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Sincerely,

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Editorial

Shutting Up

The other day Radio Station WCLV ("The Fine Arts Station in Cleveland") finally seemed to understand what its listeners (and former listeners) had been saying: shut up and play the music! In fact, it offered a prize to anyone who observed more than two and a half minutes of talk between pieces of music. But the prize was only $25 and the experiment was limited to the afternoon hours when the audience is smaller. It is understandable that radio stations make money by talking (reading or playing commercials) and that the stuff between the commercials is merely there to attract listeners. If the market so dictated, the station would as soon devote itself to horse race results, heavy metal, or fire and brimstone evangelism.

Still, the dawning awareness of too much talk is an event, like the discovery that the greenhouse effect is real, that oil is not a replenishable resource, and that life beyond the earth is irrelevant. Noise pollution is not just the province of youths who carry radios the size of footlockers on their shoulders or their congeners who drive down the street with windows open and two mega-woofers roiling the atmosphere. Those are simple noises and usually temporary rather than persistent. The noises that are more grating and that need to be abolished are ever-flowing verbal ones.

There are the special interest people, who know that they have got hold of the truth and who will not rest until they have told it to you over and over:
the anti-abortionists, the conservationists, the flat-earth society (however disguised), the pro-Sandinista religious left... The world would be a better place if they kept quiet. Let them hoist placards, but not shout. This complaint is not an effort to deprive anyone of First Amendment rights—but rather a question of volume. They are welcome to express their views, no matter how foolish, misguided, or even lunatic, if only they could do it without disturbing the peace. Surely the peaceful pursuit of one's own business is also a right and according to the Constitution a right prior to those in any Amendment.

Of course demonstrations that don't disturb the peace are useless: they will not be noticed and will therefore be ineffective. One must wonder: was the First Amendment really designed to authorize the endless chanting of slogans through bullhorns? Was this what the Founding Fathers really intended? Did they contemplate that mindless noise would make a sensible contribution to a serious debate on important issues? Wasn't it rather the plan to make sure that unpopular views were not suppressed? It cannot have been the plan to make sure that unpopular views were expressed until the population was made dizzy by the racket.

The world would surely benefit if people with tin cups did not sing in subways, if salesmen in airplanes did not laugh so heartily, or if students did not make elevator jokes. It's curious that the most irritating noisemakers operate in confined spaces from which the audience cannot easily escape. Elevators in particular bring out the most dangerous amateur comedians, who believe that references to crowding, to getting stuck, and to other discomfort will alleviate the real discomfort of having to listen to their tired jokes.

Surely the world would benefit if grocery stores and dentists' offices were not tuned in to radio stations with messages about tires. And who decided that the time would pass on more quickly if, when placed on telephone holds, you got to listen to bad music or to a radio station? At least one can hang up the phone, or go to another grocery store, but nothing can be done at the dentist, except to moan.

Certainly the world would be better off if sports events on television were conducted in a becoming silence punctuated only by the grunts of the players and their authentic expressions of rage, disgust, triumph or chagrin. NBC tried that once, during a football game, more than a decade ago. It was wonderful, it was generally applauded, it called for a repetition, so they never did it again. After all, we can see the action: why tell us about it? Because, apparently, the less there is to say, the more it is necessary to talk. Even more puzzling are the preliminary conversations between the two announcers who are going to describe the game to us. They pretend to inter-
view each other, as if they had not spent the previous several hours speculating about the contest. It is artificial, just more superfluous talk. I suppose that if an asteroid heads for a collision with the earth and gives us all a new start, the networks will assemble a team of senior announcers to interpret the event and interview each other and some geologists and astronomers, rather than merely watch the awesome spectacle in silence. Of course, the show would be followed by weather and sports results.

It is as if a command decision had been made at the highest levels of the media industry to fill every cranny of silence with some kind of noise. Radio used to fear silence because listeners would turn to another station, believing that nothing was going on. Nothing significant is going on, but they are still talking. Just as the movie houses cannot start on time but must expose us to so many previews of coming attractions that the film we came to see has lost its savor, so it is no wonder that videocassettes are putting them out of business. Indeed VCRs are the consumer's answer to commercial interruptions. The oral word is the culprit, the gift of speech, alas.

The printed word is courteous and silent. We can receive it or ignore it, close the book, throw the magazine and newspaper away. In Macaulay's words, Plato is never sullen, Demosthenes never comes unseasonally, Dante never stays too long. They cannot make us read them as the talkers can make us listen. Still even they can be a bore. Repetition of the obvious, of the irrelevant, of the familiar and minute—that is the heart and core of boredom. And there is vastly too much of it. Perhaps even talking about boredom is boring. Our only defense against this unrelieved assault is not giving up our sense of unrelieved irritation, remaining cranky about it. In The Mikado, Pooh-Ba sings a song which goes, "I've got a little list of society offenders who never would be missed," mostly talkers and bores of various kinds. Everyone should make such a list, perhaps make it public. The bores and talkers should know that we are on to them. As Voltaire said, the secret of being a bore is saying everything. So to those who practice it, we say: Quiet, please!

Correction:
By error we stated in the last issue that Ori Soltes had earned his Ph.D. at Johns Hopkins University. We should have said that he is a doctoral candidate at Johns Hopkins University.
George W. Howe's Euclid Avenue

Eric Johannesen

When Cleveland businessman George W. Howe died in October, 1901, his house at 2258 Euclid Avenue was only seven years old. He had built it for his retirement and moved from an older home on East 9th Street near Vincent. Across the street on the north side was "Millionaires' Row," stretching from East 12th to East 40th Street, an array of some fifty-odd great mansions—houses remaining from the Greek Revival period, Gothic Revival and Tuscan villas of the 1850s and 1860s, all standing side by side with great Romanesque Revival stone residences and eclectic houses in the many Victorian styles. The diversity of styles was unified by the generous setbacks, the wide, spacious lawns, and the tree-lined roadway. On the south side of the avenue, narrower lots meant that there were nearly twice as many houses, and Howe's was one of these.

The road that had become Euclid Avenue was an old Indian trail along the shore of Lake Erie. It was soon known as the Buffalo Road, because it was the main trail to the east through Doan's Corners (East 105th Street). When Euclid Street was cut through to the southeast corner of Public Square in 1815, it was still surrounded by forest and inhabited chiefly by squirrels. The road was unpaved and had no houses until the 1830s, but it soon became the choice of many residents. By the middle of the century Euclid was well on the way to becoming "the most beautiful street in the world."

The first commercial building on Euclid was erected on the corner of Public Square in 1854. Euclid Street achieved the status of an "Avenue" in 1870. Within six years there were no more residences west of the present site of The Arcade, and it was clear that Euclid would soon replace West Superior as the fashionable retail district. The blocks east to East 9th Street rapidly presented an unbroken facade of business buildings, and until 1900, East 9th Street was considered the limit of the business district. At the time of Howe's death the expansion of retail stores toward the present Playhouse Square district was just getting under way.

George W. Howe was born in Massachusetts in 1832 and grew up there in Springfield. As a young man he came to Cleveland as a representative of the Howe Sewing Machine Company, being the nephew of Elias Howe, inventor of the
machine. Before long he went to Europe as the foreign representative of the company, returning to Cleveland just before the outbreak of the Civil War. He enlisted in the First Ohio Volunteer Artillery, served with distinction, and retired at the close of the war with a captain's commission.

After the war he became involved in a number of business interests, including banking, and at the time of his death he was vice-president of the Citizens Savings & Banking Company and a director of the Guardian Trust Company. During the presidency of Rutherford B. Hayes, Howe was appointed Collector of Customs for the Port of Cleveland, and under the administration of Mayor Gardner he acted as commissioner of police.

Howe was also known in Cleveland and around the country as one of the first promoters of professional baseball. He was secretary of the company that put together the Cleveland Spiders team in 1887 and brought the National League to Cleveland. In 1891 the team moved to the newly-opened League Park at Lexington Avenue and East 66th Street. Even during his last summer, when suffering from the kidney ailment that forced him to return suddenly from a European trip, Howe enjoyed being taken out to the ball park to watch the games.

Sixty-two years old in 1894 and married for forty-one years, Howe had no children, yet he and his wife Kate built a very large house. If we look at the front of the house today, there is only one noticeable change, but a fairly important one. The facade was originally enclosed by a brick parapet some five feet tall that effectively walled in the front porch. The steps to the porch did not lead directly to the entry vestibule as they do today, but were set well to the left of it, making a jog in the stairs. The walls are of yellow Roman brick and the ornamental trim and sills of red terra cotta and sandstone. One of the weathered terra-cotta capitals on the porch, with a cherubic face surrounded by foliated ornament, has
recently been replaced as part of the renovation project.

Inside the front door, the large entrance hall is the most architecturally distinguished space in the house. The stair rises to the right in a complex progression of stages, leading to a landing that projects from the side of the house in the form of a bay. The staircase newel post and balustrades are unusually simple, being pure cylindrical shapes without any turned profile. On the main floor we would also find a morning room, a front parlor, a dining room, and what was probably a breakfast room or study, as well as a kitchen with ceramic tile wainscoting and a large rear servants' stair. All of the major rooms have impressive mantelpieces, especially the dining room, where the fireplace is framed by two pairs of six-foot fluted Ionic columns of walnut supporting the mantel. The woodwork of the mantelpieces is complemented by marble or tile facing around the fireplace openings. All of the rooms have paneled wainscoting, and the plastered ceilings are handsomely coved. At the same time, the door and window woodwork is very plain. The parlor has an unusual wall treatment that appears to be stencilling on plaster, the motif consisting of large red poppies that recall the cabbage rose patterns so beloved in High Victorian carpets and wallpapers.
The second floor has five large bedrooms with generous walk-in closets and marble wash basins in each room. Two of the bedrooms share a connecting bath, and there is another large bathroom, plus four servants' rooms at the rear of the house with their own bath. The third floor is much larger than one would expect, since it is only indicated on the exterior by small frieze windows under the eaves and two small dormers (originally six). The large central space was very likely intended for use as a ballroom and is divided down the center by a row of supporting columns. There are also two garret rooms that may have been planned for additional servants. In spite of the small household, the Howes had three servants to run the house—Nellie Filbin, housemaid, Mary Brunick, cook, and Lucy McKeon, laundress, all good Irish immigrant women.

The Howe house was designed by Cleveland architects Coburn and Barnum. In partnership since 1878, they planned some of the city's most distinguished commercial, institutional, residential, and ecclesiastical buildings. Among them were the Woodland Avenue Presbyterian, Brooklyn Congregational, and Euclid Avenue Congregational Churches, Guilford Cottage at Western Reserve University, and the Olney Art Gallery on West 14th Street. Their residential commissions included additions to the Euclid Avenue home of Jeptha H. Wade II, the imposing memorial library added to President Garfield's home in Mentor by his wife, and the spectacular Washington H. Lawrence mansion (later Bay View Hospital) in Bay Village.

George W. Howe would certainly recognize his own house today. It is little changed after eighty-seven years, in spite of nearly eighty years of occupancy by various artists' studios and art galleries. When Kate Howe left the house in 1910, George E. Gage opened a fine-arts gallery, where he sold paintings, porcelain, and fine bronzes. The large rooms in the house also provided the home for a handful of artists who had their studios there. Among them was Belle Hoffman, treasurer of the Women's Art Club of Cleveland, which met in her studio beginning in 1912 and had its first exhibition in the house in 1913. In the same year, the Cleveland Society of Artists was
founded by George Adomeit and Charles Shackelton and met in the Gage Gallery and William Edmondson’s studio. When Gage moved his gallery in 1935, William Vixseboxse opened another gallery of fine paintings and prints in the house. Six artists and photographers were still in residence, including Edmondson, Ann Kerven, and Carl Broemel, as well as the Farnham Publicity Service, an advertising agency. A few of the artists kept their studios through the '40s, but by the early '50s only one remained, and a one-story addition to the rear of the house was an auto body repair shop. By 1956 Vixseboxse alone remained, and his gallery moved out in 1979.

