

It is this mercurial quality, of ~~criminal trials~~, and the casual factors which induce it, that ~~help to~~ make criminal trials the fascinating ^{uncertain!} wells that they are.

1st draft, Nov. 1, 1943

Begin

As any ~~prosecutor~~ ^{district attorney and defense lawyer} knows, criminal trials have a ^{common} faculty of taking unexpected turns, unpredictable courses, ~~sometimes~~ ^{often} exploding in the very faces of ~~the~~ ^{the} astounded judge, lawyers and jurors. People love drama, and potentia drama is inherent in even the most obscure criminal trial.

It was during the last term of court of my eighth and final year as prosecutor of Iron Cliff county, ^{Iron Cliff county is logging and mining community bordering on cold Lake Superior, on the sprawling Upper Peninsula of Michigan.} During ^{three} ~~that~~ ^{years} ~~as~~ ^{as} prosecutor I had ^{supervised} ~~seen~~ ^{and} ~~heard~~ ^{possibly} almost everything in the criminal line. Yet here I was trying my first kidnapping case.

The trial of young Donald Blair was nearing the end of its third day. It was a ^{drab, drizzly} ~~rainy~~ day ^{on the glow of the} afternoon in ^{the} late fall. ~~The~~ ^{The} old-fashioned clustered courtroom lights ~~were on~~ ^{sat} bearded Judge Belden ^{sat} on the bench, ^{quietly} going over his instructions. ^{to the jury.} The parents of the dead girl were seated just behind my ^{criminal} ^{table} ^{table}. ^{Young} Blair, the defendant, his long legs crossed, sat opposite us beside his lawyer, rubbing the soft down on his cheek as he dully stared at the big sheriff, the People's last witness. ^{The} ^{steam} ^{smell} of rain-soaked clothing pervaded the crowded ^{courtroom}.

"That's all, Sheriff," I said. I turned to Judge Belden. "The People rest," I said.

Judge Belden looked at the courtroom clock, ^{debating whether to proceed or adjourn until the next day} It was nearing four-thirty, and court ordinarily adjourned at five. Judge Belden was

1st draft, plain, Miss H.

one of the strongest, and did not even share even the grandeur.

plainly debating whether to proceed or adjourn ^{until five}
until the next day. ^{The judge} ~~He~~ glared at the jury.
~~The twelve~~ fidgety citizens, ^{camping} ~~looked~~ ^{out} ~~at~~ home, ^{glanced} ~~glanced~~ hopefully back at
~~him~~ the judge.

^{dryly} ~~dryly~~ ^{dryly} "The defence will proceed," Judge Belden
said. The jurors sighed and sat back. Young
Blair's lawyer ^{rose} and announced: "The
defence will call the defendant, Donald Blair,
as its 'first witness!'"

~~Young Blair made his way to the stand.~~
~~It was the first time I had~~

~~Young Blair made his way to the~~
~~stand, his high-heeled riding boots accentuating~~
~~his unusual height. As quavering falsetto,~~ ^{goutful}
as he said "I do," ~~Judge Belden administering the oath,~~
~~scarcely~~ ^{he had unwound} ~~went with the tremendous height as~~
he had ^{up} ~~clattered~~ ^{witness} ~~to the stand.~~ ^{in his high-heeled riding boots.} ~~He was well over~~
six feet ^{tall.} He sat watching ^{him} in the witness
chair, ^{facing} watching his lawyer, his dark eyes
^{watchfully} ~~unblinking,~~ ^{bug-like} his hair in his eyes falling over one
eye. ~~Insert A~~

Insert →

"You are Donald Blair, the defendant in
this case?" ^{his lawyer was asking.} Blair's lawyer ^{George Bolton}
~~capable, efficient, ^{attentive}, ^{he had been appointed by} ^{George Bolton}~~

"I am," Donald replied in his high-pitched voice.

"How old are you?"

"Seventeen,"

~~Donald~~ ^{Donald} answered. ^{The jurors}
^{mentally} ~~glanced at one another. They~~ ^{marked down} a score for the defence.

"Where do you live, Donald?" ^{these}

"I have been ^{working on a farm near} ^{I came from Chicago} ~~living in~~ Primerville. ~~Primerville~~

~~was a small mining town at the south end of the county.~~

"Are you living
with your parents?" his lawyer asked.

"No." Donald hesitated and ^{then} went on.

Invent A

To put it mildly, I was curious to learn what young Blair's defense would be. ~~The had shown~~ The people had ^{already} shown that Blair someone had snatched the ^{its parents' parked} Ford sedan; had sleeping child out of ~~it~~; ^{into a truck} ~~it~~ towards the woods on the outskirts of ~~town~~ ^{Pruniville}, the little mining town which was the scene of the crime; that ^{shortly after that} the parents discovered that their child was missing; that a search was made; and ^{that dead body of the} child was finally discovered lying in a ^{parked} truck; that the owner of the truck was in a tavern during these events; that

~~so search~~ the ~~foot~~ bootprints of the abductor were unusual in that they ^{were made by} ~~had~~ high-heeled ^{similar to riding boots;} ~~riding boots~~; that the marks of these boots were traced from the ^{sedan} parked ^{near} ~~car~~ to the edge of the woods, ^{where the abductor had melted on falling through back} to ~~the back~~ to the parked truck, thence to the ^{paved} main road, where they ^{abruptly} ~~disappeared~~ ^{of the trail} ~~disappeared~~.

