an inauspicious start...

"Won't you please sit down?" Kirk said in a constrained voice, gesturing at a round wooden stool the sheriff or someone had ~~thoughtfully~~ provided and which stood ^{under} ~~over~~ by the lone barred window.

"Suppose you take the ^{stool,} ~~seat,~~ Mr. Kirk," Doc said, "and I'll stand right here?" This was Doc's and my prearranged signal for me to get lost, and as Kirk uneasily squatted on the low stool facing Doc looming like ^{an opposing} fullback in the cell door, I faded silently down the narrow corridor to the head ^{portable office} of the stairs and out of sight. There I ^{readied the} awaited developments, restraining a nervous impulse to giggle.

Though I knew it was only mid-afternoon, the place seemed suddenly to have grown as silent ~~and twilight as an~~ ^{as a} ~~isolated~~ tomb. I wondered ^{and} ^{vaguely} whether I'd suddenly ^{been stricken} ~~gone~~ deaf. Then, far in the distance, I heard the throbbing whine of

Doc had looked me to bring along and

a power lawn mower which I guessed would be from some trusty inmate cutting the courthouse lawn. Then the sound faded and all was a sort of ticking silence again--doubtless the sound of my own heart--and I restrained another impulse not only to giggle but to ^{look} ~~go back~~ and see if everything was all right...

There, I thought, straining to hear, that was a human voice, low as the murmur of a muted pipe organ, growing now in volume. Then I recognized Doc's voice, grown miraculously soft and seductive as a woman's, and I cupped my ear to catch what he was saying. Ah, now it was coming...

"Your eyes are closing, you are getting sleepy, your eyelids are getting heavy, you are growing very tired, your eyes are closing," the unbelievably purring voice kept repeating, in a kind of monotonous litany, over and over, like the

rhythmic
wash of waves. I brushed my hand ~~over~~ ^{across} my eyes as I felt my
own head drowsily nodding.

Then there was a long silence again; then the low hum
of more beguiling words, growing gradually into a kind of
irresistible surge of soothing rhetoric, a seductive lullaby,
and I fumbled and surreptitiously lit one of my Italian cigars,
and ~~puffed~~ ^{puffing} away furiously, blinking and shaking my head to
chase away the ~~lovely~~ ^{gathering} cobwebs. Once again I restrained an
impulse to giggle as I dreamily recalled a pouting Parnell
telling me recently, "Son, you're so goddam susceptible to
suggestion and so reluctant to say no it's well you weren't
a woman--why?--'cause you'd have surely been a 'hore."

Again I strained to hear, and again I heard a low
voice, but this time it was not Hugh Salter's but unmistak-
ably my client's, in a kind of ~~listless~~ ^{accusatory} whining monotone.

"I can't stand this, I tell you, I can't stand this," it kept repeating, gradually growing in volume, until suddenly in a shrill outburst I realized Randall Kirk was shouting. "Stop this, I say... Stop this indignity... I can't stand it... I've never been hypnotized, I tell you... I hate it, I hate it... I don't believe in it... Don't come near me... No, no, no... Please go 'way, I say... I--I hate you..."

Suddenly I heard the clatter of the wooden stool being knocked or kicked away, and then the sound of muttered sobbing, then only silence. Then Hugh Salter was before me with a warning finger to his lips and we tiptoed down the steep stairway and out to the car.

"No cigar," Hugh Salter said briefly when we were in the car.

beautifully,
"That came through," I said disconsolately. "What happened?"

74 "I'm afraid not, Doc," I said, ~~with~~ hanging my head.
"I got so absorbed ^{listening to} your pitch I forgot to turn
the damn thing on. Sorry. What do we do now?"

"That's precisely the trouble, Paul," he said, briefly
gesturing with both hands. "Nothing happened. He simply

didn't respond. I didn't begin to reach him. *Maybe a replay of the
tape will tell me where I went wrong.*"

"What do we do now?"

"We try and try again," Doc said. "But we may be in
for trouble."

"You mean getting him to remember?"

"Worse yet," Doc said. "Getting him hypnotized at all,
which is only the first stage, but still a crucial one, of
getting any recall at all."

We sat in silence watching a booze-ravaged trusty inmate
stagger out of the courthouse boiler room lugging a steaming
pail and mop, and, gyrating like an ant ^{carrying} with too great a
burden, tug and lurch his way into the rear door of the court-
house.

"What do we do now Doc?" I dully repeated.

Doc pondered several moments before answering. "Paul," he finally said, "I think I've learned ^{some} ~~several~~ things today. Precisely what they ^{signify} ~~are~~ I'm not ~~yet~~ quite sure of so I'd better not try to ~~explain it.~~ ^{tell you."}

"Yes?"

^{"But it has}
"In fact ~~it's~~ suggested a little plan," he went on, ^{"and}
"but [^] to bring it off I'll need your full trust and no questions."

He turned and looked squarely at me. "Are you game to go

along, Paul?" he said, holding out his big hand. "Are you?"