What if Howe went out the door onto Euclid Avenue today? He would find most of the great mansions gone. Across the street from Howe and a little way to the east is a new house that he would not know. Samuel Mather’s mansion, the Tudor masterpiece by architect Charles Schweinfurth (now Cleveland State University’s University Hall), was not built until 1910. Likewise, the Anthony Carlin house at 3223 Euclid looks as if it might be from Howe’s period. In fact, it replaced an earlier residence that was torn down in 1910 for Carlin’s Colonial Revival house. Built for H. B. Hurlbut, the older house that Howe knew was one of several whose plans were
seen by a reporter visiting the office of architects Heard and Porter in 1855. The houses were in the $11,000-$15,000 price range (the average worker's or farmer's house cost a few hundred dollars).

Howe would have to walk up to the 3800 block before he found a house essentially intact that he recognized. He would probably be mystified for a moment to see the entire front yard of his friend T. Sterling Beckwith filled with horseless vehicles. Originally built in 1866 for Anson Stager, general superintendent of the Western Union Telegraph Company, the mansarded Victorian house became the home of the University Club in 1913. Howe might also miss the handsome arcaded veranda that ornamented the front, and he certainly would not recognize the large clubhouse addition on the Chester Avenue side designed by the brilliant but erratic twentieth-century architect J. Milton Dyer.

Toward downtown, Howe would look in vain for his own athletic club. The year 1891 had been an eventful one for athletics for another reason besides the baseball team. A new building was erected by the Cleveland Athletic Club on the site of the Horace Dodge residence near East 17th Street. Not the same club that exists today, it was founded in 1885, and the incorporators, along with Howe, included Myron T. Herrick, L. Dean Holden, and Frank Robison, president of the Spiders team. However, until it was demolished this year, Howe would have found his club building on the interior of
Eric Johannesen

the Bulkley Building, where it was surrounded and encapsulated by the Bulkley Building in 1921. After the decline of the athletic club in the early 1900s, the building housed a noted jewelry and gift store operated by Charles A. Selzer and was better known as the Selzer Building.

Howe was also a member of the Union Club, but the grave black Renaissance palace at the corner of East 12th Street was not his clubhouse; it was not built until 1905. In 1901 the club occupied the old Truman P. Handy house, a great columned Greek Revival mansion which had been acquired from a subsequent owner, Mayor George B. Senter. That house in turn became the site of the Hippodrome Theatre; today Howe would find only a parking lot.

Another building that he might recognize if its later accretions were stripped away stands at 3226 Euclid behind the Fine Arts Building. John H. Devereux built this Victorian Italianate house in 1873. Devereux, born in 1832, was an exact contemporary of Howe and undoubtedly an acquaintance. The Civil War general's most renowned achievement was his work as superintendent of the Union military railroads in Virginia. He is credited with bringing order to a chaotic situation of conflicting regulations, jealous government departments, and poor equipment. After the war he became president of the Lake Shore Railroad and later of the Atlantic & Great Western and the Cleveland, Columbus & Cincinnati railroads. The house was already concealed behind the Fine Arts Building when Ella Grant Wilson wrote a description of the interior in 1937. "The old woodwork, doors of solid walnut, mantels and fireplaces, parqueted floors and the stained glass skylight in the hallway still remain. It is a treat, indeed, to see what workmanship and materials were used in the construction of those old homes." In 1937 there was also a garden pergola made from the pillars taken from the front porch when the building was remodeled. A picturesque stable to the rear was still standing ten years ago, but has since been taken down.

If Howe ventured beyond East 55th Street, where the railroad (later the Pennsylvania line) had effectively sealed the eastern end of Millionaires' Row in 1850, he would find the old Dunham Tavern standing near 66th Street. Even in 1901, the fifty-nine year-old house was a curious survival. It is uncertain whether the early history of the house as a tavern on the Buffalo Road for a dozen years before the war was generally known in the nineties. By then it was the home of Dr. and Mrs. James A. Stephens, and it was presumably they who added the lovely classical porch on the east end that was torn off in 1986 in a misguided act of "restoration." But the modest late-colonial or Federal style house was already an anomaly on the avenue at the turn of the century.

Whether the house that stood on the corner of East 73rd Street until this year would have been recognized is moot. This was the same house that was built in 1886 by Morris Bradley, master of the lake vessel company that bore his name and at one time the largest holder of downtown real estate, but it was completely remodeled in the early 1900s. Where we
last saw a Tudor eclectic mansion, there used to be a late Victorian Queen Anne facade. Instead of half-timbering, there was common horizontal siding, contrasting brick masonry and carved wood, and wooden paneling and brackets. The massive gable was faced with fishscale shingles, and there was a quite different configuration of the porches. This wholesale change in style was carried out by the second owner after Bradley moved to the suburb of Cleveland Heights. The house might have had a nagging familiarity for someone who knew it nearly a hundred years ago.

Finally there remains a handful of houses that one thinks of as part of old residential Euclid Avenue, like the Mather and Carlin houses, but which were built after the turn of the century. These include the Henry P. White house on the corner of East 90th Street; the house at East 89th Street designed by J. Milton Dyer for Lyman Treadway in 1916 and later owned by Cyrus Eaton, now largely hidden behind the Cleveland Health Education Museum; and the Francis E. Drury house near East 86th Street, designed by Meade and Hamilton in 1911 and subsequently occupied by the Florence Crittenton Home until ten years ago.
But Euclid Avenue, in addition to being a street of great houses, was a street of fine churches. Howe's house is practically next door to the great Trinity Cathedral, but he never saw it. The contract for the foundations was let just two months after his death, although the vestry had worked on the planning with Schweinfurth for ten years, and the design had gone from an original conception in the Romanesque style to its final English Perpendicular Gothic appearance. However, the massive three-story brick Tudor house to the rear of Howe's house on Prospect, now known as Mather Hall, was the Church Home for dependent women and was built in 1895.

At East 40th Street, which was usually understood to be the eastern end of Millionaires' Row, the skyline is still punctuated by a unique 120-foot tower with four slender turrets framing an octagonal belfry. The picturesque sandstone Victorian Gothic structure of St. Paul's Episcopal Church was twenty-five years old at Howe's death. It had been the fashionable church of the nabobs of Euclid Avenue, and "horse-drawn carriages with liveried servants deposited the cream of society at its doors." General Devereux was one of the vestrymen. But Howe would now find that the building was rededicated as St. Paul Shrine of the Blessed Sacrament by the Catholic Diocese in 1931, and the Episcopal congregation had moved to the intersection of Fairmount and Coventry in Cleveland Heights.

It is not known what Howe's church affiliation was, if any, but there may be a circumstantial clue. The Euclid Avenue Congregational Church at East 96th Street was designed by the same architects, Coburn and Barnum, that planned his house. The recently cleaned Romanesque edifice of stone, with a large Sunday school building at the rear, was completed in 1887, seven years before Howe's house. Today it is virtually intact and occupied by the same congregation.

One more of the great nineteenth-century Euclid Avenue churches survives, and it is also a Charles Schweinfurth creation. Calvary Presbyterian Church at East 79th Street was completed in 1890 in the rugged rusticated Richardsonian Romanesque style. For a church whose massive square towers and monumental arches truly give the character of a "mighty fortress," it is surprisingly light and airy on the interior, and would still be absolutely familiar to a visitor from 1900.

Other churches which would contribute to the familiar array of religious structures lining the avenue were too late for Howe to have known—First Methodist Church (1905); the Second Church of Christ, Scientist, later the 77th Street Play House (1916); the Euclid Avenue Temple, now Liberty Hill Baptist Church (1912); the Emmanuel Episcopal Church (1902); and the strange but marvelous green stone Euclid Avenue Christian Church, now East Mount Zion Baptist (1908).

Coming back down the avenue, it is hardly necessary to ask what George Howe would think. It is no longer his Euclid Avenue, and it is not too far-fetched to suggest that at first he would be completely disoriented. Sprawling at his doorstep is a giant urban university housed in buildings that were undreamed of at the turn of the century. Some sixteen houses stood on the north side of the avenue between East 18th Street
and the Innerbelt, the present site of the university. Among them were those of E. W. Oglebay, founder of the important ore-handling company, Charles W. Bingham, Senator Henry B. Payne, R. K. Winslow, a lake vessel owner, progressive Mayor Tom L. Johnson, and G. E. Herrick, one of the builders of the ill-fated Williamson Building on Public Square. The immediate neighbors of Samuel Mather’s house were among the last to go. The home of Harry K. Devereux, son of the Civil War general, stood to the west of the Mather house until 1951. Leonard Hanna’s house to the east was Cleveland’s only building by Stanford White, the most celebrated architect in America at the time, and it was demolished in 1957 to make room for the expressway.

So the residential aspect of Howe’s Euclid Avenue has been totally replaced by a predominantly commercial one. The street has been widened. There are no longer any wide, spacious lawns and generous setbacks. The avenue of great trees overarching and shading the street is nowhere in evidence. The streetcars are gone, but the amount of vehicular traffic is much increased. And just a block to the east of the house, a huge gash in the earth channels the multi-laned expressway. In sum, the commercial expansion of the early twentieth century and its subsequent decline have left their detritus, the evidence of a social and economic revolution.

How did it happen? By 1910 Cleveland was the sixth largest city in the United States. The march of commercial expansion was inexorable. Euclid, as the city’s “Main Street,” continued to be developed eastward as the main retail and business strip. As commerce arrived, the residents moved out, first to Hough in the 1890s, then to Wade Park in the early 1900s, and by the ‘teens east to the suburbs on the Heights in substantial numbers. All of this was assumed to be an inevitable development, the fulfillment of the nineteenth-century idea of “progress.”

Questions of taste were certainly involved as well. The homes built around World War I tended toward more practical modern living, replacing Victorian ostentation with informality. By the 1920s the hulking old houses were not only white elephants economically, but were by and large regarded as “monstrosities.” There were undoubtedly some nostalgic feelings at the loss of favorite memories, but twentieth-century taste allowed no place for the appreciation of the Victorians. Moreover, the concept of “historic preservation” was undreamed of in relation to the homes of the old millionaires, and it was not until the 1970s that one began to hear murmurs of the possibility of a “preservation ethic.” By that time the houses were gone.

However, there is no reason why it should not have been so. Nor is there any reason to bemoan the loss of George Howe’s avenue or his city. There is only one direction possible in history, and that is forward. George Howe’s house remains; it will soon take a new lease on life serving the university as a faculty and staff club; and we can be glad that Mr. Howe will be remembered and that his house will be used for a little while yet to come.
Who Gets the Armrest?

Hester Lewellen

Have you ever sat in a theater, concert hall, or movie house wondering how to deal with the unspoken problem that was separating you and the stranger next to you? I am referring, of course, to the armrest, and who should get possession thereof. This territory is silently claimed, disclaimed, unconsciously "taken," and consciously avoided. Accidental bumping is followed by a murmured "Excuse me" but no eye contact. Some people seem to think nothing of taking over the armrest with no regard for the person next to them, while the rest of us agonize over the proper ratio of use.

It has always seemed to me that men were the ones who were more likely to take and not relinquish this territory, whereas women preferred to take turns. Indeed two different men have told me, "If I'm sitting next to a woman, I give her five minutes to make a move. If she doesn't take the armrest, I do." I recall an evening at Severance Hall when the man next to me grabbed the armrest from the outset of the concert and never relinquished it until intermission. After the intermission I returned early and got my arm on the armrest. When the man returned, he seemed to pay no attention, but merely accepted the new arrangement. After a while I did remove my arm to indicate a willingness to share, but he never took possession of the armrest again. Although I know what was going on in my mind, I have no idea what he was thinking. Etiquette seemed to require a pretense of ignorance.

Having thought about this problem often in my lifetime of theater-, concert-, and movie-going, I finally decided to study the situation more scientifically. I was particularly interested in what happened when the armrest was between two people of the "opposite sex." I decided to find some way to study the behavior of an audience and thereby determine, when a man and a woman were seated next to each other, who got the armrest. I thought the information gleaned might be useful to theater architects as well as to psychologists of gender-related behavior.

Immediately I ran into some problems. Movie theaters are too dark for an observer to be able to discern whose arms are...
where. Besides, observing people too closely in a movie house
might open one to charges of invasion of privacy. Concert halls
are often too well-lit for an observer to observe without being
observed. That is, people in the audience would probably real-
ize they were being watched, which might alter their
behavior.