During the past three days ^{before the job} I had painstakingly developed that the sheriff had finally ^{obtained} ~~got~~ a bloodhound ^{to aid in the search;} that this horrendous ^{slavering} animal had repeatedly taken the searches over the same trail, always ending ~~at~~ ^{where the bootprints ended;} at the paved road; that ~~so~~ several days of ~~fruitless~~ ^{had} fruitless search ^{had} proved fruitless; that one evening as the tired searches were returning to the little ^{Pruniville} jail, which was their headquarters, they encountered the usual ~~kind~~ ^{house} of curious persons in the jail ^{corridor};

(contd. on next page)

kidnapping
The trial of young ^{of the big sandstorm} Arnold Blair was in
its third day. The courtroom was packed.

~~The trial of young
was in its third day.~~
It was the magnificent and final
After eight years as prosecutor of Iron
Chipp county, a solitary, windswept iron-
mining and logging community bordering on
Lake Superior, on the Upper Peninsula of Michigan
I thought I had seen everything.

that as the sheriff was leading the bloodhound down the long corridor the dog suddenly growled and stopped in its tracks, ^{detourningly} sniffing at a young man

Donald Blain, who was standing in the crowd, ^{wearing on his feet} low bluffs; that this young man ^{then}

I had shown that the officer had ^{after some questioning} questioned young Blain; that he had finally admitted he owned high-heeled riding boots; that, in company with the officer, he had produced ^{the boots,} ~~them,~~ that they fit exactly ~~in~~ ^{the} the matched and fitted ^{the} the footprints at the scene of the crime; ~~that~~ that ~~then~~

Blain ~~had~~ ^{then} put on the boots and walked home, ~~out of~~ ^{in company with an officer,} from the paved road; that the bloodhound ^{was again} started from the ^{city of the} parked ^{selam} car and led the officer ^{entire} unerringly over the ^{course} right up to Blain's home. ^{Finally, I had shown that the fingerprints on the} ^{trucks} were those of Donald Blain.

But through it all the defendant had stand fast, ^{had} ^{denied that he had seen or touched the girl.}

the defendant, Donald Blain.

It is true that the Peoples case was largely ~~was~~ based on circumstantial evidence. ^{yet,} Contrary to the popular notion, ~~however,~~ this is often the most reliable kind of evidence that can ^{possibly} be produced. People ^{on both sides of a case} may ~~lie~~ ^{lie} ~~and~~ ^{or} forget.

But physical facts and dogs never lie.

So I sat there wondering what young Blain's story would be. His attorney, a craftsman, capable lawyer of many years experience, had started to question his client.

(NOW Back to "You are Donald, etc")

unpredictable comings,

and ~~criminal~~ ^{and criminal} ~~defence~~ ^{defence} lawyers,

As every prosecutor knows, criminal trials have a strange faculty of taking ^{unpredicted} ~~strange~~ turns, ^{sometimes} ~~often~~ ^{and}, often ~~as a~~ ⁱⁿ ~~result~~ ^{the} ~~of~~ ^{the} ~~very~~ ^{very} faces of the astounded judge, lawyers and

and jury. This is one of the reasons

People love ^{and potential} ~~and~~ drama ^{is} ~~is~~ inherent ~~and~~ ^{in even} ~~is~~ the most obscure criminal trial.

~~In this connection~~ This is probably a partial explanation, at least, why people have always been irresistibly drawn to the trial of a criminal case.

We were in the third day of the trial of young

"My mother and father are deceased. I don't know where my father is."

"And your mother? Where is she?"

Donald's lawyer was doing all right. Naturally, he knew all about Donald's mother and father, but he was bringing ~~out~~ ^{all} it out in a way shrewdly calculated to arouse the sympathy of the jury.

"Where is your mother, Donald?" his attorney repeated.

Donald Blair gulped and ~~to his eyes~~ ^{glanced} his speech was halting.

"She - She's working. She - she's a thin lady with a circus, I - I wish she was here."

I glanced at the jury. Score number two for the defense. Donald's attorney paused to let this sink in.

"When did you last see your mother?"

"Not since last winter. ~~She~~ She doesn't work in the winter. I'll see her this winter - I ^{mean,} I hope will." He turned and looked at the

The ~~fact~~ ^{quality} forlornness of this statement from this ^{pathetic} marital waif even had me swallowing a lump in my throat.

"Will she coming up here for the trial?" his attorney went on.

"She wrote she was going to try to. I - I hope so. I want to see her so bad."

~~James~~ Tears were in his eyes.

He and the rest of his friends.

Donald's attorney, walked up close to Donald. This was the part, here it was coming. The juror leaned forward.

"Donald, did you take this little girl from her parents' ^{sedan?} ~~car~~?" he asked.

Donald sat up straight and looked squarely at his attorney.

"No, sir," he answered, confidently, almost defiantly.

"Did you ~~see~~ touch her or hurt her in any way?"

"No, sir."

~~Did you know~~

"Were you in Pineville that night?"

"Yes, sir. ~~From the~~ ^{about four o'clock} ~~car~~ I had been in town a couple of hours. I saw this Ford sedan parked ^{there} and I walked over to it to see if I could get a ride ^{towards home,} but there was no one in it."

"What did you do then?"

"I then decided to walk across the field towards home, and take a short-cut through the woods. Halfway towards the field I ~~thought~~ it got pretty dark and I stumbled, so I decided to go back to the main road. Passing ^{side of the} the tavern I saw this parked ~~car~~ Chevrolet truck, ^{I grabbed the door} and looked in, still looking for a ride, but only saw what I thought was a sleeping child."

"Did you touch her?"

"No, sir. Not at all."

"Then what did you do?"

"Then I walked out to the main road, waited a while for a ride, ^{couldn't get one, so} then I walked home."

"Is that all there is to it, Donald?"

If the jury leaned back and sighed in unison. It was a bad sign. ~~My thoughts were~~

"That's all, sir."

"Did you cooperate with the ^{police} ~~officers~~ in every way to help them find ^{out} who did this, Donald?"