"Of course, Doc," I said, taking his hand, ^{and listening to it,} refraining from saying that in the ~~gl-~~ circumstances I saw no other course.

"Fine, Paul," Doc said, briskly sitting up. "Now there are several things I ^{need} ~~want~~ to get done and I ^{fast} ~~ll~~ ^{I want} need your help."

"Shoot."

"First thing, I want to put a stop to all Kirk's visitors--today, right now, this very moment if possible. Can it be done?"

"I could go ask him," I said. "He may not hold still for going solitary, but I could try."

"No, Paul," Doc said, wagging his head, "not try, you've got to make him ^{agree} Remember, now, no questions, but this may be one of the ^{most} ~~more~~ crucial moves in this case."

"Yes sir," I said. *meekly.*

"Then I want you to find out if the jail keeps a record of all visitors, with names, dates and the hour."

Doc.
"Easy, [^] They do."

"Then whether they permit incoming phone calls to inmates or outgoing calls from inmates."

"Only in emergencies--say Kirk needing quick to phone me--but I'll check again."

in jail
"Then one final thing," Doc said. "Find out who's visited
this first weekend and again
Kirk since our hearing the other day. Got it?"

"Right, Doc," I said, opening the car door and heading
back to the jail, feeling more like an errand boy than boss
trial counsel in a pending *four-alarm* murder case.

When I returned in twenty minutes, Doc was *deeply immersed* ~~deep~~ in a book.

"What is it, Doc?" I said, making little joke. "Everything
you've wanted to know about *girlies and stuff* ~~russians~~ but lacked the guts
to ask?"

"Brand new book on hypnosis, of course," Doc said, mark-
his place
ing and closing it. "What luck?"

"Mission accomplished," I said, "but it wasn't easy.

First I had to *rouse* ~~shake~~ him ~~awake~~ out of a deep sleep. Then

when I sprung the no-visitor routine on him I had the eeriest

notion he was ready to fire me. *In fact* *I'm getting a feeling*

the guy don't like me."

"Hm... And?"

"Finally I had to all but threaten to quit the case before he sulkily agreed."

"I see. Did you or he discuss our earlier session today?"

"No. He was unusually taciturn even for him and sleepy to boot ^{so} and I ^{lacked} hadn't the heart to mention it."

"Did you remember to pass the word downstairs on no visitors?"

"Yes. Told the day jailer and left a note for the patrolling sheriff to clue the night shift. First chance I'll have Maida type off a formal ^{letter of} request."

"How about records of visitors?"

"They still keep 'em."

"And phone calls?"

"They keep those, too."

"Any for or from Kirk?"

"I only checked on the two occasions you mentioned-- his first weekend in jail and then since our hearing."

"And?"

"No calls recently, to or from, but on that first weekend, late Saturday night--that was the night I first saw him--there was an incoming long-distance call."

"From whom and where?"

"It was so late the jailer wouldn't accept the call and he never did learn the caller's identity or where it came from."

"Hm... Any visitors that first weekend?"

"Yes, they've got down--ahem--Paul Biegler for Saturday evening and again around Sunday noon. Then early

Sunday afternoon Viola Axholm bringing Kirk homemade soup and a batch of clothing, but I've already told you about that."

"Any others?"

"Then on Sunday evening Jason Spurrier paid his first visit. No time noted or kept as the ^{Sunday relief} jailer was new on the job."

"Well, well. And who's visited your man Kirk since the recent hearing?"

"Surprise," I said, consulting my notebook. "Jason Spurrier from 3:05 to 3:30 the day of our ^{court} hearing and then Viola Axholm from 3:35 to 4:00. Those two carry on like a pair of rival reporters."

"And since?"

"Next afternoon Axholm with another charge of her homemade soup. Yesterday the devoted Axholm again, for once soupless, followed by Spurrier, both in the afternoon."

I closed my notebook. "That's the visiting dope to date."

"Good, Paul," Hugh Salter said, nodding thoughtfully *and settling back.*

"Now suppose you drive your failed hypnotist home?"

"But Doc," I said plaintively, reaching for the car door, "can't I first run down town and fetch you a cold six-pack?"

"No thanks," Doc said, smiling broadly and ~~then~~ adding after a pause: "Though I do wish you could tell me what the hell Kirk and his constant visitors ~~possibly~~ find to talk about. No possible clues, have you?"

I shook my head. "No, Doc, Kirk has always been extremely reticent with me about his personal life, as I've

told you. In fact lately he seems reluctant to talk to me about anything."

"Doesn't he even mention them?"

"Well, now that you speak of it he did break down recently and tell me that Spurrier had brought him some fresh brook trout. In fact he even told me that Spurrier still lives fulltime out at his elaborate fishing shack.

I guess
So Axholm must be running Connie's ^{*empty*} island home alone.

Wonder what's going to happen to the ^{*old*} place?"

"I don't know, Paul."

"~~He~~ How about ~~this~~ Axholm?"