That left theaters. Could I find a situation that would pro-
vide adequate lighting and a vantage point from which to
observe? I decided to try the Bolton Theatre, the main theater
in the Cleveland Play House; it has decorative balconies
unused by the patrons, which could hold a stage manager, a
sound man, and a researcher with a pair of field glasses. I was
readily granted permission to observe a Friday night perform-
ance of Noises Off, a British comedy in three acts about a the-
atrical touring company performing a British comedy. The first
and third acts were very brightly lit, and the light “spilled”
into the audience, thus making it possible to observe.

I determined on the following procedure: I would select a
certain visible segment of the audience and count the total
number of locations where a man and woman were seated
next to each other. I called these “intersections.” For example,
if three couples were seated next to each other like this—
XOXOXO—with men being X’s and women being O’s, then
there would be five intersections, but if the couples were
seated with the three women together and the three men
together—OOOXXX—then there would be only one. For pur-
poses of this study I considered it irrelevant whether or not
the interaction represented strangers or a couple.

At five to ten minute intervals I would check each inter-
section and determine armrest possession. There were five
possible categories: (1) the man had the armrest; (2) the
woman had the armrest; (3) the man and woman were sharing
the armrest; (4) neither person was using the armrest; or (5) it
was impossible to tell who had the armrest. I was looking for
a significant difference between (1) and (2).

When I arrived at the theater I set up my chair on the left
side of the balcony above the auditorium. It was immediately
obvious that because of the angle of vision, I would only be
able to observe people seated behind me, since I wanted to
see the armrest. However, I had been asked not to go too far
forward in order not to be too noticeable. From my compro-
mise position I had a fairly clear shot at the last six rows of
the theater on the right side of the aisle. I counted twenty-two
intersections, and I was able to observe them every five to ten
minutes as I had anticipated.

The second act was very dark and it was impossible for
me to observe at all. I watched (and enjoyed) the play. At the
end of that act I decided to shift my position to the other side
of the house to observe the left side of the audience for the
third act. On the left side I could trace seventeen intersections
in the last 7 rows.
There are a number of observations I would like to make about the theater situation and the groups I observed. The theater was quite new and comfortable. The seats were normal in size, not overly big or small. The play, *Noises Off*, was a comedy, and it was very funny. There was a lot of physical reaction in the audience which I thought allowed for more shifting of positions than might normally occur.

There were striking differences between the two groups I observed. The first group (Act I) was more crowded together, as might be assumed from seeing twenty-two intersections in six rows, compared with only seventeen intersections in seven rows for the second group. There were more strangers seated next to each other. They were all adults. Nearly all were Caucasian. (I regret not having counted the total number of people in the observed sections. I simply do not have that information.)

Within the second group (Act III) were two rows of adolescents who seemed to be there on an outing; an adult counselor was with them. That group and many of the couples within the group were biracial. The other couples in this section of the audience were adults, and their seating was more isolated; they were not crowded together.

In both of the groups I observed, when strangers sat next to each other, they often seemed to lean far away from each other, neither using the armrest, whereas couples might intertwine their arms, sharing the armrest. Sometimes when the woman had the armrest, her escort put his arm around her. In two or three couples, however, the man took the armrest at the start and never seemed to let the woman have a chance to use it; it just seemed automatic.

Size definitely seemed to be a factor. In general the men tended to be bigger in the shoulders than the women, and it seemed more comfortable for them to have at least one armrest at all times. And there were two very heavy women who simply took both their armrests. Sometimes when a man didn’t have the armrest, he looked uncomfortable. On the other hand one woman, seated between two men each of whom had commandeered the armrest adjoining her seat, looked very uncomfortable.

So what were the results? It was pretty clear that the men had the armrest. In the first (Act I) group, when I could see that an armrest was being used by either a male or a female, the males had it on average three times out of four. In the second (Act III) group, which was more spread out, the males had the armrest nearly two times out of three. Over all, the males had the armrest over 70% of the time. By the rules of statistics, these are significant differences. (See next page for raw data.)

Assuming the results of such a small experiment are generalizable, what are the implications? Larger people, male or
female, do need the armrest more of the time, although they shouldn't blindly assume it's theirs. On the other hand, a small person sitting between two large people should not be made uncomfortable; she should have the freedom to use her armrests at least part of the time, although she may need to find ways of asserting herself politely.

I think it is clear that this is to some extent a gender issue. It has been very interesting for me to talk to men about the problem. They seem almost relieved to be able to talk about it. And I've been able to parlay such conversations into a sharing situation.

Ladies, you, too, can stop suffering in silence at concerts, plays, and movies. A smile and a few words beforehand can make life more comfortable for both of you. Just ask your armrest partner if he has read this article in The Gamut. Then work out your terms.

Appendix

The raw data identify the occupants of armrests at "intersections" for the times shown.

**ACT I**

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<td>8</td>
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<td>3</td>
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<td>2.6</td>
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<tr>
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<td>1</td>
<td>3</td>
<td>1</td>
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22.0

17.0
One day my grandfather went into town to buy some more fertilizer, and my grandmother went with him to shop, leaving me all alone on the farm. I had told them I didn’t want to go with them.

Before they left, Grandpa said, "Now don’t you bother old Hector, do you hear? Just stay away from the barn and you’ll be all right. He figures the barnyard is his territory, so just stay out of his range. Don’t go back any farther than the henhouse. He’ll stay in his place, and you stay in yours. Do you hear?"

I told him I did, and he nodded. "I’m sure if you leave old Hector alone, he won’t bother you. And the thing is, we have to respect him: he’s too old to change his ways."

"They say you can’t teach an old dog new tricks," Grandma said, punching me on the arm with her fist and grinning. "God knows that’s true of your Grandpa. Are you sure you don’t want to go to town with us?"

"No, I like it here just fine."

"So do I, but that doesn’t mean I don’t like to go to town, now and then."

"I thought you liked to come with me to the old feed store," Grandpa said, shoving his hands in his pockets and half-smiling down at me.

"I just want to stay here, if it’s okay."

"Sure, it’s okay," Grandpa said. "Do you think I’m going to keep a grown-up farm hand like you away from work? Why, maybe you can go out there and hoe some more sweet corn in the garden. Do you suppose?"

"I guess so."

"Do you think we should really leave him here all alone?"

Grandma asked him.

Grandpa laughed. "Why, sure! What’s so bad about being all alone out here on the old place? He can hoe that sweet corn. Our pal here is a good farm hand, that’s the way I look at it."

"But he’s still so young!"

"Why, no, he’s a big boy now, aren’t you?"

I nodded.

Grandma wasn’t so sure, however, and she hemmed and hawed and said she wondered if we were doing the right thing; but Grandpa repeated that I was a big boy, now, and it wasn’t as if they were going to Australia or some place.
She nodded, and then they got in their old gray and black Oldsmobile and drove off down the road toward town, leaving a cloud of dust behind them, until it drifted away in the hot wind.

When they were almost out of sight, a Carolina wren started singing in the maple tree, which was so close I almost jumped at the sound. All that noise coming out of such a little instrument, the way Grandma had said one time.

I remember standing in the backyard, hearing the hens clucking as they strutted all around, pecking at grubs in the dry sod; and then I watched the paddlewheel of the windmill next to the near shed as it turned slowly in the dry wind. Up close, you could hear it squeak when it turned.

Then I looked way out back past the shed and the chicken house, and saw Hector lying in the long grass on the cool and shady side of the barn. His tan head was raised as he stared back at me, and even from that distance, I could imagine his wet nose quivering as he tried to pick up my scent. He would do that when Grandpa was near and Hector always behaved himself, so that we could all be close to him and not think anything about it.

I wondered how near I could approach the barn before Hector would stand up and start trotting toward me, treacherously wagging his tail. There was a time when I had thought that whenever a dog wagged its tail, it was being friendly; but that was before I’d gotten to know Hector.

Already, the morning was hot. The clucking of the hens was a lonely sound, and the whirring of the hot dry breeze made me feel even lonelier. I went over to the windmill and listened to the paddlewheel squeak for a while, but then it suddenly stopped, and I realized the breeze had stopped, too, and everything was quiet and hot, except for the sound of a car on the road, only it was over the hill and far away.

I went back inside the house, where it was cool, and I walked through the kitchen, and then the pantry, and into the front room. The stained cherry clock was ticking away on the wall, with its pendulum wagging back and forth. I thought of how Hector wagged his tail, pretending to be friendly, but only fooling you, because he would bite the instant you looked away or did the least thing he didn’t approve of, like letting your shadow fall over his worthless tan hide or yellow eyes.

He was a good-for-nothing beast, surely; even Grandpa would say that about him, using those very words. Sometimes Grandpa would say it even when he was grabbing the loose hide around Hector’s neck and shaking him so hard that specks of saliva would fly off of Hector’s wagging tongue.

I thought of the way his tongue would wag when Grandpa shook him that way, then I thought of the way Hector would wag his tail when he would come trotting toward you, if you got too near the barn, and then I thought of the pendulum wagging underneath the clock on the wall. Wagging, wagging, wagging.

And then I thought of Grandpa’s .22 rifle upstairs in the hall closet.
The clock said it was almost 10:30, and I was looking out the window at the dusty road that went to town. The milk truck had come about ten minutes ago, and the man had backed it up to Grandpa's loading ramp next to the road, and I watched him get out and roll the big milk cans to the back of his truck and lift them over onto the truck bed, making the hood of his little truck nod, like it knew the feel of an extra milk can and it was all right.

I stood there beside the loading ramp and watched, and the milk man asked where Grandpa and Grandma were, and I said they were in town.

He was a big fat man, and wore glasses and a gray T-shirt that was dark and wet under the armpits, where he was sweating. He said, "That's right, he told me he had to get some more fertilizer, and I told him I didn't think the price would get any better, so he said he thought he'd go in today and get some."

"Grandma went with him," I said.

The milk man laughed. "So that means you're all alone, does it? You're the man of the house today, is that right?"

I told him it would just be for this morning.

"Yes, I don't guess the old lady would let it come lunch-time, with you here alone and nothing for your belly."

I nodded and told him she'd said they'd be back in time so she could fix my lunch.

"She's one fine old lady, that one is," the milk man said, shaking his head. Everybody seemed to like Grandma and Grandpa. "And you're a big boy to be able to stay here all alone with them in town. How's come they didn't take you?"

"I wanted to stay here."

"A boy your age, and you wanted to stay here all alone? And they let you? Now, aren't you the big boy, though."

"Sometimes," I said.

He laughed. "Like this morning, right?"

"Maybe," I said.

"Sure do need that rain, don't we?"

"Sure do," I told him.

The clock struck 10:30, so I made up my mind and went upstairs.

I went to the closet and opened the door, and the smell of mothballs came out. My mouth was dry, and my heart was beating fast. I reached around some coats and felt the cool metal barrel of the .22, leaning there in the closet, right where I knew Grandpa kept it.

I pulled it out and felt how heavy it was. This was strange, when you thought of what small cartridges it used. But it felt good in my hands, and I felt strong holding it; so I went into their bedroom, and up to the dresser. I opened the top right drawer, where I knew Grandpa kept his cartridges.

I knew this because of how often he had told the story about how he'd killed the skunk that had been getting to his chickens; and he always laughed when he told how he'd aimed for its damned little head and he'd killed that skunk with his first shot... but the skunk had polluted the entire county with its expiring breath.
This was exactly the way he put it, because I can remember hearing him tell the story time again, and remember how he loved to say the words slowly: "polluted the entire county with its expiring breath."

I put three of the .22 long rifle cartridges in the chamber, the way I'd seen Grandpa do it when we'd gone target shooting together; and then I worked the bolt, injecting one of them into firing position. Grandpa had taught me how to use the gun, so I was confident that I was doing everything right.

The safety was automatically on, now; but I checked it anyway, and saw that it was exactly as it should be. Then I went downstairs and back through the pantry and the kitchen, and on to the back porch. I walked out the door, letting the loose screen slap shut behind me, and took ten or twelve steps out into the backyard before stopping.

Hector raised his head and stared at me from where he was lying down in the cool shadow of the barn. He was about a hundred yards away. If I had been a good shot, I might have been able to kill him from this distance, but I knew I couldn't be sure of my aim when he was so far away.