"Yes, sir. I did, sir. I even went to the jail. If I had ^{really} ~~known~~ it, I would ^{of} ~~of~~ stayed away from the jail."

"That's all, Donald," his attorney turned to me. "You may take the witness."

So that was it! Donald's attorney had used one of the simplest and yet most effective ^{criminal} defense practices: that of admitting as much ^{of the truth} as possible short of admitting guilt. And there was always the haunting possibility that it was true; that he hadn't abducted the girl or touched her in any way.

Prosecutors ~~must~~ ^{had to} always bear that in mind. I cleared my throat to speak, ^{pausing} feeling my way for an approach. ^{big mahogany}

Just then the ^{big mahogany} courtroom doors breathed open. Framed in it stood the tallest, thinnest woman I have ever seen. She saw her son. Her lips ^{silently} formed his name.

The bar ^{came forward and} led to ~~the~~ the other lawyer's table.

Wordlessly she sat down, staring at her son. Her son behind his face in his arms. Everyone in the courtroom was visibly affected.

Judge Belden looked at me. It was a quarter of five. ~~Blair~~ Young Blair's entire direct examination had taken but fifteen minutes.

"~~Yes~~ Under the circumstances, Mr. Prosecutor, perhaps we had better adjourn until the morning, hadn't we?"

^{In a flash} My hunch came to me then. It was a dangerous, ~~hunch~~ ^{damning} hunch, and I

had missed my share ^{of them} in the past, but after all, I was only seeking the truth, ^{whichever way} ^{it lay}.

"Your Honor," I said, "the People would like to ^{listen until five o'clock} ~~know~~. I'll be through with this witness in less than fifteen minutes."

The jury glared at me. That was ^{the} ^{one of the} dangerous parts of the bench, prejudicing the People ^{case with} the jury for keeping this ^{solely striking} mother from her son.

"Very well. You may proceed," Judge Belden said.

I turned to Donald. His face was ^{stern} ^{buried} in his hands. I walked over so that I was ^{close to and} slightly behind his mother.

"Donald, please look at me. I want to ask you a few questions," I said.

Donald ^{slowly} looked up, saw his mother, and then stared straight in my eyes. His eyes were crowded with tears.

"Donald," I said, "your mother always taught you to tell the truth, didn't she?"

"Oh yes, sir. Glancing at his mother, then back at me." "Oh yes, sir."

"And always to thank people for helping you; for any ^{opportunities} ^{might} ~~had~~ ~~given~~ ~~accorded~~ you?"

"Yes, sir. She always did."

"And you are going to tell us the truth here now, are you not?"

Donald glanced at his mother, searching her eyes. I glanced at her. She ^{had} shut her eyes, gripping her chair, and her head nodded forward imperceptibly.

"Oh yes, sir," Donald replied.

"All right, then, Donald, ^{tell us,} Did you thank the person who gave you ^{the} ride home from Pineville to the farm the night the little girl was killed?"

"Yes, sir."

There it was, just like that. ^{It had to be.} "Yes, sir."

"And it isn't true that you walked home that night as you ^{have just} ~~back~~ ^{claiming here} before your mother arrived?"

"No, sir. In a small, weak voice,

"Why did you tell us that, Donald?"

"I-I was mad at that bloodhound and I wanted to show him up."

"Why were you mad at the bloodhound, Donald?"

"B-because he got me in trouble."

"You didn't think he would discover you if you weren't wearing the ^{riding} boots, is that it, Donald?"

"Yes, sir."

"And will you tell us, why you didn't want to be discovered?" ^{- your mother and all of us -}

Donald's mother opened her eyes and looked at her son. ^{Her face was bloodless and drawn.} It was one of the saddest, ^{witnessed} ^{or out of} ^{seen in} a courtroom. ^{most moving} I felt like a monstrous hell. Again she nodded ~~down~~ her head, and closed her

"Tell mother, Donald," she said.

"Tell mother the truth." Her ^{voice} ~~was~~ was curiously flat and toneless.

So I opened the door with my handknip, just like I had read.

"Yes, mama, I did it. I - I don't know why, ~~mama~~, I had read about ^{kidnapping and} ransoms. ~~So~~ I grabbed her, ^{she started to cry,} mama, I didn't mean to hurt her, mama. Honest I didn't. ~~When~~ I ran ^{away} in the dark, ^{and} I fell tripped and ^{lay} fell on her. She didn't make a sound. I - I got scared and ran back and gave this truck and put her in ^{it}. Just then a ^{pull} truck was going by, I thought a ride and ~~got~~ went home. ^{I thought the driver, mama,} I only did it for you, mama - so I could make some money, so you wouldn't have to ^{always} be a thin lady in a crisis. If - if you'd only been here, I'd have told them guilty long ago...."

~~Downstairs~~

"That's all, Donald. Go ~~to your~~ You may go to your mother." I said,

I had ~~not~~ indeed discovered the bitter truth, and the taste was bitter in my mouth.

It was four minutes to five. Another ^{courtroom drama} criminal case was over.

~~Donald~~

~~Donald was sent to a psychiatric hospital~~

2nd draft. Nov. 2, 1943. THE TRUTH IS A THIN WOMAN

As any district attorney knows, criminal trials have a ~~common~~ faculty of taking unexpected turns, unpredictable courses, ~~often~~ ^{often} exploding in the very faces of the astounded judge, lawyers and mystified jurors. It is this mercurial quality, and the casual, ^{emotional} factors which induce it, that help to make ~~the~~ criminal trials the ~~uncertain~~ fascinating duels that they are. People love drama, and potential drama is inherent in even the most obscure criminal trial.