"Kirk doesn't even mention her. Maybe they just sit around and dream up exotic recipes for homemade soup."

"All of which reminds me, Paul," Doc said, slapping his leg, "there's still one little mission I've got for you I clean overlooked."

"Yah?" I said, again reaching for the car door.

"Herr Doktor's idlest vim iss mine commant." ^{"I saluted."} Private Biegler
^
at you service, sir. Vat's you bleasure?"

"I want you to shut off all future delivery of Viola Axholm's soup," he said, putting out a restraining hand.

"No need to do it today, Paul. Next time you're down will be good enough."

"No time like the present," I said, and once more I plodded back to the jail to pass the word and in five minutes was back standing by open car window. "Final mission accomplished, sir," I said, ^{again} saluting smartly. Excusing the aliteration, sir, Axholm's soup has been added to the Salter shitlist."

"Good, ^{boy} Doc said, ~~rubbing his hands.~~ ^{"A good job well done and, I may add, never so elegantly reported."} ~~"That ought to take care of that."~~ He rubbed his hands. "That ought to take care of that."

"Are you suggesting maybe she's been putting forgetful
or something
drops in the mixture?" I inquired softly.

"I don't suggest anything, Paul," Doc answered slowly,
"but I do want to remove the soup as a possible factor."

"Factor in what?"

"Tut, tut," Doc said. "Remember, you promised no
questions. But I will venture this much—let's say I want
to remove the soup as a possible factor in whatever may be
cooking."

"Thanks Doc," I said, nodding glumly. "You've made
everything ~~clear~~ *clear* as the mouth of the Hudson. Any more
missions?" I turned as though ready to ~~dash~~ *dash away.*
~~still~~ *me to run get fetch* sure you don't want that there here now six-pack?"

"Home, James," Hugh Salter said, smiling and folding
his arms. "Home to bourbon followed by *an evening of*
~~with~~ Parnell."

So I sighed and got in the car and as we were about
to leave the jail driveway I had to yield to an approach-
ing driver rapidly turning in. It was Jason Spurrier
wearing large ~~and~~ ^{rakishly designed} smoked glasses and his blue beret. Doc
and I glanced at each other and ~~then~~ drove on in silence,
each lost in his own thoughts, most of mine--it suddenly
occurred to me--being in the form of a growing list of
~~perplexing~~ ^{unanswered} questions.
^

Chapter 30

The Iron Cliffs county courthouse had been built around the turn of the century on a lofty pine-clad bluff overlooking Lake Superior. Though designed primarily as a courthouse it shortly became ^{a lavish and} an enduring monument to Thorstein Veblen's theory of conspicuous waste.

Perhaps the most glaring ^{evidence} ~~example~~ of this devotion to waste for waste's sake lay in the choice of materials. Though at the time it was built the Lake Superior area still possessed some of the choicest whitepine and hardwood and sandstone and granite found anywhere, not one stick or stone of these handsome ~~and~~ readily available native materials ever found their way into the finished structure. Rather whole farflung forests had been toppled and distant quarries raided and gouged to provide

the acres of mahogany and marble and tile and slate and assorted stone that instead replaced them.

A close challenger in this spendthrift display of ostentatious waste were the ~~lofty~~ ^{spacious} marble and tiled public corridors. Though with their clusters of elegant crystal chandeliers foaming ~~from~~ ^{out of} the ceiling ~~they~~ ^{these halls} were sumptuous enough to grace a palace ~~and spacious~~ ^{as well as lofty} enough to punt footballs in, ironically most of the actual business of the courthouse was transacted in gloomy cubbyholes. And so it went, even to the ~~imposing~~ row of Doric columns that ^{majestically} loomed across the front, the greatest discernible weight they supported being their ~~burden~~ ^{ostentation} of human vanity.

Crowning the whole imposing edifice was an enormous glass dome made of the finest Italian stained glass. Viewed from a distance one was torn between guessing it was ^{some sort of} a vast

surrealist wedding cake or ^{possibly,} with all that color, ~~possibly~~
even a gigantic scoop of spumoni icecream. Some local
birdlover^s, however, felt that a fair share of the staining
credit ~~properly~~ belonged to the generations of pigeons
that swarmed about the place.

In a fit of absentmindedness this massive dome had
been designed for something more than mere show: it was

also meant to serve as the courtroom skylight. This lone

^{practicality and} attempt at thrift, ~~however,~~ ^{however;} swiftly came to naught, whether

caused by too many pigeons or too much pigment the stained ^{sad fact remained that the offensive}