So I took another twenty or thirty steps, until I was even with the chicken house. The hens were all about, clucking and clucking, and I stood there, thinking. They wouldn't be back for almost an hour. Grandma had said they had a lot to do, and it would be at least 12:15 before they could get back; and she'd asked if I'd mind waiting for my lunch, and I'd said, no, that would be all right.

Now, I realized that it still wasn't too late to back out. I could take the rifle back into the house and upstairs and unload it and put the cartridges back in the dresser and put the rifle back in the hall closet. Nobody would know the difference.

The hens clucked and pranced all around me, and then I saw the rooster, who was cropping next to the fence on the other side of the henhouse. I listened through their clucking, trying to hear the paddlewheel of the windmill squeak, and once I thought I heard it, but then the wind quieted down and there was only the sound of the clucking. The milk cows had been let out into the back pasture, and you could hardly ever hear them mooing, except maybe toward evening if they were late being milked.

Hector was still lying there in the shade watching me.

I stood there with the gun in my hands, looking back at him. I wondered if I could have hit him on the move if he'd started trotting toward me with his tail wagging. I thought of how he looked when he did that, and how it made you feel it all the way down inside your stomach, the way he was busily trotting toward you, wagging his tail, and yet you knew you couldn't trust him for a minute, for he had bitten two farm workers—one on the forearm, and taking the little finger off the other one, a man who was part-black, part-Indian, and part-white. Everybody called him Pepper, which struck me as funny, since he was a quiet, easy going man, with sleepy eyes. But maybe that was his name. Anyway, Grandpa said he'd had the devil of a time keeping from being sued; but he'd
managed to settle everything and keep old Hector, who he said was a sure-enough good-for-nothing beast and ought to be put out of his misery, if there was any justice in the world.

"You mean, put out of everybody else's misery," Grandma said; and Grandpa laughed and nodded and said, yep, that was just about one-hundred percent right.

Four steps beyond the chicken house, and Hector's head was held back a little. I'd seen him do this before. You couldn't trust it, any more than that wagging tail; for if he held his head back, he was getting ready to stand up and start trotting in your direction, his tail wagging like his tongue when it was hot and Grandpa was grabbing him by his loose neck skin and shaking his head, so that specks of saliva flew off his tongue and his yellow eyes looked sleepy and contented.

I took another step, Hector stood up and shook himself. His nose and yellow eyes were pointed at me as fixed as if they had been the sights of a rifle.

Then I think I heard him growl, and the sound was like somebody had a big fork and was stirring it deep down in my stomach.

My hands were sweaty and my mouth was dry. I could hear myself breathing hard, but behind that, I could hear the chickens clucking all around me; and behind those sounds, I was sure I could hear Hector growl so deep down that the sound was transmitted to me through the ground and the soles of my shoes.

By now I figured I'd gotten close enough. I didn't think I could take another step, so I stayed right where I was, holding the rifle halfway in position, so that if Hector started trotting toward me, I could lift it up and shoot.

But he didn't move; he just stood there, staring at me. Maybe he was suspicious of the rifle. It was something new, so far as he was concerned. At least it was something new for him to see me carrying it, instead of Grandpa.

I tried to judge the distance, but it was hard. Maybe sixty or seventy feet. I had gotten closer than Grandpa had said I should come. I had gone quite a distance beyond the henhouse, although the hens were still all around me, clucking and stepping high and pecking at grubs and other invisible things in the hot dry sod. It was said that chickens got more protein from such foraging than from regular feed; Grandpa had often talked about this over supper, and Grandma had listened, nodding and not arguing with him.

Grandpa had taught me to get down on one knee when I was shooting in an open place, and had a stationary target. He said that if I got down on my right knee and rested my left elbow on my left knee, I would have much more stability. He had taught me how to shoot, and I was confident I could hit a big target, especially one as big as Hector when I was this close.

In a way, I was surprised that he hadn't already started trotting toward me, wagging his tail. If a dog can be said to have an expression on his face, I thought that Hector might have been revealing a certain perplexity. He wasn't sure of what I was up to. Maybe, if I hadn't had the gun, he would
have already started trotting toward me with that terrible wagging of the tail and those yellow eyes not blinking at all, but looking through you, as if you didn't exist, but you were going to have to be attacked anyway, and his teeth would clamp onto your arms and his heavy neck would start shaking you all over, and he was snarling all the time, and your arm was being crushed, and blood was dripping down over your hand, and you were trying to lurch away from him, screaming as hard as you could.

Slowly, I got down on my right knee, and Hector took three or four cautious steps toward me, and then stopped. I settled my left elbow onto my left knee and closed my left eye, then peered through the open sight of the .22 rifle and saw Hector's head come into the fork, the vee of the sight right between his yellow eyes.

Then I held my breath and gently squeezed the trigger, just as Grandpa had told me, and the gun went pang, and all the chickens broke out into a clucking that was so loud it was almost like a great thundercloud that has suddenly broken, and the first deep, powerful roll of thunder accumulates far in the distance, and then gathers momentum until it rumbles over the pale dry pastures, the woods beyond, and the dusty dirt road that leads into town.

I remember that terrible hurriedness, and throwing the gun down in the grass after I was sure he was dead; I remember running for the spade that was stuck at an angle in the garden; then I remember stopping and panting and whispering to myself, "Wait a minute!"

I went back and got Hector's body and started to drag it through the long grass. My God, it was heavy and limp! I stopped a moment to catch my breath, and then I dragged it up to the fence gate that led into the vegetable garden. I stopped and opened the gate and dragged Hector's body into the garden and down past the even rows of green onions, tomatoes, sweet potatoes, and cabbages to the sweet corn, that stood as tall as Grandpa, sighing in the dry wind.

There was the spade, sticking at an angle in the dirt. I pulled it out and began to dig a hole between the two rows of corn, digging as fast as I could, and panting as I stabbed the spade into the deep dark soil and lifted spadeful after spadeful up into growing piles of earth on both sides.

Once, I heard a car on the road, and I paused and listened until it passed; but long after it was beyond hearing, the pounding of my heart fluttered my shirt, and I kept swallowing saliva and gulping air.

I was shoveling again, going down and down in the soft earth—remembering how Grandpa had bragged that this had been a pigpen, once, and was the richest soil anywhere—going deeper and deeper, shoveling and panting, and between the sounds of the spade and my panting, hearing the far-off clucking of the chickens.

Several times, I thought of how easily Hector had died, just folding in on himself and then lifting one leg, as if he were about to pee at the sky, and letting it tremble for a minute, while I crept closer and closer to watch him die, still holding the .22 rifle ready, in case he wasn't dead yet. There was a
I watched. His yellow eyes were half-open and his lips were pulled back a little in a growling expression, showing his teeth ringed with blood.

Another car passed by, and I thought I was going to die of fright. Then, when I was three or four feet deep, I turned around and dragged Hector's limp body over the pile of dirt I'd made toward the hole I was standing in. It was hard to believe how heavy his body was, and how limp. I could see it ripple as I pulled it over the lumps of earth, and then it tumbled into the hole where I was standing, and pinned my feet in with its weight.

Panic flashed through me when that happened, and I scrambled and scrambled, until somehow I got up out of the hole, making Hector's lifeless head bob up and down while I was scrambling, as if his bloody death grin meant he'd known all along what was going to happen and it was all kind of funny.

Swiftly, I shoveled the dirt back into the hole, covering his body quickly, but leaving a mound of dirt in the corn row when I'd finished. I tramped it as flat as I could, then spread the dirt up and down, and even into the next row, after which I stabbed the spade all over, to darken the soil and make it look like it might have been weeded.

Still another car passed, and I stood there motionless with my heart racing, whispering rapidly, "It isn't time yet, it isn't time yet!"

When I had leveled off the soil pretty well, I took the spade and went looking for blood where I had dragged Hector's body. I found several places, and turned the soil over so that the blood wouldn't show. Then I went through the gate, back into the barnyard, and found several blades of grass with blood on them, and pulled them and took them to the fence beyond the vegetable garden, and threw them out into the pasture.

Then I wiped my hands off on the grass as well as I could and ran back to the .22 rifle lying there where I'd dropped it, and picked it up and started running toward the house.

The screen door slammed behind me, and I ran upstairs, panting so hard I didn't think I could breathe. I stopped in the bathroom and washed my hands, and looked all over for blood on my clothes, but I didn't see any.

Then I took the .22 into the hallway and ejected the cartridges. I put the rifle back in the closet, and took the cartridges back into their bedroom and put them with the others in the top right drawer.

I went downstairs, trying to think of anything I might have forgotten; but my mind was a blur; and then I went outside and wandered around, thinking that I was looking for spots of blood, but really not going back far enough, and just sort of walking around and listening to the chickens and the squeak of the paddlewheel on the windmill.

I kept thinking about how much we needed rain. That's all people seemed to talk about. Everybody said we needed it, but right at that moment, I was sure that I wanted it more than anybody. I could almost feel the wetness on my skin, and
the splashing of drops in the ruts in the barnyard, and the way it would turn all the soil in the garden dark, making it look pretty much the same all over.

But the sky was clear, and the hot breeze just kept blowing over me, while the wheel squeaked and the chickens clucked, and I knew that the clock hands in the front room had moved past twelve o'clock; and before long, I'd see another cloud of dust on the road, and this time, it would be them, and they would be coming back.

"I just can't understand it," Grandma said. "As hot as it is, and an old dog like that."

"Well," Grandpa said, "he used to take off now and then when he was a pup."

Grandma made a laughing sound, although she wasn't laughing. "Yes, when he was a pup! But how long has that been?"

Grandpa turned to me. "You say you saw him lying out there by the barn where he usually is?"

I told him I had. I said he was lying there in the shade, watching me.

"And you didn't go back there?"

I shook my head no.

"It is mighty strange," Grandpa said. "And that's a fact."

"He was a good old dog," Grandma said, "for all his faults."

"You're talking like he's dead," Grandpa said. "What he's done, he's just run off somewhere. He's probably back there in the woods, sniffing out some groundhog."

"Old dogs don't run off like that," she said.

Grandpa laughed. "Also, you can't teach them new tricks."

"It isn't funny, and you know it."

Grandpa turned back to me. "And you didn't see him later on when you went to hoe the sweet corn?"

"No," I said, "I guess he must have taken off by then."

"It is mighty strange for a fact," Grandpa said; and Grandma looked hard at my face, gazing at me so intently it was as if she could see everything that had ever been inside my head.

Often, throughout the years, I have told this story, precisely as it is recounted above. After all, it is a true story, and we are always interested in true stories. We come to one another asking, "Can you tell me what you know? Can you tell me what has happened to you? Can you tell me what it is like, being who you were and going through what you have gone through?"

I can understand the Ancient Mariner; we all can. An untold story is an awful burden; and even after it is told, it reverts to what it was before, an untold story. So it's no wonder.

Hector is my albatross, you might say; but that is fancy—too facile, too neat, too literary for an honest truth. This is not to say it is false: it is merely, like all prescribed meanings, too limited to rest with. But I could not disavow it, even in its faintly ridiculous coloration; I could not disavow it even if I
wanted to, for it would be wrong to state that Hector does not have a special place in my memory. How could it be otherwise?

Upon those occasions when I tell the story (usually after a few drinks, let me admit), there are certain, inevitable questions. I have learned to anticipate these questions, so I will ask them in a general way, along with the answers I have found best for them, as follows:

QUESTION: Did your grandparents ever find out that you had killed their dog?

ANSWER: I don’t think so. But since that time I have learned something about the secret bureaucracy built into human perceptions, so I would have to admit that I am less certain now than I was, say, twenty years ago.

Q: Did they continue to be as loving as they had been before?

A: I think so.

Q: Why were you living with your grandparents? Were your parents dead?

A: I lived with them only that summer. My mother was dying of cancer in the city. My older sisters stayed at home and helped Dad. But it was more convenient, and I’m sure, more humane, to have me out of the way.

Q: Why didn’t you mention this about your mother in the story?

A: I don’t know.

Q: Do the others in your family know this story?

A: No. My parents are dead. And my sisters know nothing about it, so far as I can tell. I’m sure that years ago they heard that Hector had disappeared, but the information couldn’t have meant much to them. They hadn’t gotten to know the dog as I had. And, after all, a dog is a dog.