It was during the last term of court of my eighth and final year as prosecutor of Iron Cliffs county that this truism was again brought home to me in one of the strangest, saddest cases I have ever handled. Iron Cliffs county is that solitary, windswept logging and iron-mining community bordering on cold Lake Superior, on the sprawling Upper Peninsula of Michigan. During these eight years as prosecutor I had thought I had experienced almost everything ~~possible~~ in the criminal line. Yet here I was trying my first kidnaping case.

The trial of young Donald Blair was nearing the end of its third day. It was a drab, drizzly afternoon in the late fall. In the glow of the old-fashioned clustered courtroom lights, bearded Judge Belden sat on the bench, quietly going over his instructions to the jury. ~~The parents of the dead girl were seated just behind my counsel table.~~ Tall young Blair, the defendant, his long legs crossed, sat opposite ^{my table} ~~me~~ beside his lawyer, rubbing the soft down on his cheek, as he dully stared at the big sheriff ^{who sat on the witness stand.} ~~the People's last witness.~~ The steaming smell of rain-soaked clothing pervaded the crowded, close courtroom. ^{The sheriff was the People's last witness.}

"That's all, Sheriff," I ^{finished} said. I turned to Judge Belden. "The People rest," I said. ^{The People's case was in. It was now up to the defense to put in its testimony.} Judge Belden looked at the courtroom clock. It was nearing four-thirty, ~~and~~ Court ordinarily adjourned at five. Judge Belden was plainly debating whether to proceed until five or adjourn until the next ^{morning} day. The judge glanced at the jury. Twelve fidgety citizens, anxious to get home, looked hopefully back at the judge.

"The defense will proceed," Judge Belden dryly said. The jurors sighed and sat back. ^{and, as we lawyers are prone to do, pontifically} Young Blair's lawyer arose ~~and~~ announced: "The defense will call the defendant, Donald Blair, as its first witness!"

Donald Blair's quavering, youthful falsetto, as he said "I do" to the oath, scarcely went with the tremendous height he had unwound as he had clattered up to the witness stand in his high-heeled riding boots. He was inches over six feet tall. He sat in the witness chair, facing his lawyer, his dark eyes watchfully unblinking, his boyish hair falling over one eye.

To put it mildly, I was curious to learn what young Blair's defense would be. The People had already shown that ^{just at dusk on the day of the crime} someone had snatched the sleeping child out of its parents' parked Ford sedan; had run with it into a field towards the woods on the outskirts of Princeville, the little mining town which was the scene of the crime; that shortly after that the parents discovered that their ^{little girl} child was missing; that a search was made; ~~and~~ that the dead body of the child was finally discovered lying in a ^{the driver's seat of} parked Chevrolet truck, ^{parked by the side of a} that the diaphragm of the child had been crushed; that the ^{driver} ~~owner~~ of the truck was in ^{the} tavern during these events; that strange fingerprints were discovered on the truck door; that the bootprints of the abductor were unusual in that they were made by high-heeled boots similar to riding boots; that the marks of these boots were traced from the parked sedan ^{through the field} to near the edge of the woods, where the abductor had knelt or fallen; thence back to the parked truck, thence to the paved main road, where they abruptly disappeared.

During the past three days of the trial I had painstakingly developed before the jury that the sheriff had finally obtained a bloodhound to aid in the search; that this horrendous, slaving animal had repeatedly taken the searchers over the same trail, always ending at the paved road where the bootprints ended; that several days of frenzied search had proved fruitless; that one evening as the tired searchers were returning to the little Princeville jail, which was their headquarters, they encountered the usual knot of curious persons in the jailhouse corridor; that as the sheriff was leading the bloodhound down the long corridor the big dog suddenly growled and stopped in its tracks, determinedly sniffing at a young man who was standing in the crowd, wearing on his feet low oxfords; that this young man was the defendant, Donald Blair.

I had shown that the officers ^{then} had questioned young Blair; that after some questioning he had finally admitted he owned high-heeled riding boots; that, in company with the officers, he had produced the boots; that they exactly matched and fitted certain of the preserved footprints at the scene of the crime; that young Blair had then put on the boots at the officers' request and had walked home, in company with an officer, from the paved road; that the bloodhound was again started from the site of the parked sedan and led the officers unerringly over the entire course right up to Blair's home, ^{about a mile from town.} Finally I had shown that the fingerprints on the truck ^{door} were those of Donald Blair.

But through ~~it~~ all the ^{pre-trial investigation} defendant had steadfastly ^{and suddenly} denied that he had seen or touched the ^{little} girl.

It is true that the People's case was largely based on circumstantial evidence, yet, contrary to the popular notion, this is often the most reliable kind of evidence that can possibly be produced. People on both sides of a case may lie or forget. But physical facts -- ^{I am informed,} and dogs -- never lie.

So I sat there wondering what young Blair's story would be. His attorney, a crafty, capable lawyer of many years' experience, had started to question his client.

"You are Donald Blair, the defendant in this case?" his lawyer was asking.

"I am," Donald replied in his high-pitched voice.

"How old are you?"

"Seventeen," Donald answered.

The jurors glanced at one another, ^{and some of them sadly shook their heads.} I mentally marked down a score for the defense.

"Where do you live, Donald?"

"I ^{have} been working on a farm near Princeville. ^{Two years ago} I came there from Chicago."

"Are you living with your parents?" his lawyer asked.

"No." Donald hesitated and then went on. "My mother and father are divorced. I don't know where my father is."

"And your mother? Where is she?"

Donald's lawyer was doing all right. Naturally he knew all about Donald's mother and father, but he was bringing it all out in a way shrewdly calculated to arouse the sympathy of the jury.

"Where is your mother, Donald?" his attorney repeated.

Donald Blair gulped and his eyes glistened. His speech was halting.

"She's working. She -- she's a thin lady with a circus. I -- I wish she was here."