glass dome ~~failed to~~ ^{didn't} admit much light. But all was not

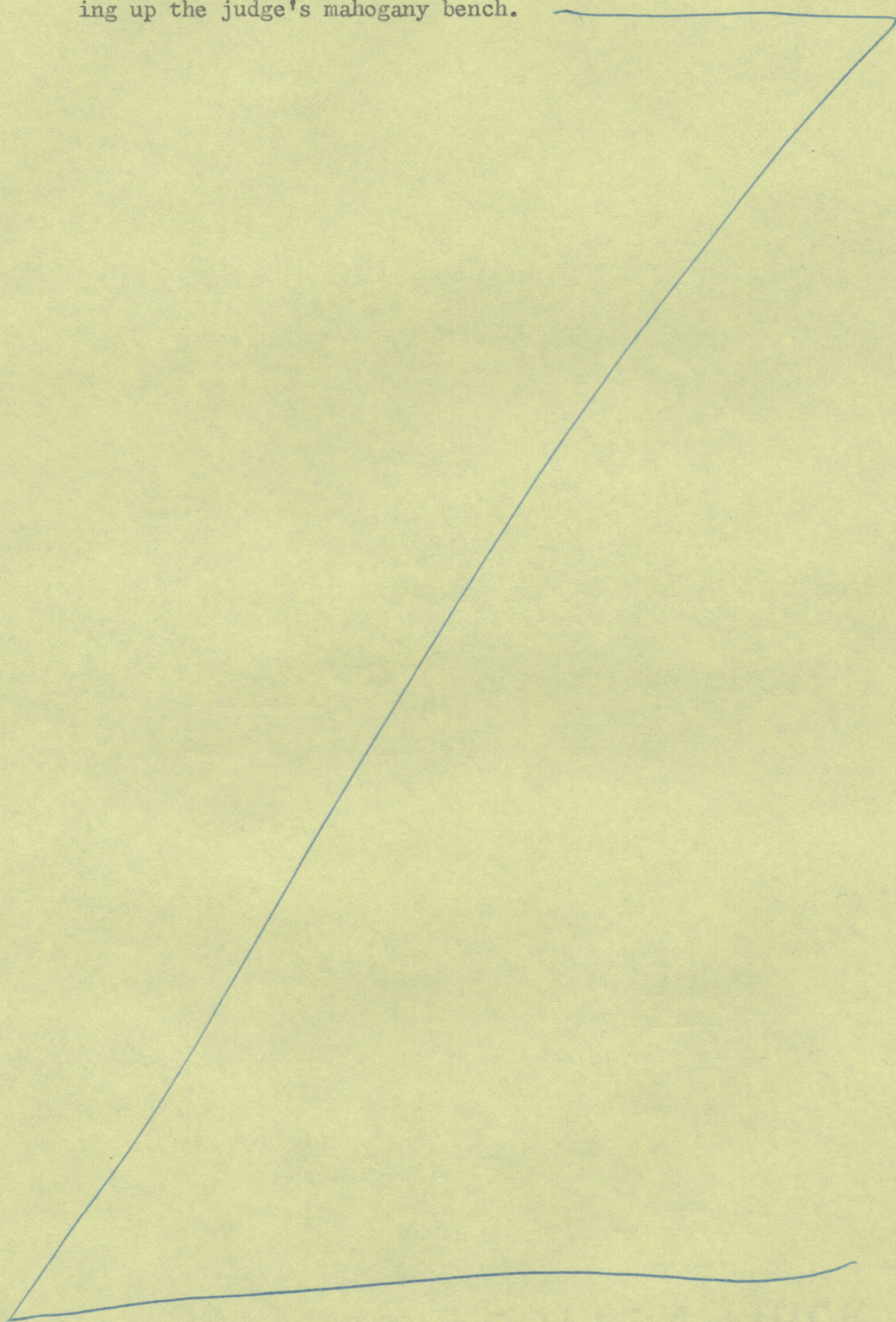
~~lost for~~ ^{because} groping mariners far out on the lake soon dis-

covered ^{it made} ~~its glittering presence~~ was a handy beacon to

check their bearings by. Moreover, on real sunny days

alert souls in the courtroom below sometimes ^{swore} ~~claimed~~ they

~~occasionally~~ detected a soft pigeon-stained glow light-
ing up the judge's mahogany bench.



3A

*

While the entire courthouse abounded in mahogany it was in the courtroom that it achieved its fullest flower. There everything but the Judge's water pitcher seemed made of mahogany--jury box, jury chairs, the various massive doors, wall panelling, bookshelves, portable blackboard, court reporter's table, spectators' benches, dividing rail and gates, lawyer's chairs, counsel tables, even the judge's gavel--all were made of rich imported mahogany.

This passion for mahogany reached its pinnacle in the judge's bench, itself naturally made of solid mahogany, from which bristled a whole cluster of mahogany appendages--

witness box on His Honor's left, bailiff's box ~~on his right,~~ *to the right of him,*

clerk's cubicle ~~running along the front of him,~~ *up back in* mahogany *trim*

leading to his library to the rear of him. stairway ~~in the back,~~ In fact if one squinted just so one

got the illusion of ~~a trim series of storm-tossed mahogany~~ *sturdy*

13

lifeboats ~~dangling~~ ^{protruding} from a proud mother ship. It was in
this mahogany chamber and before this ornate mahogany
bench that the fate of Randall Kirk would shortly be
~~decided.~~ *determined.*

Chapter 31

Judge Maitland nodded down at Clovis Trepannier,
sitting watchfully poised in his narrow cubicle in front
of the judge's bench, and murmured "Call the next case"--
and with these ~~few words~~ ^{had} words the trial of Randall Kirk ~~was~~ ^{had} offici-
ally ~~under way~~ ^{begun.}. It was a crisp autumn Thursday morning
and this was the ~~start of the~~ first jury trial of the
September term of circuit court, which had been in non-
jury session since ~~the previous~~ Monday.