Q: Did your mother die that summer while you were away?

A: She died on September 4, at six a.m., two days after my grandparents had brought me back home so that I could start school. She died in the hospital. They let me visit her twice before she died.

Q: Did she know you?

A: I think so, in a general way. But I can’t be sure. She was deeply sedated, of course; and . . . well, you know, dying.
Q: What did your grandparents think had happened to their dog?

A: They seemed to think that Hector had simply run off, and perhaps had been killed on one of the back roads. Or maybe shot or poisoned. There were some sheep farms in the area, and understandably, sheep farmers use every opportunity to kill a stray dog. Or a runaway.

Q: Did they ever suspect you?

A: I think that is possible, although I can't be sure. Maybe there was a faint suspicion.

Q: Is it possible that Hector's body was ever dug up by other stray dogs and discovered by your Grandfather? Or perhaps discovered in some other way?

A: That possibility has often occurred to me, but I think I covered the spot pretty well. I did a lot of hoeing in the corn during the next few days. But of course, I have no way of really knowing.

Q: By that answer, I assume that you do not believe your grandfather would have confronted you with such evidence if something like that had happened.

A: No, I don't believe he would have. I couldn't conceive of his doing that.

Q: Is this because you think his love for you was too great?

A: Partly. But there would have been pride, as well.

Q: What does pride have to do with it?

A: I was his grandson.

Q: I see. If they had suspected you, exactly what would they have suspected you of?

A: I think they would have suspected me of having done exactly what I did in fact do.

Q: That's if somehow the dog's body had been uncovered.

A: Yes. Although, I think I buried it deep enough. Still, you can never know about something like that.

Q: Of course. But what if the dog's body had not been uncovered. Might they still have suspected something?

A: Yes, I think that is possible.
Q: But wouldn't that have been a rather bizarre hypothesis for loving grandparents to make about their grandson?

A: Perhaps. But they had been children once. Just as we all have been.

Q: Do you still hate dogs?

A: I have never hated dogs. In fact, I think of myself as a dog lover. Certainly, I like most breeds of dogs better than I like cats . . . which doesn't mean I'm a cat hater, necessarily; I just think of cats as belonging instinctually to girls and women. I realize this is a stereotype. But stereotypes are always true; their problem is, they're never true enough.

Q: Why, exactly, did you kill Hector?

A: Well, for one thing, I was afraid of him. One day earlier that summer I saw him attack the milkman I've mentioned; and it was a shocking thing to witness. I wish I could think of a more shocking word than "shocking"; but that word comes near to it—that is to say, I felt an almost physical shock when I saw Hector start that damned trotting with his tail wagging, headed straight toward the milkman—who was just minding his business on the loading dock—and leap at him. Fortunately, the milkman saw him coming and swung a heavy milk can at him, and then kicked and yelled at him . . . all of which helped. You see, there was something wrong with the dog. Maybe it was in his genes; maybe it was old age—but even then, there had to be a genetic component, because not all old dogs turn vicious. I am aware that referring to behavior as "genetic" often verges upon the mystical; but then, I am something of a mystic . . . which someone once said is the "religion of blockheads"; but never mind that . . . we don't know how accurate that person's thinking was, even if the definition does have a bit of style.

Q: Didn't your grandparents call the dog off when he attacked the milkman?

A: Oh, yes. Grandpa saw it, and went running at Hector, yelling at him with every step, and finally chased him back to his territory around the barn.

Q: Why didn't you mention this when you told the story?

A: I don't know.

Q: So, when your grandfather chased Hector away . . .

A: If he hadn't, he would have surely gotten to the milkman eventually, and there's no telling what would have happened.

Q: Yes. I see. So you killed the dog because it was vicious.

A: That was part of it, certainly.
Q: What was the other part?
A: Well . . . in a way, I wanted to see if I could do it.
Q: By doing it, you mean, kill the dog. Kill a living animal. Creature.
A: Yes.
Q: So it was something of an experiment.
A: Yes. How else does a child learn?
Q: And you were testing your skill and . . . courage, perhaps by killing your grandparents' pet dog.
A: It wasn't as simple and cruel as that makes it sound. Saying it that way.
Q: I assume that your mother was too sick to know about what happened.
A: Of course. Not only that, nobody knew.
Q: I mean, about Hector's "disappearance."
A: How would a dying woman find energy to think of something like that?
Q: Was your mother's death a great loss to you?
A: Certainly it was! What do you take me for?
Q: So there were two deaths that summer which have stayed with you all these years.
A: It's grotesque to have you pair them like that, but I see what you're getting at. And, I suppose the answer would have to be, yes. But that's a little like coupling a tornado and a spring rain under some such rubric as "Meteorological Observations."
Q: Perhaps. Do you ever dream of Hector?
A: Yes. Now and then.
Q: What sorts of dreams are they?
A: I can't actually remember very much. Usually, I wake up remembering that I have been dreaming about Hector, but I don't remember much of what has really been happening in the dream.
Q: You dream of your mother, too?
A: Of course. And I see where you’re headed, and....
Q: Certainly. I understand.
A: We are all initiated into death by various routes, but in a way, they’re all alike, aren’t they?
Q: Perhaps. But about Hector... is it that you just see his image in the dream?
A: Yes, sometimes. I guess you could say that. Sometimes I just see him lying out there in the shade of the barn, watching me. The way it was that day. Almost as if waiting for me.
Q: Do you ever dream of him getting up and starting to trot toward you, wagging his tail?
A: Yes. Sometimes I see him do that. And then I wake up.
King Hakon Hakonarson made a determined attempt to move Norway into the Europe of the High Middle Ages. He assumed the throne at the age of thirteen in 1217 toward the end of a long period of turmoil in Norwegian history. Upon reaching maturity he turned his attention to gaining the power that was supposed to be his. His erstwhile regent Jarl Skuli led a long series of uprisings against the king that only ended when Skuli was killed in 1240. After pacifying his country, Hakon set out to bring civilization to his court.

From our distant point of view, civilization means literature, since this is almost all that survives. Literature, of course, meant works written in manuscript (printing was still a couple of centuries away) and these manuscripts were probably meant to be read aloud at court gatherings or to pass long winter evenings. The thirteenth century was a period of great expansion in the vernacular literatures of the Continent, but we can assume that, until Hakon's reign, these French and German works were only dimly known in Norway.

Hakon encouraged the translation of French courtly literature into Old Norse, the Norwegian language of the time, beginning in 1226 with a translation of the romance of Tristan and Iseult [Tristramssaga og Ísönd] by one Brother Robert. Other romances were added along with the lais of Marie de France. An anonymous writer associated with this court even wrote a book of courtly behavior, The King's Mirror.

In addition to the courtly texts, we find Norwegian versions of Continental heroic stories. There is a voluminous collection of materials from the French chansons de geste called Karlamagnussaga [The Saga of Charlemagne], and a collection of German stories in Thidrekssaga af Bern (The Saga of Thidrek of Bern, or Thidrek's Saga). It is this last that will concern us, in particular its central collection of bride-winning tales that allows some interesting conjectures about attitudes toward women at that time. But first I would like to mention the major Old Norse genre that seems not to have been included in Hakon's cultural program.
In Norway during Hakon's reign there seems to have been little or no interest in the classical sagas of Icelanders that were beginning to be written by the dozens at this time, even though when we think of Norse sagas, it is these magnificent works we generally think about. At that period the languages of Norway and Iceland were virtually identical (Iceland had been settled mainly by Norwegians in the ninth and tenth centuries). Snorri Sturluson, arguably the greatest Icelandic writer whose name we know, may have written *Egil's Saga*, and he almost certainly wrote both the *Prose Edda* and the massive collection of histories of the Norwegian kings known as *Heimskringla*. He was also present in Norway and at the court of King Hakon during some of the time we are discussing. He was the leader of the movement to place Iceland under the hegemony of the Norwegian throne, a movement that was crowned with success near the end of Hakon's reign.

We have no descriptions of everyday life at Hakon's court, so we know nothing about how these literary works were enjoyed. We can assume that they were read aloud for the assembled courtiers and that literate members of the court may have read them independently. In any case, the romances in particular seem to have enjoyed a considerable popularity both in Norway and in Iceland, if we can judge from the number of surviving manuscripts and fragments. There are even original Norwegian and Icelandic chivalric sagas, using the style and typical motifs from the French sources.

The unknown author of the *Thidrek's Saga* refers to sagas as an excellent and economical way of entertaining many men at once, but he does not mention the courtly situation itself. His ostensible reason for writing these stories down was so...
that they would not go “out of memory.” Almost all literate persons in Norway at this time were clerics and we have no reason to assume that the saga’s author was an exception to this. Indeed, both the argumentation of the Preface and the attitudes to be discussed below clearly indicate a clerical author. The saga is preserved in a single vellum manuscript of the thirteenth century, in a Swedish translation of the fifteenth, and in two Icelandic paper copies made in the seventeenth century from what was probably a fourteenth century original. The early manuscript contains interesting indications (details of its assembly and revision) that suggest that the text preserved there was still in the process of finding its final form. There are sections inserted into the manuscript as well as passages crossed out and newly written, traces that clearly show the revision process at work. The version I shall discuss here is the version we can “reconstruct” by discounting the obvious late revisions made by the manuscript’s compiler.

The author’s zeal for preservation led to a collection of dozens of more or less related stories derived from German oral and literary tradition, some of which are known to us in contemporary German literary versions. The most famous of these is the story of the death of Sigurd (Siegfried) and the vengeance carried out by his widow Grimhild (Kriemhild), all of which is told in the German *Nibelungenlied*. The central figure of the saga, however, is not as well known outside of Germany. In the saga he is known as Thidrek of Bern, in German as Dietrich von Bern, and in history as the sixth-century Ostrogothic king Theodoric, the treacherous killer of Odoacer and persecutor of Boethius. His transformation from historical villain to folktale hero is difficult to chronicle, but he is the most popular hero of medieval German heroic epic. Like the figure of King Arthur in French and English romances, he becomes a collecting point for heroes and stories that originally had had nothing to do with him. *Thidrek’s Saga* is the culmination of the process. It brings together almost all of the known stories of medieval German heroic literature in an organization that relates everything in some way to the career of Thidrek. The story is enriched by the addition of some material that is known only here and was probably written by the author himself to fill in the gaps.

The opening section tells the story of Thidrek’s grandfather, a knight named Samson who falls in love with the daughter of his lord, Duke Rodgier. The conflict brought about by his kidnapping of the girl leads to Samson’s killing of his lord and, eventually, to his being installed as duke himself. Samson also greatly broadens the realm and his descendants claim the title of king.

The career of Samson’s son Thetmar is glossed over and the saga moves on to a series of stories about Thidrek’s youth. The remainder of the first half of the saga tells of the youthful exploits of Thidrek’s comrades in arms, leading up to their joining Thidrek’s court. This section culminates in a great feast in which each of the heroes, along with his coat of arms, is described. Thidrek’s speech at this feast includes heroic boasts that lead to an expedition against King Isung of Bertangaland (Brittany) in which each of Thidrek’s heroes comes up against a single opponent in a sequence of duels. The “battle” is thus
more of a tournament than a battle. At the end of the series is a three-day battle between Thidrek and Sigurd which Thidrek finally wins through trickery. Thidrek gains recognition as the preeminent leader of heroes in the world as a result of this expedition.

This opening section of the saga establishes a world of heroic innocence. The heroes live in a world virtually untouched by any kind of shadow. The deaths we find up to this point are generally those of giants, dwarfs, and non-human creatures. The only instance of evil among the heroes is the failure of one of them, Heimir, to live up to the full heroic code, and his brief career as a robber.

The logical next step in the careers of these youthful heroes is the winning of an appropriate bride. The saga does not, as we might expect, simply lead Thidrek's heroes through a sequence of bride-winning stories paralleling their youthful initiation stories. Instead we find a veritable anthology of bride-winning stories, many of which have nothing to do with Thidrek or his heroes. The first of these sets the tone. It is the well-known story of Sigurd's betrayal of Brynhild and his marriage to Gunnar's sister Grimhild. Sigurd had earlier promised to marry no woman but Brynhild. Here he not only violates this promise, but he also takes Brynhild's virginity when Gunnar is unable to do so. This initial bride-winning story sets the tone for almost all the rest. They all involve some kind of violence, trickery, or betrayal.