I glanced at the jury. Score number two for the defense. Donald's attorney paused to let ^{all} this sink in.

"When did you last see your mother?"

"Not since last winter. She doesn't work in the winter. I'll see her this winter -- I mean, I hope I will." He turned and looked at the jury and then down at his hands.

The forlorn quality of this statement from this pathetic marital waif even had me swallowing a lump in my throat.

"Isn't she coming up here for the trial?" his attorney went on.

"She wrote she was going to try to. I -- I hope so. ^{we don't have much money.} I want to see her so bad." Tears were in his eyes.

^{members of the} Donald's attorney walked up close to Donald. This was the part, here it was coming. The jury ^{tensely} leaned forward.

"Donald, did you take this little girl from her parents' sedan?" he asked.

Donald sat up straight and looked squarely at his attorney.

"No, sir," he answered, confidently, almost defiantly.

"Did you touch her or hurt her in any way?"

"No, sir."

^{"Did you enter or reach in their car?"}
^{"No, sir."}

"Were you in Princeville that night?"

^{by the main highway} "Yes, sir. I had been in town a couple of hours. ^{I shot a game of pool and started home, it was just getting dark.} I saw this Ford sedan parked there and I walked over to it to see if I could get a ride home, but there was no one in it."

"What did you do then?"

"I then decided to walk across the field towards home, and take a short-cut through the woods. Halfway towards the field it got pretty dark and I stumbled ^{and fell,} so I decided to go back to the main road. ^{I saw the little girl.} Passing the side of the tavern I saw this parked Chevrolet truck, I grabbed the door and looked in, still looking for a ride, but only saw what I thought was a sleeping child."

"Did you touch her?"

"No, sir. Not at all."

"Then what did you do?"

"Then I walked out to the main road, waited a while for a ride, couldn't get one, so then I walked home."

"Is that all there is to it, Donald?"

"That's all, sir."

"Did you cooperate with the police in every way to help them find out who did this thing, Donald?"

"Yes, sir, I did, sir. I even went to the jail ^{to tell them I had seen the little girl in the truck.} If I had really done it, I would of stayed away from the jail."

"That is all, Donald." His attorney turned to me ^{with a slight smile.} "You may take the witness."

The jury leaned back and sighed in unison, ^{glancing at each other.} It was a bad sign.

So that was it! Donald's attorney had used one of the simplest and yet most effective criminal defense practices: that of admitting as much of the truth as possible short of admitting guilt. And there was always the haunting possibility that it was true; that he hadn't abducted the girl or touched her in any way, ^{that it had really happened that way.} Prosecutors had to always bear that in mind. I cleared my throat to speak, pausing, feeling my way for an approach.

^{palist,} Just then the big mahogany courtroom door breathed open. Framed in it stood the tallest, [^]thinnest woman I have ever seen. She saw her son. Her lips silently formed his name. The bailiff came forward and led her to the other lawyer's table. Wordlessly she sat down, staring at her son. Her son buried his face in his arms. Everyone in the courtroom was visibly affected.

Judge Belden looked at me. It was a quarter of five. Young Blair's entire direct examination had taken but fifteen minutes. *Fifteen minutes and my case was going up the flue!*

"Under the circumstances, Mr. Prosecutor, perhaps we had better adjourn until the morning, hadn't we?" *Judge Belden suggested.*

In a flash my hunch came to me then. It was a dangerous, daring hunch, and I had missed my share of them in the past, but after all, I was only seeking the truth, whichever way it lay. *The thing that bothered me was that Donald had claimed he had finally walked home.* "Your Honor," I said, "the People would like to continue until five o'clock. I'll be through with this witness in less than fifteen minutes."

The jury glared at me. That was one of the dangerous parts of the hunch, prejudicing the People's case with the jury for ^{my heartlessness in} keeping this sorely stricken mother from her son.

"Very well. You may proceed," Judge Belden said.

I turned to Donald. His face was still buried in his hands. I walked over so that I was close to and slightly behind his mother.

"Donald, please look at me. I want to ask you a few questions," I said.

Donald slowly looked up, saw his mother, and then stared straight in my eyes. His eyes were crowded with tears.

"Donald," I said, "your mother always taught you to tell the truth, didn't she?"

^{Quickly} [^]Glancing at his mother, then back at me. "Oh yes, sir."

"And always to thank people for helping you; for any courtesies they might accord you?"

"Yes, sir. She always did; *yes, sir.*"

"And you are going to tell us the truth here now, are you not?"

read, she the stupidest would have traced him home. Why trust the bird about it?

it was obvious that he must have caught a ride from the parol

Donald glanced at his mother, searching her eyes. I glanced at her. She had shut her eyes, gripping her chair ^{the arms of} with her long, ~~long~~ ^{bony} fingers, and her head nodded forward imperceptibly.

"Oh yes, sir," Donald replied.

"All right, then, Donald. Tell us, ^{then,} did you thank the person who gave you the ride home ^{the paved road on} from Princeville to the farm the night the little girl was killed?"

Quickly, quietly, "Yes, sir."

There it was. Just like that. It had to be. "Yes, sir," *he had said.*

"And it isn't true that you walked home that night as you have just claimed here before your mother arrived?"

"No, sir." In a small, wan voice.

"Why did you tell us that, Donald?"

Slowly - "I -- I was mad at that bloodhound and I ^{- p} wanted to show him up."

"Why were you mad at the bloodhound, Donald?"

"B-because he got me in trouble."

"You ^{thought} didn't ^{nt} think he would discover you if you weren't wearing the riding boots, isn't that it, Donald?" *Q. "Yes, sir." Q. "And yet you were curious to see this animal, and find out if it could really detect a guilty person by scent alone?"*

Directly. "Yes, sir."
"Now, Donald,

"And will you tell us -- your mother and all of us -- why you didn't want to be discovered?"