Clovis arose and cleared his throat to deliver his
first practice aria of the trial before the already
crowded courtroom. "People versus Randall Kirk," he sang
out loud and clear. "The charge: murder in the first
degree."

"Please swear the jurors on the voir dire," His Honor
said.

Clovis faced the forty-odd jurors sitting in a roped off ^{reserved} section of the back court. "Please arise and raise your right hands," he intoned, waiting until the last juror got arthritically to his feet before launching his first encore. "You do solemnly swear," his ^{vibrant} ~~throbbing~~ tenor rang out, "that you will true answers make to such questions as may be put to you touching upon your competency to sit as jurors in this cause, so help you God."

The jurors mumbled their embarrassed "I do's" and, signalled by a gesticulating Clovis, gratefully sat down ~~again~~. "Call a jury," Judge Maitland said, the official prompter.

Clovis reach^{ed} for ~~his~~^a small covered mahogany box with ^a
~~the~~ sliding top in which reposed individual typewritten
slips bearing the names of each member of the large jury
panel. Holding the box aloft he vigorously agitated it
as though he were shaking up a giant cocktail and then,
elaborately shooting his cuff and arching his ~~hand~~^{wrist}, he
plunged ~~it~~^{his hand} into the box and ~~came up with~~^{triumphantly withdrew it holding aloft} not a rabbit but,
lo, a ~~printed~~^{small} slip bearing ^{typed} the name of the first juror.

Clovis was not only an indefatigable actor; he was
also a helpless slave to ~~his~~^a vanity which, among other
things, compelled him to disdain wearing eyeglasses,
although he had known for years--as indeed had all the
rest of the courthouse regulars--that without them he could
scarcely see the back of his hand. Consequently it was a
bit of an ordeal ~~for us~~ to watch him struggling to read the

slip he'd just drawn: first holding it about an inch from

his best eye, ^{and} squinting like a ^{myopic} watch-repairer; discovering ^{that} the name

~~it~~ was upside down and hastily reversing it; moving his

lips as he laboriously spelled out each letter of the name...

"Millicent Olsen!" he triumphantly called out like an
announcing station master, and motherly-looking Mrs. Olsen

arose from the back court and, clutching her purse, clat-

tered ^{her way} ~~her way~~ on ~~her~~ ^{fittingly} high heels through the separating

mahogany gate on up to the empty jury box where, aided

by the pointing lady jury bailiff, she took the ^{last} ~~sixth~~ seat

at the far end of the second row, ^{composing herself like a sitting hen.} Meanwhile I quickly con-

^{our résumé of} sulted the detailed jury dossiers Parnell and I had prepared

weeks before and scribbled an "OK" after her name.

Clovis, his clarion tenor declining not a decibel, re-
peated the same performance--shake, pluck, squint, shout--

until all twelve chairs in the jury box were occupied by the four men and eight women ~~chance~~ chance had ~~already~~ selected, all of whom sat looking expectantly up at the judge.

Judge Maitland picked up a legal paper from his bench and rustled it. "The People have charged in their information filed in his case," he explained, "that the defendant Randall Kirk on the 16th day of June, last, and I quote, 'at the Township of Chippewa in the County of Iron

Cliffs and State of Michigan, feloniously, wilfully and of
his malice aforethought, did kill and murder one Constance
Farrow *Spurrer.* "

The judge dropped the information, which fluttered to
his bench like a falling leaf, and again faced the jury.

"That, ladies and gentlemen, charges first degree murder
and to that charge the defendant has pleaded not guilty."

He paused and took a sip of water. "Now before pro-
ceeding further I want to inquire briefly about your
general qualifications to sit as jurors on this case. Please
raise your hand should any of you fail to qualify. Do you
understand?"

There was a rumble of assent from the seated jury and
the judge explained briefly the doctrine of presumption of

innocence and reasonable doubt and asked the jurors if they understood and were willing to apply these doctrines on behalf of the defendant throughout the trial. All professed to understand and agree and he next passed to statutory qualifications--were they citizens; of legal age; not themselves under indictment, or ill or deaf or over seventy, ^{could} ~~did they~~ speak and understand English--and all the rest.

All passed with flying colors.

He next examined for cause--did any of the jurors know the lawyers in the case ^{any pending business but} or have any business pending with ^{none had} either? ~~business pending with either of them, but~~ Virtually all knew the young prosecutor, Gene

Canda, I wryly noted, while only three admitted ~~they knew~~ ^{knowing} the ex-DA ^{aging as} and I wistfully pondered the ravages of time and passing celebrity.