In the second story of the bride-winning sequence we find a surrogate wooing carried out by a nephew on behalf of his uncle in which the wooer falls in love with the intended bride. As we might expect, this story involves characters named Tristram and Isolde. Contrary to our expectations, however, Tristram is the brother of the wooer and Isolde his mother. The wooer is named Herbert and he is the nephew of King Thidrek himself. The bride was intended for the illustrious uncle, but Herbert, having fallen in love with her himself, at least has the good sense to run away with her rather than bring her home to certain trouble. After this disappointment, Thidrek and two of his heroes marry other eligible ladies they had already encountered in their adventures.

After a long series of bride-winning tales we encounter the adventure of Earl Iron who becomes involved with the wife of Aki Amlungatrausti. Aki intercepts a letter intended for his wife and goes to meet the lover himself and kills him.

After this we need only a rape to conclude the cycle. King Erminrek sends his privy counselor Sifka out of the country so that he can gain access to Odila, Sifka's wife. Odila does not cooperate and is brutalized in the process. When her husband returns from this mission, she tells him what has happened and he vows to avenge himself on his lord. He does so by destroying everything Erminrek holds dear. He first arranges for each of Erminrek's three sons to be killed in such a way that Erminrek himself is to blame. Sifka then accuses Erminrek's nephews of having boasted that they could have their way with the queen. Erminrek attacks their castle and has them hanged. Finally Sifka manages to sow enmity between Erminrek and Thidrek by suggesting that Thidrek had been withholding justified tribute. Erminrek mounts a
huge army and marches on Thidrek, who is forced to flee with his men into an exile that will last thirty years.

Thidrek spends most of his exile in Hunland at the court of Attila, who is another focal point for heroic stories in the Germanic and German tradition. The chapters that follow tell of additional heroic exploits but the innocence and easy success of the opening sections have disappeared. Real heroes are killed and relatively positive figures commit treacherous acts. At one point Attila deserts Thidrek and his army in a battle. Thidrek's men are forced to take refuge in a castle ruin where they are totally lacking in provisions. They end up having to eat their horses to survive. Finally one of Thidrek's men escapes to inform Attila of their predicament and the main army returns and rescues them.

The greatest catastrophe comes about as a result of the treacherous murder of Sigurd (Siegfried). His widow Grimhild marries Attila and uses his might to work revenge against her brothers. The cataclysmic battle that results brings most of the heroic world to its grave. Only Thidrek and his trusted vassal Hildibrand are still alive. They resolve to return to their homeland and retake it alone or die. Erminrek has died miserably in bed as a result of medical malpractice on the part of Sifka and Sifka has taken the crown himself.

Thidrek leads a hastily assembled army against Sifka. In the ensuing battle Sifka is killed and Thidrek is reestablished as king. He has a number of more or less superfluous adventures after this before being spirited off to an uncertain goal on the back of a mysterious black horse. In the traditional stories about his end his goal had been Hell, but the thirteenth century writer suggests that Thidrek might have been saved because he called on God and the Virgin in the last moment.

Thidrek's Saga can be seen to fall into three major divisions. The first includes everything up to the expedition to Bertangaland. The last portion includes everything flowing from Sifka's revenge. In the middle we find the strange anthology of bride-winning, seduction, and rape stories, many of which are only very peripherally connected with Thidrek or his history.

It was the puzzling presence of this strange group of stories in the middle of this huge collection of material that led me to begin to suspect that the saga as a whole might have more of a plan than earlier critics had observed. The medieval copyists who worked on the later manuscripts and most modern scholars have always seen an attempt at a purely chronological arrangement of the stories. This fits fairly well for the opening sequences and even better for the final chapters, but the middle chapters jump all over the time scale of the work. Some of the stories take place before Thidrek's birth and some relate to events that are told in much earlier parts of the saga. It is clear that there is some kind of organizing principle that brings these stories together and that it is not simply the chronology of events.

All of the stories in this middle section have to do with a man's lust for a woman. In many cases he desires the woman as a wife, but in others it is as an illicit lover. In the first and last story of the sequence the woman is even the victim of
rape. Woman is always the object of desire, the reason the man engages in unheroic behavior. Almost all the stories involve betrayal, violence, or deceit. It is not a flattering picture of the role of woman.

If we think of the most likely author of a work such as this, then this misogynistic point of view begins to make sense. In medieval Norway the vast majority of people who could write were clerics. Only in a monastery school could one gain the necessary training to put together a collection such as this. Even secular writers such as Snorri Sturluson and the German author of chivalric romances Hartmann von Aue received their training in Church schools. Such schools taught not only writing, but also a certain pattern of thought, a pattern that was formed through a study of the Church Fathers as well as through the Scriptures. One of the central concerns of this education was the nature of love. The prevailing pattern built on a distinction between the kinds of love denoted by the Latin terms *caritas* and *cupiditas*. *Caritas* is Christian love, the love of God and the proper love of man. *Cupiditas* is the desire for things. The Scriptural basis is in the verse "Radix enim omnium malorum est cupiditas" (1 Ad Timotheum 6.10) which we usually translate as "The love of money is the root of all evil." The medieval cleric saw cupidity in a much broader sense and could apply it to virtually any desire to possess a thing. The desire to possess a woman fell into this category. Christian love (*caritas*) for a woman was the love for God in the woman, not the desire to possess her as a thing. All the bride-winning stories in the *Thidrek's Saga* concern the desire of a man to possess a woman, i.e., they have to do with the sinful desire (*cupiditas*) of a man inflamed by the seductive beauty of the woman.

Before I get lost in a medieval sermon, let me point out that this attitude was widespread and can be found in many works from the generation of St. Augustine down to the time of our saga and beyond. The medieval cleric was trained to see all women as potential sisters of Eve, the slave of the senses who seduced the rational Adam. Seen in this light, it makes sense to group together a whole series of stories in which the desire for women led to men's reprehensible behavior. The medieval author let the fall of the ideal heroic world echo the Fall of Man.

This moral lesson was certainly not the whole point of the saga, but it seems to have been the major organizing feature. The author also points out in the preface that the saga should help men learn correct behavior and to discern the difference between good and evil.

Perhaps this hidden moral was only a justification on the part of the saga writer for his interest in heroic stories. Numerous writers of earlier generations had harsh words for monks who were interested in heroic literature. Nevertheless several works from the period that make use of heroic stories were undoubtedly composed by clerics, probably monks, for a clerical audience. The Latin poem *Waltarius* tells us a story, which is also found in our saga, in hexameters that could only have been read by other clerics. Much the same could be said of the *Gesta Danorum* of Saxo Grammaticus.
I am certain that the author of the *Thidrek's Saga* arranged his material according to the scheme I have observed, but I am not certain that the hidden message was the main point or that it was intended to be immediately visible. The lesson may have been put there to salve the author's conscience or to justify his work in the eyes of clerical superiors, or to provide some kind of deeper significance to his work; but his real interest seems to have been the telling of a good story, and he used this giant work to bring together as many of them as possible.

**Notes**

1. See below for a list of works mentioned in the text that are available in English translation.

2. Medieval texts produced before the advent of printing could exist only in handwritten copies. Each copy was necessarily unique and scribes often had little or no compunction about changing the text they were transmitting. Manuscripts can be dated by examining their style of writing, their language, and by occasional references to external historical events. Paper manuscripts can also be dated by their watermarks, since each papermaker had a different one. One can often determine that a manuscript is copied from an original of a particular period if it preserves language typical of that period.

3. The Middle High German epic known as the *Nibelungenlied* was composed in Bavaria or Austria around 1200. It is the greatest literary work dealing with the murder of Siegfried and Kriemhild's revenge. The stories are also contained in the Icelandic *Volsunga Saga* which was the major source of Richard Wagner's cycle of music dramas *Der Ring des Nibelungen*.

**Selected list of English translations of Old Norse works cited:**


The illustrations in the margins are reproduced from fourteenth-century Scandinavian manuscripts, though not from the *Thidrek* manuscript itself.
In 1920 many things seemed to be going right for Cleveland. Led by player-manager Tris Speaker, and thirty-one-game winner Jim Bagby the Indians, to the delight of their perennially disappointed followers, nosed out the Yankees in the American League pennant race and went on to defeat the Brooklyn Dodgers in the World Series. To some degree, the happy end to the season helped compensate fans for the tragic death of shortstop Ray Chapman, killed by a pitched ball at the New York Polo Grounds on August 16. For those who sought loftier spheres of recreation, the cultural life of the city was enlivened by the founding of the Institute of Music and the visit of William Butler Yeats, who planted a tree in the Shakespeare Garden and appeared as literary lion before the amassed dinnerware of Cleveland's drama and social clubs.

Cleveland's population had leaped 40% in a decade to 800,000, and the eastward growth of its suburbs was spurred by the opening of rapid-transit lines to Shaker Heights. Civic confidence in the future was symbolized by the laying of the cornerstone of the Public Auditorium in October. The local economy had never looked brighter; Cleveland was a leading producer of automobiles, machine tools, iron and steel, and women's apparel, and ranked fifth among American cities in manufacturing volume.

Yet Cleveland's rapid growth had taken its toll through an explosive increase in the local crime rate. During the first three months of 1920 the city far outstripped Detroit in robberies, and St. Louis in car thefts. It was even more troubling that Cleveland's per capita murder rate for the year was approximately three times that of Toledo. Community leaders had begun to worry that, apart from economic and social factors inherent in industrialization and unstable urban living patterns, considerable fault for the impaired safety of the city's streets and homes was to be placed on the failure of the police and criminal courts to cast off obsolete procedures and attitudes that dated from more tranquil times. It took a dramatic murder case and its aftermath to prove them right.

The scene of the crime, at the intersection of East 9th Street and Hamilton Avenue, no longer exists today. Lost in the
Erieview complex, Cleveland's famed "Death Corner" can be summoned up only by the most imaginative mind's eye.

The killing took place with startling suddenness shortly after midnight on Saturday, May 8, 1920. A black Cadillac touring car drove up East 9th Street towards Lake Erie and stopped at the corner of Hamilton. A number of passersby saw three men get out of the car and heard words of argument. A shot was fired, and one of the men staggered away and fell in the doorway of a nearby garage. The two other men vanished in different directions, abandoning the parked Cadillac.

Police quickly identified the car as belonging to William H. McGannon, first chief justice of Cleveland's Municipal Court and expected to be the next Democratic candidate for mayor. A familiar figure to Clevelanders, McGannon, about six feet tall and 250 pounds, and a fashionable dresser credited with introducing the "Chesterfield" overcoat to his city, was recognized downtown shortly after the shooting; detectives Burkhardt and Skala passed him in front of the lamented Weber's Cafe that used to stand on Superior Avenue near Public Square.

The victim was rushed to Lakeside Hospital, where he lingered in great pain until his death on May 23. He was an automobile dealer and mechanic named Harold Kagy. From the moment the police discovered him crumpled in the garage entrance until his final statement shortly before his death, Kagy steadfastly maintained that he had been shot by another passenger in the Cadillac, John Joyce, a professional bondsman and saloonkeeper, who had a few days before the murder been arrested on a Prohibition charge. Kagy was extremely reluctant to talk about the third passenger in the car who, he admitted, had been his good friend Judge McGannon; his two brothers who heard his last words, however, understood the victim to say that the judge had left the car at 9th and Euclid before it proceeded further north to Hamilton.

The conflicting narratives of Kagy, Joyce, and McGannon became the subject of three murder trials and a perjury prosecution. These court proceedings did little to resolve the bewildering variances in the three companions' accounts of the crime and of the events that preceded it.

In his final statement, made under oath in the presence of his brothers but excluded from evidence at the trials on the ground that it was not a dying declaration, Kagy said that after McGannon had left the car, the following events transpired:

Joyce asked me to take him to a place near Hamilton Avenue N.E. and East 9th Street. When we got there and got out of the car he asked to be taken somewhere else. When I told him it was time to put the car in the garage and that I couldn't take him any further he said, "Well, I have a way of making people do what I want."