Donald's mother opened her eyes and looked at her son. Her ^{tragic eyes were tearless, her} face was bloodless and drawn. It was one of the saddest, most moving scenes I have ever witnessed in or out of a courtroom. I felt like a monstrous heel. Again she nodded her head, *only so slightly.*

"Tell mother, Donald," she said. "Tell mother the truth." Her voice was curiously flat and toneless.

→ Wide-eyed, Donald began speaking to his mother, rapidly, in a high, childish voice.
"Yes, mama, I did it. I -- I don't know why. I had read about kidnaping and ransoms. So I opened the ^{door} with my handkerchief, ^{to hide the fingerprints,} just like I had read. I grabbed her, mama. She started to cry. I didn't mean to hurt her, mama. Honest I didn't.

I ran away in the dark and I tripped and I guess I fell on ^{all} her. She didn't make a sound. I -- I got scared and ran back and saw this truck and put her in it. ^{I forgot about fingerprints. I ran out to the highway.} Just then a pulp truck was going by. I thumbed a ride and went home. I thanked the driver, mama. I -- I only did it for you, mama -- so I could make some money so you wouldn't ^{always} have to ^{- a} ~~always~~ be a thin lady in a circus. If -- if you'd only been here, I'd have told them guilty long ago. . . ."

I had indeed discovered the truth, and the taste was bitter in my mouth.

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9

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Revised let. page.

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(Now back to "That's all shuff" and so on to the end of page 1. If you run part ^{P.} 1, as you probably will, ^{the other} ~~part~~ page into another, ~~marked~~ page 1 1/2.)

Written by:
John D. Voelker
Ishpeming, Michigan

THE TRUTH IS A THIN WOMAN

by Robert Traver

As any district attorney knows, criminal trials have a faculty of taking unexpected turns, unpredictable courses, often exploding in the very faces of the astounded judge, lawyers and mystified jurors. It is this mercurial quality, and the casual, emotional factors which induce it, that help to make criminal trials the fascinating duels that they are. People love drama, and potential drama is inherent in even the most obscure criminal trials.

It was during the last term of court of my eighth and final year as prosecutor of Iron Cliffs county that this truism was again brought home to me in one of the strangest, saddest cases I have ever handled. Iron Cliffs county is that solitary, windswept logging and iron-mining community bordering on cold Lake Superior, on the sprawling Upper Peninsula of Michigan. During these eight years as prosecutor I had thought I had experienced almost everything in the criminal line. Yet here I was trying my first kidnaping case.

The trial of young Donald Blair was nearing the end of its third day. It was a drab, drizzly afternoon in the late fall. In the glow of the old-fashioned clustered courtroom lights, bearded Judge Belden sat on the bench, quietly going over his instructions to the jury. Tall young Blair, the defendant, his long legs crossed, sat opposite my table beside his lawyer, rubbing the soft down on his cheek, as he dully stared at the big sheriff who sat on the witness stand. The steaming smell of rain-soaked clothing pervaded the crowded, close courtroom. The sheriff was the People's last witness.

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Donald Blair's quavering, youthful falsetto, as he said "I do" to the oath, scarcely went with the tremendous height he had unwound as he had clattered up to the witness stand in his high-heeled riding boots. He was inches over six feet tall. He sat in the witness chair, facing his lawyer, his dark eyes watchfully unblinking, his boyish hair falling over one eye.

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But through all the pre-trial investigation the defendant had steadfastly and sullenly denied that he had seen or touched the little girl.

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"You are Donald Blair, the defendant in this case?" his lawyer was asking.

"I am," Donald replied in his high-pitched voice.

"How old are you?"

"Seventeen," Donald answered.

The jurors glanced at one another and some of them sadly shook their heads. I mentally marked down a score for the defense.

"Where do you live, Donald?"

"I've been working on a farm near Princeville. Two years ago I came there from Chicago."

"Are you living with your parents?" his lawyer asked.

"No." Donald hesitated and then went on. "My mother and father are divorced. I don't know where my father is."

"And your mother? Where is she?"

Donald's lawyer was doing all right. Naturally he knew all about Donald's mother and father, but he was bringing it all out in a way shrewdly calculated to arouse the sympathy of the jury.

"Where is your mother, Donald?" his attorney repeated.

Donald Blair gulped and his eyes glistened. His speech was halting.

"She's working. She -- she's a thin lady with a circus. I -- I wish she was here."

I glanced at the jury. Score number two for the defense. Donald's attorney paused to let all this sink in.

"When did you last see your mother?"

"Not since last winter. She doesn't work in the winter. I'll see her this winter -- I mean, I hope I will." He turned and looked at the jury and then down at his hands.

The forlorn quality of this statement from this pathetic marital waif even had me swallowing a lump in my throat.

"Isn't she coming up here for the trial?" his attorney went on.

"She wrote she was going to try to. I -- I hope so. We don't have much money. I want to see her so bad." Tears were in his eyes.

Donald's attorney walked up close to Donald. This was the part, here it was coming. The members of the jury tensely leaned forward.

"Donald, did you take this little girl from her parents' sedan?" he asked.

Donald sat up straight and looked squarely at his attorney.

"No, sir," he answered, confidently, almost defiantly.

"Did you touch her or hurt her in any way?"

"No, sir."

"Did you enter or reach in their car?"

"No, sir."

"Were you in Princeville that night?"

"Yes, sir. I had been in town a couple of hours. I shot a game of pool and started home. It was just getting dark. I saw this Ford sedan parked there by the main highway and I walked over to it to see if I could get a ride home, but there was no one in it."

"What did you do then?"