"Now take the defendant, Randall Kirk, sitting on Mr. Biegler's left at the defense counsel table," the judge continued, and my client suddenly tensed and sat up looking straight ahead. "Do any of you know him?"

The jurors stared as stolidly at Randall Kirk as might twelve impassive native Buddhas, and I could all but hear them saying to themselves, "So this is the handsome summer visitor who killed that ^{rich} glamorous Connie Spurrier?" None raised his hand and none appeared to know him.

"Were any of you acquainted with the deceased?" the judge next inquired. None was.

"Now I must ask all jurors whether any of you has talked or read about this case?"

All hands were quickly raised; any who hadn't would thereby have confessed they were either deaf, blind, illiterate or bare-faced liars since the case had been the talk

of the county for weeks.

"Have any of you formed any impression or opinion as to the guilt or innocence of the accused?" the judge pressed on. "If so simply answer yes or no or raise your right hand."

This was often the big killer question in any criminal case, the one question ^{that} more than any other ~~that~~ so often got prospective jurors ~~abruptly~~ hustled off to the showers. These particular jurors were either lucky or smart, however, for they glanced warily this way and that to see what their neighbors were up to, and, since neither voices nor hands were raised, survived the ordeal in a chorus of mumbled if slightly belated noes.

The Judge, looking a little relieved, glanced down at ^{our} counsel tables. "For cause, gentlemen," he said. "You first,

Mr. Prosecutor."

"The People pass," Eugene Canda arose and promptly said.

"No questions for cause."

"Up to you Mr. Biegler," the Judge said.

"One moment, please, Your Honor," I said, turning and

holding a hurried whispered conference with my client, feel-

ing much like a rubber-gloved surgeon asking a ~~stretcher~~ ^{stricken}

patient on the operating table whether or not he ~~wanted~~ ^{consented} to

be carved; ^{an emergency} though the bewildered patient ~~by then~~ ^{lay there} rarely

knew or much cared what happened to him, one still had to

ask ~~just~~ in case something went wrong...

How do they look to you, Kirk? What do you think? Do

you ~~happen to~~ know any of them? Do you have any particular

hunch or feeling about any ~~one~~ of them? Kirk nervously

~~the comment~~ sipped his wispy blonde moustache and then ^{shook his head and} shrugged fatalis-

tically, as I'd guessed he would, leaning ^{Decision} the ~~ambulance~~ responsibility squarely up to me.

I gave the twelve assembled jurors a final appraising look and suddenly recognized one of them, ~~the~~ the younger ^{sister} ~~brother~~ of a man I'd prosecuted for embezzlement back in

my DA days and who'd finally been convicted after a long and rancorous trial, ^{during which she had testified on his behalf.} With this ~~small shock of~~ recognition

a blizzard of questions assailed me, chief among them

being ~~the question of~~ whether I should risk questioning

~~him~~ ^{her} at all but ~~instead~~ ^{rather up} use one of my peremptory challenges

to quietly get rid of ~~him~~ ^{him}. Yet lawyers hate to spend their

peremptory challenges when they ~~might~~ ^{have a chance to} accomplish the same

thing on cause free of charge, as it were, so the question

continued to nag me...

Might this ~~brother~~ ^{younger sister} still be nursing a family grievance against me? If so shouldn't I find ^{it} out fast?

But by publicly disinterring this old family skeleton

^{wouldn't}
~~mightn't~~ I ~~be~~ [^] ~~risking losing a good juror by~~ planting a
real grievance where none had existed before? And even
if I succeeded in banishing ~~him~~ ^{her} mightn't Clovis pluck a
new juror out of his magic box against whom our dossiers
cast even graver doubts? And wouldn't raising the inci-
dent at all ^{be} cynically ^{implying} ~~to imply~~ that the poor juror ~~was~~ ^{might be}
willing to convict one's client ^{simply} ~~merely~~ because ~~he~~ ^{she} hated
his lawyer's guts? Tweedledee, tweedledum...

The Judge was frowning ~~with impatience~~ and stirring
restlessly in his mahogany chair and I arose and took a
deep breath and said "The defense passes."

"Peremptory challenges," the Judge said briskly,
obviously driving to get a jury picked before noon. "Back
to you, Mr. Prosecutor."

"The People will excuse Millicent Olsen," Eugne Canda *arose and*

said, and Mrs. Olsen, looking flushed and faintly outraged,

haughtily left the jury box and flounced ~~to her seat~~ *with clacking heels* in the

rear ~~back~~ court—and I had a small intuition that the ambitious

young prosecutor had just ~~lost himself a~~ *permanently, forever* vote.

"Mr. Clerk," the Judge gently prodded.