Johnny Joyce had a very different version of the night's occurrences, though for a long time he appeared to share Kagy's unwillingness to implicate Judge McGannon. In June 1920 Joyce reportedly told the prosecutor that the shooting had resulted from a quarrel over a stolen automobile. A man
he did not name had drawn a revolver and aimed it at Joyce, saying 'I'll fix you.' Joyce turned, and as he did so, the bullet passed him and struck Kagy in the back. The car theft story had a short life; when he faced murder charges in light of Kagy's repeated accusations, Joyce pointed the finger more firmly in the judge's direction. His ultimate version of the tragedy was as follows.

At about 10:00 on Friday night Joyce dropped in at Ferguson's at Euclid Avenue and Coltman Road. (Since this was Prohibition, the Plain Dealer politely described the premises as a "former saloon.") At about 11:00 p.m. Judge McGannon came in with Harold Kagy to whom Joyce claimed McGannon introduced him for the first time. The entire party was under the influence of liquor, Joyce the most intoxicated and Kagy the least. The judge asked Joyce to join them in a ride downtown. Kagy took the wheel; McGannon was at his side and Joyce sat in the rear. At University Circle they stopped the car and each took another drink from the bottle they were carrying. At East 79th Street the car stopped again and the trio finished the contents of the quart and threw the bottle onto the street. When the car reached Euclid and East 9th Street, Kagy turned north to Hamilton. Joyce was sleeping, but on the way downtown overheard McGannon and Kagy quarreling about money.

When Joyce got out of the car he felt ill and leaned against a lamppost as if to vomit. As he stood there, Kagy and McGannon resumed their quarrel and Joyce and other witnesses standing by heard remarks such as, "I'll stand for nothing like that!"; "What did you do with the money!" Shortly afterwards a shot was fired while Joyce still slumped against the lamppost. He stumbled away from the scene and eventually slept off his drunkenness at his office at 718 Superior Avenue.

Judge McGannon, to whom the Plain Dealer, anticipating Graham Greene and Orson Welles, delighted in referring to as the "third man," was first questioned by the police at his home about two hours after the shooting. The judge told Captain Charles Sterling and the other detectives who had roused him and his wife from sleep, and he always insisted thereafter, that he had left the car before it arrived at Death Corner. McGannon said that he had left City Hall a little after 4:00 p.m. on Friday and met Kagy at Euclid Avenue and East 55th Street about 8:00 p.m. Kagy was driving the judge's Cadillac, which he had taken to repair, and the two men tested it by driving out Lake Shore Boulevard to Willoughby. On the way back they stopped, at Kagy's suggestion, at a restaurant, where the judge had taken "a mouthful or two of brandy." They had nothing further to drink on the way into town and soft drinks had been their only refreshments at Ferguson's. Joyce, on the contrary, appeared to the judge to be intoxicated. McGannon said that Joyce had stood with his back to the desk in Ferguson's office and that a revolver that the judge had seen on the office desk as he observed Joyce from the doorway had disappeared when he looked again a few minutes later.
McGannon denied that there had been any stops for drinking bouts on the drive downtown, and tried to put an innocent light on the money quarrels Joyce claimed to have overheard. When they arrived at the corner of Euclid Avenue and East 9th Street, he had awakened Joyce to tell her that this was as far as they would go. It was here that the judge had offered Kagy money: it was eleven dollars for repairs of the car, which the friendly mechanic had refused.

The judge left Kagy and Joyce at East 9th Street and walked towards Public Square. At Vincent Avenue he turned to look back and saw the car still standing where he had left it. He strolled onto Superior Avenue and turned west to the Square where he boarded a Euclid Avenue streetcar and went home. When he was asked why he had walked to Public Square to catch a Euclid streetcar when he was already on Euclid Avenue, the judge offered the explanation that he would not have been able to find a seat by the time the streetcar reached East 9th Street. Cleveland must have been a livelier place on weekend nights in 1920.

Judge McGannon's claim to have left the Cadillac before it arrived at Death Corner conflicted with the statements of several eyewitnesses who identified him as the bulky third man who fled the murder scene. The witnesses included two policemen, a bowling-alley scorekeeper, and a Canadian war veteran who recognized McGannon from having seen him at City Hall. These informants put the judge's candor in doubt early in the investigation, but Kagy's accusations and the judge's fine civic reputation combined to make Joyce the prime suspect.

In November 1920, Joyce was brought to trial for the murder of Kagy and was acquitted. Nine days later, the grand jury indicted Judge McGannon for second degree murder. Ordinarily, justice is not well served by consecutive trials of two alternative and mutually exclusive suspects for the same crime, but in this case the prosecution had, or thought it had, a good reason: it seems that the "third man" had a "second woman." She was a thirty-nine-year-old practical nurse named Mary Neely, who had known the judge for sixteen years. There was, of course, a good deal of speculation about their relationship, but neither the newspapers nor the police peered too closely; and presiding Judge Maurice Bernon kept prosecution questioning under tight rein. Still, it was apparent that the witness's friendship with McGannon had had its ups and downs. For a year they had met every day, and then for several years about three times a week. In recent years their meetings were much less frequent until November 1919, when they again began seeing each other daily. As well as can be gleaned from the trial reports, she had been spying on Judge McGannon, whom she suspected of some unspecified improper behavior. She testified that on the morning of May 7 she saw Judge McGannon's car in front of an apartment house at East 85th Street and Hough Avenue. She watched the judge and Kagy come out of the apartment house and drive away. Asked by Prosecutor Roland A. Baskin what she did then, she gave the remarkable answer that, after telephoning Mrs. McGannon to
describe her encounter, she "went downtown to report to the Bar Association." Late that night she was riding on a Euclid Avenue streetcar near East 9th Street and thought she recognized the judge's Cadillac. She got off quickly as it turned the corner at East 9th and followed it up the street. Standing two short blocks away from Hamilton, she saw the judge and Kagy help someone out of the car. The judge and Kagy stood there talking for about twenty or twenty-five minutes. Miss Neely's next words startled the courtroom: "I observed Kagy start to walk away. As he turned, I saw McGannon pull something out of his pocket and simultaneously I saw a shot fired. Kagy pitched forward. The judge then crossed East 9th Street and went down Hamilton Avenue. He was trying to put something in his pocket. I don't know what it was."

Mary Neely claimed that she told the judge she had seen the shooting and exhorted him repeatedly to tell the police that it was an accident. She recalled having said to him: "I know you were all drunk . . . . You are making yourself ridiculous in the eyes of the public by making two or three statements." McGannon, however, had rejected her advice on the ground that it was too late to change his story. In fact, he had a better idea of his own. During a car ride in November, he told her he was trying to get someone to say he had seen the judge leave the Cadillac at East 9th and Euclid. After he heard that Mary was talking to the police and might appear before the grand jury, he offered her "five new $100 bills" for favorable testimony.

Miss Neely's testimony was counterbalanced by a parade of defense witnesses who supported McGannon's alibi; a taxi driver also testified that he had driven Miss Neely and two other women near the outskirts of the city at the time of the shooting. It is no wonder that the jury, faced with this conflicting evidence, failed to reach a verdict. Still deadlocked after fifty-three ballots, it was discharged on New Year's Eve.

Five days after the first McGannon trial the Cleveland Foundation, "spurred on by recent outrages of murder and robbery which police were apparently unable to check," announced that it would undertake a survey of the administration of criminal justice in Cleveland under the direction of two luminaries of the Harvard Law School, Dean Roscoe Pound and Professor [later United States Supreme Court Associate Justice] Felix Frankfurter. The second trial and its aftermath amply proved that the survey was timely. Mary Neely, asked at the retrial whether she saw Judge McGannon on or about May 7, stated: "I refuse to answer because in doing so I might disgrace or incriminate myself—Judge McGannon is not guilty of the murder of Harold Kagy." This turn of events contributed to the jury's acquittal of McGannon, but the prosecution was not prepared to let the matter rest. Perjury indictments were brought against McGannon, Mary Neely, and a large number of witnesses for the judge and for John Joyce. McGannon was indicted for perjury in testifying that he had left the automobile at Euclid Avenue, and indictments were also brought against the taxi driver who had claimed to have transported Miss Neely elsewhere on the murder night, and against six of
the judge’s alibi witnesses. McGannon was convicted of perjury and also of conspiracy with two former reporters of the Cleveland News to induce Miss Neely to change her testimony. The star witness in the judge’s perjury trial was once again Mary Neely. Under the shadow of her own perjury indictment, she once again changed her story, repeating her original testimony that she had seen the judge shoot Kagy. Pressed by Judge Florence Allen to explain her inconsistent statement at McGannon’s second murder trial, Miss Neely revealed for the first time that she was a woman scorned. She had promised her silence in exchange for McGannon’s money bribe and his promise “to give up a certain friend, to be more attentive to his wife, to go to church, and to be a better man.” The reference to the judge’s other “friend” seemed to cast new light on McGannon’s rendezvous at the apartment on East 85th Street on the day of the murder.

Judge Florence Allen sentenced McGannon to a term of from one to ten years in the Ohio Penitentiary on the perjury indictment. As he turned to leave the courtroom, the judge cried:

As there is a Jesus Christ in Heaven, he will make these people suffer as I have suffered. He will torture them and punish them as I have been punished. If they don’t suffer as I have suffered, then there is no God.

In January 1924, the parole board freed McGannon after he had served nineteen months in the penitentiary. The release was granted on the recommendation of the prison physician, who advised the board that the judge was suffering from a grave case of diabetes. McGannon came back to Cleveland but could not return to the practice of law, having been disbarred because of his conviction. With his wife, who had stood by him through his tribulations, he moved to Chicago where he found a job as a clerk in a law firm. In 1928 he died of a heart attack while boarding a streetcar.

In crime history as in human affairs generally, it is indeed an ill wind that blows no good. The sordid murder of Harold Kagy, and the insight it gave that a respected judge was not above perjury, obstruction of justice, and perhaps homicide as well, served as a catalyst to the Cleveland Foundation’s important study, Criminal Justice in Cleveland, published in 1922.

In his preface, Felix Frankfurter acknowledged that the study of the city’s justice system had been inspired by the Kagy murder:

For some time previous to this survey Cleveland had been restive under a growing feeling of insecurity of life and property. The fifth largest city in the country entertained a widespread conviction of its failure in the most primitive function of government. In the spring of 1920 this feeling was brought to a head. An atrocious and sordid crime, implicating the chief judge of the city’s municipal courts, stirred to action dormant civic pride.

Of Chief Justice McGannon’s performance, even before the distractions of the murder case, the Cleveland Foundation survey had a mainly negative appraisal. His leadership lacked
vision and constructive ability and "fail[ed] utterly in dignity"; and John Joyce was "certainly no fit boon companion" for a chief justice. The best that could be said of the judge was that he was a "hustler" who made his associates work hard. The study group could not legislate judicial character, particularly under an elective system, but its recommendations included establishment of a permanent executive head of the Common Pleas Court with a modern court organization, and the creation of a voluntary defenders' office under joint supervision of the judges and the bar association.

In the view of Reginald Heber Smith and Herbert B. Ehrmann, who wrote the chapter of the report that dealt with the criminal courts, the most direct lesson of the Kagy murder trial was that "Cleveland is paying the penalty in disgrace for its apathy toward the crime of perjury." In recounting the duplicity of Mary Neely, the authors focused their critique on the ineffectual response of trial judge Homer G. Powell to the maddening witness. Puzzled by her claim of the self-incrimination privilege in the second McGannon murder trial, the judge asked her for a private explanation of her conduct. After their interview, Judge Powell consistently supported Miss Neely in her refusal to testify, and Smith and Ehrmann surmised that the basis for the judge's rulings could only have been that in his chambers she had confessed perjuring herself at the earlier trial. Despite this admission, Judge Powell, without taking any action to vindicate the dignity of the court, had subsequently permitted her to testify under oath in the absence of the jury that her previous testimony that McGannon had shot Kagy was true.