"I then decided to walk across the field towards home, and take a short-cut through the woods. Halfway ^{through} ~~towards~~ the field it got pretty dark and I stumbled and fell, so I decided to go back to the main road. Passing the side of the tavern I saw this parked Chevrolet truck. I grabbed the door and looked in, still looking for a ride, but only saw what I thought was a sleeping child."

"Did you touch her?"

"No, sir. Not at all."

"Then what did you do?"

"Then I walked out to the main road, waited a while for a ride, couldn't get one, so then I walked home."

"Is that all there is to it, Donald?"

"That's all, sir."

"Did you cooperate with the police in every way to help them find out who did this thing, Donald?"

"Yes, sir, I did, sir. I even went to the jail to tell them I had seen the little girl in the truck. If I had really done it, I would of stayed away from the jail."

"That is all, Donald." His attorney turned to me with a slight smile. "You may take the witness."

The jury leaned back and sighed in unison, glancing at each other. It was a bad sign.

So that was it! Donald's attorney had used one of the simplest and yet most effective criminal defense practices: that of admitting as much of the truth as possible short of admitting guilt. And there was always the haunting possibility that it was true; that he hadn't abducted the girl or touched her in any way; that it had really happened that way. Prosecutors had to always bear that in mind. I cleared my throat to speak, pausing, feeling my way for an approach.

Just then the big mahogany courtroom door breathed open. Framed in it stood the tallest, palest, thinnest woman I have ever seen. She saw her son. Her lips silently formed his name. The bailiff came forward and led her to the other lawyer's table. Wordlessly she sat down, staring at her son. Her son buried his face in his arms. Everyone in the courtroom was visibly affected.

Judge Belden looked at me. It was a quarter of five. Young Blair's entire direct examination had taken but fifteen minutes. Fifteen minutes and my case was going up the flue! *Perhaps this was the surprise I had been waiting for.*
"Under the circumstances, Mr. Prosecutor, perhaps we had better adjourn until the morning, hadn't we?" Judge Belden suggested.

In a flash my hunch came to me then. It was a dangerous, daring hunch, and I had missed my share of them in the past, but after all, I was only seeking the truth, whichever way it lay. The thing that bothered me was that Donald had claimed he had finally walked home. Yet it was obvious that he must have caught a ride from the paved road, else the bloodhound would have tracked him home. Why had he lied about it?

"Your Honor," I said, "the People would like to continue until five o'clock. I'll be through with this witness in less than fifteen minutes."

The jury glared at me. That was one of the dangerous parts of the hunch, ^{further} prejudicing the People's case with the jury for my heartlessness in keeping this sorely stricken mother from her son.

"Very well. You may proceed," Judge Belden said.

I turned to Donald. His face was still buried in his hands. I walked over so that I was close to and slightly behind his mother.

"Donald, please look at me. I want to ask you a few questions," I said.

Donald slowly looked up, ^{saw} saw his mother, and then stared straight in my eyes. His eyes were crowded with tears.

"Donald," I said, "your mother always taught you to tell the truth, didn't she?"

Quickly glancing at his mother, then back at me. "Oh yes, sir."

"And always to thank people for helping you; for any courtesies they might accord you?"

"Yes, sir. She always did; yes, sir."

"And you are going to tell us the truth here now, are you not?"

Donald glanced at his mother, searching her eyes. I glanced at her. She had shut her eyes, gripping the arms of her chair with her long, bony fingers. Her head nodded forward imperceptibly.

"Oh yes, sir," Donald replied.

"All right, then, Donald. Tell us, then, did you thank the person who gave you the ride home from the paved road in Princeville to the farm the night the little girl was killed?"

Quickly, quietly. "Yes, sir."

There it was. Just like that. It had to be. "Yes, sir," he had said.

"And it isn't true that you walked home that night as you have just claimed here before your mother arrived?"

"No, sir." In a small, wan voice.

"Why did you tell us that, Donald?"

Slowly. "I -- I was mad at that bloodhound and I -- I wanted to show him up."

"Why were you mad at the bloodhound, Donald?"

"B-because he got me in trouble."

"You thought he wouldn't discover you if you weren't wearing the riding boots, isn't that it, Donald?"

"Yes, sir."

"And yet you were curious to see this animal, and find out if it could really detect a guilty person by scent alone?"

Quietly. "Yes, sir."

"Now, Donald, will you tell us -- your mother and all of us -- why you didn't want to be discovered?"

Donald's mother opened her eyes and looked at her son. Her tragic eyes were tearless, her face was bloodless and drawn. It was one of the saddest, most moving scenes I have ever witnessed in or out of a courtroom. I felt like a monstrous heel. Again she nodded her head, ever so slightly.

Then she spoke.

"Tell mother, Donald," she said. "Tell mother the truth." Her voice was curiously flat and toneless.

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"Not since last winter. She doesn't work in the winter. I'll see her this winter -- I mean, I hope I will." He turned and looked at the jury and then down at his hands.

The forlorn quality of this statement from this pathetic marital waif even had me swallowing a lump in my throat.

"Isn't she coming up here for the trial?" his attorney went on.

"She wrote she was going to try to. I -- I hope so. We don't have much money. I want to see her so bad." Tears were in his eyes.

Donald's attorney walked up close to Donald. This was the part, here it was coming. The members of the jury tensely leaned forward.

"Donald, did you take this little girl from her parents' sedan?" he asked.

Donald sat up straight and looked squarely at his attorney.

"No, sir," he answered, confidently, almost defiantly.

"Did you touch her or hurt her in any way?"

"No, sir."

"Did you enter or reach in their car?"

"No, sir."

"Were you in Princeville that night?"

"Yes, sir. I had been in town a couple of hours. I shot a game of pool and started home. It was just getting dark. I saw this Ford sedan parked there by the main highway and I walked over to it to see if I could get a ride home, but there was no one in it."