Clovis Trepannier again shook his box and dramatically

extracted a slip and called out a name—"John Overturf"—

and once again the Judge had briefly to go over the whole

ritual of his previous questions, which the new juror some-

how survived, while I checked out the new juror and marked

him *a tentative* OK, ~~and realized~~ *realizing* with a pang that women's lib had just

taken a small setback ~~and that~~ the box score *between* of the sexes

now stood at seven ~~down~~ to five ~~down~~...

"Peremptory challenge is now up to you, Mr. Biegler,"
the Judge said after both sides had again waived for cause,
and I started and leapt to my feet and glanced down at my
client and then up at the skylight--finding inspiration
~~from~~ ⁱⁿ neither-- morosely reflecting that for all our fancy
dossiers the selection of juries still remained essentially
as chancy as if I'd ~~consulted~~ ^{instead} tea leaves.

"Your Honor," I said, taking ~~another~~ ^{another} deep breath ^{and flinging my}
^{precious challenges to the wind,} "the defense is satisfied with the jury."

"Back to you, Mr. Prosecutor," the Judge pressed.

Gene Canda arose and also consulted the skylight and
then his notes and finally the courtroom clock--it was near-
ing noon--and ~~then~~ said: "The People, Your Honor, are also
satisfied."

"Swear the jury," the hard-driving Judge said to the waiting Clovis, and the clerk popped up like a jack-in-the-box, his hand already raised to administer the final oath to the twelve standing jurors. Clovis swore his juries so masterfully that as I beheld him swearing in this one I couldn't help thinking that few coronations could ever more tightly have glued a new monarch to his throne.

"You do solemnly swear," he sang, his upraised hand quivering with ecstatic fervor, his voice throbbing like an old movie Wurlitzer, "that you shall well and truly try and true deliverance make, between the people of this state and the prisoner at the bar, whom you shall have in charge, according to the evidence and laws of this state, so help you God."

There was a mumbled response from the jurors and when Clovis bade them sit down they did so with a quick exchange

of embarrassed glances, being quite unused to basking in
the ^{bright} glare of a sensational murder trial.

Judge Maitland then addressed the nearly thirty-odd
remaining members of the unused jury panel still sitting
in the section reserved for them in the back court, includ-
ing the recently banished Mrs. Olsen. "You are now excused
from further attendance at this court," he told them,
"until next Tuesday morning at nine. Since few can predict
the length of this or any trial you will timely be notified
should we need you sooner ~~as well as should we~~ ^{or} need a fur-
ther delay." He smiled faintly. "This does not mean that
you must leave, and all amateur students of trial jurispru-
dence ^{with time time on their hands} ~~among you~~ are welcome to stay." He looked out at the
courtroom clock and then at the tense sheriff crouching in
the adjoining bailiff's box awaiting his golden amoment.

"Adjourn till one," he murmured.

Mathew P. Wallenstein, a close and envious student of Clovis Trepannier's dramatic courtroom performances swiftly arose and gestured the crowded courtroom to its feet, earnestly lifting both hands, palms up, like an imploring cheerleader attempting to rouse ~~his~~ *a throng of* lethargic fans.

When the last straggler was standing he quickly dealt his mahogany gavel stand three resounding whacks at the same time bellowing ~~out~~ his own particular courtroom aria.

"Hear ye, hear ye, hear ye!" he bawled with ~~all~~ *all* the vehemence of an auditioning basso, "this honorable court stands adjourned until one o'clock this afternoon."

He then smote his stand a single farewell blow and, before this captive audience of voters could get away, moved quickly over by the still-sitting accused, Randall

Kirk, at the same time giving his ^{exposed} belted holster a significant hitch forward and then standing ^{beside the prisoner} ~~there~~ with stoically folded arms.

I winked at Kirk and nodded a brief farewell, and he arose, smiling faintly, and quietly left with the sheriff to ^{spend} ~~the dizzy prospect of spending~~ his noon recess ~~in~~ in his cell.

The judge quickly descended his little mahogany stairway and swished off to chambers; the bustling jury matron importantly herded her twelve new charges out another private door to enjoy their first free meal on the county; and the ^{main} ~~buzzing~~ courtroom crowd slowly filed out the public exits, ^{buzzing and clacking away} ~~stashing my papers away~~ ^{As I stashed} I reflected that while the sheriff's performance had scarcely threatened Clovis's ^{long reign of} stardom, one ~~of~~ had to admit he'd given a rather moving

11

Stet

imperturbable
pantomime of the sleepless guardian of the hearth and
~~the~~ ~~and~~ ~~the~~ selfless servant of ~~good old~~ law and order...

"What a magnificent ~~and~~ ham," a voice murmured

in my ear. It was Parnell, sadly shaking his head over
the sheriff's performance. ~~I shrugged and rolled~~ up my

"King of the cornballs," I said, rolling

eyes, and together we moved out a rear door to the privacy
of our defense conference room.

Chapter 32

"How does the Kirk jury strike you, Parn?" I inquired when we ~~was~~ were alone.

"Who knows?" Parnell said, shrugging and widening his hands. "At least they ~~all~~ ^{all seem} appear to possess a pulse and, if my theory's right, should be at least seven-twelfths perfect."