"What did you do then?"

"I then decided to walk across the field towards home, and take a short-cut through the woods. Halfway ^{through} ~~towards~~ the field it got pretty dark and I stumbled and fell, so I decided to go back to the main road. Passing the side of the tavern I saw this parked Chevrolet truck. I grabbed the door and looked in, still looking for a ride, but only saw what I thought was a sleeping child."

"Did you touch her?"

"No, sir. Not at all."

"Then what did you do?"

"Then I walked out to the main road, waited a while for a ride, couldn't get one, so then I walked home."

"Is that all there is to it, Donald?"

"That's all, sir."

"Did you cooperate with the police in every way to help them find out who did this thing, Donald?"

"Yes, sir, I did, sir. I even went to the jail to tell them I had seen the little girl in the truck. If I had really done it, I would of stayed away from the jail."

"That is all, Donald." His attorney turned to me with a slight smile. "You may take the witness."

The jury leaned back and sighed in unison, glancing at each other. It was a bad sign.

So that was it! Donald's attorney had used one of the simplest and yet most effective criminal defense practices; that of admitting as much of the truth as possible short of admitting guilt. And there was always the haunting possibility that it was true; that he hadn't abducted the girl or touched her in any way; that it had really happened that way. Prosecutors had to always bear that in mind. I cleared my throat to speak, pausing, feeling my way for an approach.

Just then the big mahogany courtroom door breathed open. Framed in it stood the tallest, palest, thinnest woman I have ever seen. She saw her son. Her lips silently formed his name. The bailiff came forward and led her to the other lawyer's table. Wordlessly she sat down, staring at her son. Her son buried his face in his arms. Everyone in the courtroom was visibly affected.

Judge Belden looked at me. It was a quarter of five. Young Blair's entire direct examination had taken but fifteen minutes. Fifteen minutes and my case was going up the flue!

"Under the circumstances, Mr. Prosecutor, perhaps we had better adjourn until the morning, hadn't we?" Judge Belden suggested.

In a flash my hunch came to me then. It was a dangerous, daring hunch, and I had missed my share of them in the past, but after all, I was only seeking the truth, whichever way it lay. The thing that bothered me was that Donald had claimed he had finally walked home. Yet it was obvious that he must have caught a ride from the paved road, else the bloodhound would have tracked him home. Why had he lied about it?

"Your Honor," I said, "the People would like to continue until five o'clock. I'll be through with this witness in less than fifteen minutes."

The jury glared at me. That was one of the dangerous parts of the hunch, prejudicing the People's case with the jury for my heartlessness in keeping this sorely stricken mother from her son.

"Very well. You may proceed," Judge Belden said.

I turned to Donald. His face was still buried in his hands. I walked over so that I was close to and slightly behind his mother.

"Donald, please look at me. I want to ask you a few questions," I said.

Donald slowly looked up, saw his mother, and then stared straight in my eyes. His eyes were crowded with tears.

"Donald," I said, "your mother always taught you to tell the truth, didn't she?"

Quickly glancing at his mother, then back at me. "Oh yes, sir."

"And always to thank people for helping you; for any courtesies they might accord you?"

"Yes, sir. She always did; yes, sir."

"And you are going to tell us the truth here now, are you not?"

Donald glanced at his mother, searching her eyes. I glanced at her. She had shut her eyes, gripping the arms of her chair with her long, bony fingers. Her head nodded forward imperceptibly.

"Oh yes, sir," Donald replied.

"All right, then, Donald. Tell us, then, did you thank the person who gave you the ride home from the paved road in Princeville to the farm the night the little girl was killed?"

Quickly, quietly. "Yes, sir."

There it was. Just like that. It had to be. "Yes, sir," he had said.

"And it isn't true that you walked home that night as you have just claimed here before your mother arrived?"

"No, sir." In a small, wan voice.

"Why did you tell us that, Donald?"

Slowly. "I -- I was mad at that bloodhound and I -- I wanted to show him up."

"Why were you mad at the bloodhound, Donald?"

"B-because he got me in trouble."

"You thought he wouldn't discover you if you weren't wearing the riding boots, isn't that it, Donald?"

"Yes, sir."

"And yet you were curious to see this animal, and find out if it could really detect a guilty person by scent alone?"

Quietly. "Yes, sir."

"Now, Donald, will you tell us -- your mother and all of us -- why you didn't want to be discovered?"

Donald's mother opened her eyes and looked at her son. Her tragic eyes were tearless, her face was bloodless and drawn. It was one of the saddest, most moving scenes I have ever witnessed in or out of a courtroom. I felt like a monstrous heel. Again she nodded her head, ever so slightly.

"Tell mother, Donald," she said. "Tell mother the truth." Her voice was curiously flat and toneless.

Wide-eyed, Donald began speaking to his mother, rapidly, in a high, childish voice. "Yes, mama, I did it. I -- I don't know why. I had read about kidnaping and ransoms. So I opened the car door with my handkerchief, to hide the fingerprints, just like I had read. I grabbed her, mama. She started to cry. I didn't mean to hurt her, mama. Honest I didn't. I ran away in the dark and I tripped and I guess I fell on her. She didn't make a sound. I -- I got scared and ran back and saw this truck and put her in it. I forgot all about fingerprints. I ran out to the highway. Just then a pulp truck was going by. I thumbed a ride and went home. I thanked the driver, mama. I -- I only did it for you, mama -- so I could make some money so you

wouldn't always have to be a -- a thin lady in a circus. If -- if you'd only been here, I'd have told them guilty long ago. . . ."

I had indeed discovered the truth, and the taste was bitter in my mouth.

"That's all, Donald. You may go to your mother," I said.

I glanced up at the courtroom clock. It was four minutes to five. Another courtroom drama was over.