Parnell naturally had a pet theory about the selection of juries, ~~in any case~~, its basic premise being that each

trial was unique and presented its own peculiar ~~psychologi-~~

~~cal~~ ^{jury} problem which was the job of the lawyer to ~~discern~~ ^{it} and ~~discern~~ ^{solve} and ~~discern~~ ^{then} ~~discern~~ ^{follow.}

~~Apply~~ Accordingly, during one of our pre-trial planning

huddles I had asked him what his thinking was on our jury

strategy in the Kirk case.

"Dames," he had answered without batting an eye. "all

the women we can ^{possibly} get."

"Why?"

"Because Kirk's shy good looks, augmented lately by that dying-poet jail pallor he seems to be getting, will arouse all the ~~latent~~ ^{pent and} motherhood lurking in every dame."

"Hm," I had said. "But is motherhood ~~also~~ ^{the call of} enough?"

"Maybe not, Paul, but ~~here~~ ^{there, that} we can also be sure none

will forget that the glamorous Connie was not only two-timing her ^{own} husband but in the process had attracted and won herself ^{another and handsomer} ~~handsome~~ younger man to boot. To a dame they'll hate and envy her for it."

"Still a pretty big gamble," I had said.

"Look, Paul," the old boy had run on, "the perfect jury's as hard to pick as the perfect wife—and twelve times as chancier."

"Chancier?"

"Of course chancier since a guy has to pick only one ^{wife}

~~of the latter~~ for, to be a bit more modern, only one ^{at least} at a
time." He widened his hands. "So since ^{a perfect jury is} ~~perfection's~~ so
elusive ^{at best} perhaps all a baffled old jury picker can do is
keep it simple and aim at a ^{sort of} rough approximation of perfec-
tion." He shrugged. "Anyway, you've asked me and my
strongest hunch is that our best bet in the Kirk case is
to go with dames."

I'd finally bought Parnell's jury strategy, as much
from ~~X~~ lack of a better one ^{of my own} as anything ~~else~~, and so today
we'd just won ourselves more than half of Parnell's dream
jury--seven women to five men. Getting him up to date, I
told about the lone juror I'd recognized by chance and
how tempted I'd been to excuse her.

"How come she got a clean bill of health on our
dossier, lad?"

"She'd since married and there was no clue ^{other than} ~~but~~ the

^{off}
chance ~~that~~ I might recognize her ~~in court~~ and recall the
circumstances. = *I did.*"

"Then why didn't you excuse her?" Parnell said. "I
missed most of the jury selection because I had a few
little errands to perform elsewhere."

"Yes, I observed you making your escape," I said.

"Well, I finally decided to keep her not only because she
was a dame but because the only other peremptory challenge
already used--this by the People--had already lost us *one*

woman, ^{so} ~~and~~ I figured that with the preponderance of males

among the reserve jurors, ^{my} excusing her would ~~only~~ ^{most likely} lose us ^{still}

another."

"Reasonable enough," Parnell agreed.

"Moreover I felt more afraid of some of the reserve
jurors who might replace her. So I gambled that if I

passed Gene Canda might ^{also pass,} ~~also~~, so I did and lo he did and,
presto, we had ourselves a jury." ^{picked} ^{murder}

"Very good," Parnell said, nodding, and with ^{this small} ~~his~~ benedic-
tion our conference door opened and a courtly Hugh Salter
stood aside to let Maida enter carrying a small picnic
hamper.

"Hello, hello," she said brightly. "I've brought you
a little surprise—a dainty picnic luncheon."

"Surprise indeed," I said, pondering this latest ^{erosion} ~~erosion~~
^{of} office discipline. "While I expected to see Doc here, I ^{down}
sort of thought you might stay home and mind the store.
^{stuffy and} Probably old-fashioned of me."

"I hired a sitter," Maida said, plumping down her
basket. "Surely you didn't think I was going to sit ^{alone} for
days in that empty old office simply telling people you men
were down here in court having all the fun."

"Yes," I said, "some of my most cherished memories
~~sets~~
are of those relaxing fun days I've spent in the pastoral
~~to~~
privacy of a crowded courtroom representing accused murder-
ers--especially those hilarious hours spent joshing with
clients who ~~swore they~~ could barely remember their own

names. *"I slapped my thigh.
Wowie! - It keeps me in stitches."*

"All right, all right," Parnell said, breaking in.

"I told her to hire the sitter so I'll pay the full freight
if you ~~chip~~^{won't} in." He sat himself at the mahogany confer-
ence table and motioned us to join him. "Anyway, let's
eat, the noon recess fleeth, and I've got a wee bit of
news to unveil."

~~flaming-haired~~
"Shoot," I said as the triumphant Maida passed out
~~the~~
her dainty sandwiches and uncorked a thermos bottle.

"I've been keeping my eye on probate court lately,"
Parnell
he began, "not only on my own hunch but also at the sugges-
tion of Hugh here."