The authors pointed to docket statistics as further evidence of Cleveland's laxness in punishing corruption of justice. Of more than three thousand criminal Common Pleas cases begun in 1919, only twenty-seven were for offenses against justice such as bribery or perjury. Of these only two resulted in a guilty plea or conviction, and only one defendant was punished. Although the Cleveland Foundation report praised the vigor and independence of special prosecutor William L. David in pressing the perjury charges in the Kagy case, Smith and Ehrmann arrived at the sound conclusion that, in the last analysis, "alert and strong judges, jealous of the sanctity of their court, constitute the only lasting insurance against the practice of perjury."

The best demonstration of what the report called the "drugged state of the public conscience" in Cleveland at the time of the McGannon perjury scandal is found in a footnote to Smith and Ehrmann's analysis. It is there related that one of the persons ultimately indicted for obstruction of justice had previously filed a damage suit against Judge McGannon seeking recovery of the balance due for services "in influencing Mary Neely to change her attitude in her testimony in a lawsuit wherein he was charged with murder."
Archaeology in the Flats
The Dig at Irishtown Bend

Jeff Erdie

When I tell people I spent two weeks last summer at an archaeological dig in Cleveland’s Flats they usually look at me as if they have missed something and wait for an explanation. To most Clevelanders, mention of the Flats—the partly dilapidated, partly gentrified neighborhood along the banks of the Cuyahoga River that winds just below the skyscrapers in the heart of the city—brings to mind either classy nightclubs or rusting, shuttered steel mills and factories. It is hardly an area one would associate with archaeology, yet some scientific excavators are excited about it. Just off Riverbed Street between Columbus Road and the Detroit-Superior Bridge, along the partially wooded and completely overgrown strip sloping down to the river from Franklin Avenue, many of Cleveland’s Irish immigrants made their first home in America. Between the 1850s and the turn of the century it was known as Irishtown Bend, a working class neighborhood of small houses crowded closely together on long narrow lots within a stone’s toss of the river and its booming shipping industry. Now owned by the Cuyahoga Metropolitan Housing Authority, the land has remained undeveloped since most of the houses were demolished before 1934. This unusual dormancy makes it ideal for historic archaeology.

The excavation in the Flats is being conducted by the Cleveland Museum of Natural History under direction of David Brose, Chief Curator of Archaeology, and Al Lee, Associate Curator. This kind of archaeology differs from the more familiar prehistoric dig: “We’re not digging to find out who or what lived here,” says Brose; “we have written records to tell us that. What we’re interested in is the lifestyle of these people, based on how they used space and material rather than on the reports we have in the newspapers of the time.” The existence of written records constitutes the basic distinction between historic and prehistoric archaeology. Information on the residents themselves was obtained from federal tax and census records. The tax records listed only the owners’ names but not residents or addresses (using its own system of lot numbers instead), and the census records were taken out of sequence and listed only residents and addresses; Lee gravely
explained that it took four months of eight-hour research days just to match names with addresses and verify ownership. For this particular dig he came up with three lots: 441 and 435 West River Road (now Riverbed Street), next to each other, owned by Mary Conley and Ellen Quinn, respectively, and 93 Franklin Avenue owned by Meyer Berger, back to back with Mary Conley's lot. With the help of the old residential maps produced by the Sanborn Insurance Company at irregular intervals between 1867 and 1937, which have the houses and outbuildings drawn in (but not the names of the owners or residents), the museum was able to locate these lots. After obtaining CMHA's permission, it could begin excavation.

Students provided the necessary manpower. The museum offered a six-week summer course in Field Archaeology for college credit at Cleveland State and Kent State Universities and Cuyahoga Community College, two weeks of which were spent at the Conley-Quinn-Berger site at Irishtown Bend. Seventeen of us arrived at the site on July 13, 1988, one of the above-ninety-degree days that were becoming common that summer. The area was densely overgrown with willow saplings and Japanese knotweed (a plant that greatly resembles but is not related to bamboo) which had to be cut down with machetes. The remaining brush rose around us seven and eight feet high, completely closing off the site from the road and everything else but a view of the Rapid Transit Bridge overhead to the south, and from certain spots the tops of the tallest downtown buildings, the Terminal Tower and Sohio Building, to the east. Because of the shortage of time Al (everyone called him Al) decided to leave the Berger site for the following summer. He was in charge of the actual dig and had already measured and set stakes on the old property lines before we started digging. We began with picks, shovels, and root cutters, switching off frequently to avoid heat exhaustion. Stephanie Belovich, assistant Curator of Archaeology, and Kathy Hovey, Field School Assistant, helped Al make sure everything was measured and dug just right.

Al had chosen these particular sites for four reasons. First, there were residential buildings on all three lots according to the 1884 Sanborn map, the earliest version that included Irishtown Bend at all (the years between 1867 and 1884 simply left the area blank). Second, the Sanborn maps show that the houses had been demolished before the last map was drawn in 1937. Knowing there had been no further development since that time meant any foundations discovered would have to be those of the houses on the maps. Third, the lots are at least one lot away from the CMHA maintenance building on Riverbed Street, the only recent construction in the area. Any construction would tend to leave building rubble scattered around, and the lots chosen had to be far enough away to be free of recent disturbance. Demolition debris also had to be avoided, and the sites are a safe distance from the last structures demolished, between 1952 and 1957. And finally, there are the tax and census records that agree with each other as to the owners of the lots. All this makes it probable that the foundations and artifacts found on those lots belonged to the owners and residents of the houses shown on the Sanborn maps.
According to the census records of 1880, Mary Conley was a forty-year-old widow, born in Ireland, who could both read and write and had eight children between the ages of four and twenty-one living with her. Her occupation was listed as housekeeper, and her two oldest sons were listed as laborers—typical entry-level positions for male immigrants. This meant they had to go down to the docks every morning to find work for the day. When the 1900 census was taken (it was taken only every twenty years) the older son had moved up to laborer in a lumberyard, and the younger son was listed as a puncher (press operator) probably in a shipyard. These jobs would have been steady and a step up from laborer both in pay and social status. Also in 1900 the oldest daughter was listed as having no occupation, which probably meant she kept house ("housekeeper" was not considered an occupation on the 1900 census) for her still single brothers and aging mother, a situation not uncommon in those days.

Joseph and Ellen Quinn lived next door in 1880 with their two children. Neither of them could read or write, both came from Ireland, and Joseph was listed as a policeman, a social rank several steps above his neighbors. In 1900 Ellen was married to John Illumin, also listed as a policeman. Since divorce was rare among the Irish Catholics it is most likely that Joseph had died, and it can only be speculated whether or not it was in the line of duty.

The Flats had been a very undesirable place to live. Because it was originally a swampy area, many of the residents suffered from swamp-related diseases such as malaria in the 1820s and '30s, and two major cholera epidemics swept the flats in the 1840s. By 1848, the first year of major Irish immigration, the land had been drained but was barren of any trees or grass except for what the residents themselves had begun to plant. Five sets of tracks owned by the Erie Railroad Company ran right through the middle of West River Road, and if the barren, often muddy landscape and the noise of the trains weren't enough to make the area unpleasant, the coal smoke from the trains, steam ships, and factories must have filled the air and left a layer of soot on every surface. Two meat-packing plants operated just up the river and certainly must have given off a noticeable odor. But what impressed me as I stood on the site comparing the distances between property lines was the closeness of the houses. Standing right up to the road on lots only thirty feet wide, the houses would have occupied an area of little more than two parked cars, with one car's width between. This would have made for either close friendships between neighbors or very sharp antagonisms. The houses themselves were generally two and a half stories high, but with thirteen people living in the Conley house (in 1880 she kept a family of four as boarders) it still would have been awfully close living. I could imagine what it would have been like in ninety-degree weather, with trains rumbling by and the air filled with smoke and the odors of the slaughterhouses. Coming home from work at the end of the day must not have felt like much of a retreat.
Most of the arriving immigrants came to work on the docks. Shipping was the major industry along the river at that time, and laborers were in demand. Cargoes of coal and timber had to be transferred from one ship to another or piled along the shore for future reloading. "The most dominant features of the flats at that time," Al says, "were great piles of lumber stacked along the shore, and the river filled with schooners and forests of masts." The idea that most of the Irish in Cleveland came over to work on the Ohio-Erie Canal, he adds, is unfounded. Most of those workers followed the canal south with construction. The first major industry in the flats was the Cuyahoga Steam Furnace Company, established in 1834, which manufactured stoves, cast iron products, and marine steam engines; but the heavy industry the flats are known for today did not really get started until the turn of the century.

After we unloaded the museum van, and all the gear was at the site, the first step was to measure out six test units, each one meter square. The function of these units is exactly what the name implies, that is, to see what's down there and if it's worth excavating. Al took the initial measurements, then Stephanie divided us into six groups to dig three test units on each lot. Each unit was marked by four stakes joined by strings. The strings marked a line of reference so the walls of the unit could be kept square and vertical. This kept the walls "clean" so stratification [earth layering] could be seen and recorded more easily.

We started by removing the disturbed area from the first level. Each level is a separate stratum of earth, distinguished by soil color, and is counted downward from the surface, or level 1. The disturbed layer of level 1 [loose, organic topsoil] is not expected to contain anything of immediate archaeological importance. But once in the undisturbed layer, which is more compacted and free of most roots, samples of relatively modern materials are collected and saved at the museum for future reference. These materials include charcoal, brick, glass from beer bottles, shoe leather, and anything else we might think important to future archaeologists. By screening every third bucket of dirt we could get an idea of whether or not the level possessed recent artifacts, a mix of recent and older artifacts [which would mean the level was culturally disturbed and the artifacts found could not be proven to belong to early residents], or culturally undisturbed, older artifacts. When a bucket is screened, it is dumped on a quarter-inch screen framed by two or three inches of wood suspended on an eight foot tripod. A couple of the diggers shake the screen until the fine dirt has fallen through, and then they sort through the objects remaining. Each test unit has its own screen.

The activity at the dig is exacting and meticulously recorded. Whenever something is found that may be of interest it is placed in an artifact bag [a small brown paper bag like a lunch sack] which is labeled with the site number, site name, date, excavation unit number, level number and depth in centimeters, initials of all people digging at the unit, and a general description of the kind of objects it contains. Samples of coal, brick, and wood are generally put in one bag, UFO's [unidentified ferrous objects] in another, fragments of ceramic,
glass, and bone in another, and artifacts of special importance are put either into their own bag or into a small plastic bag and sealed. When each new level is reached, new bags are labeled and used, and the depth of the new unit floor is recorded. Any significant features, such as foundations and post molds, must be drawn on a sheet of grid paper. Each digger carries a notebook in which this is again recorded, along with all samples and artifacts found on the site. A good notebook should contain all features and their dimensions, depth, content, context, and location. Also descriptions of samples or artifacts should include the location found with both vertical and horizontal references, context and comments on usefulness of the samples. All photographs taken (of what and by whom), work done, artifacts found at other units, soils encountered and large disturbances such as roots, burrows, marks left by previous excavations, and mention of any unusual happenings or circumstances that could be of some possible use to archaeologists in the future should be noted. In short, everything should go into the notebook. Some even included weather conditions ("Hot and humid, again") and what time the ice cream truck stopped by (which was welcomed every afternoon with cheers). All of this information should be recorded in the field before it is forgotten, and doing so demands quite a bit of discipline. The staff collects the notebooks at the end of the dig for the museum archives.

The second day we hit level 2 at test unit 1 on the Conley lot, the unit where I was digging. Thirty centimeters below the surface, the ground had shown a distinct color change from black to gray, and the bottom of the unit had to be leveled off with a trowel so only the top of the gray layer remained. Excavation in a level containing artifacts (called a culture-bearing level) is done by scraping the surface with either a hand trowel or flat shovel. The careful troweling, brushing and picture-taking does not come until a large artifact or an artifact of special interest is found. Each person on the team of three took a turn digging in the unit (there was only enough room for one person at a time in a single test unit), and worked to scrape the entire bottom, keeping it level, before climbing out. The other team members either worked the screen, updated their notebooks, or took a break when they had a chance. The unit I was working in turned out to be the most productive that first week. Level 2 was undisturbed and culture-bearing for the period we were interested in, lying closer to the surface than in any of the other test units. We immediately began finding fragments of pork rib bone, ceramic and old window glass (which, Al said, judging by its thinness dated back before the turn of the century), a pipe stem, a brass thimble heavily corroded bluish green, the lip of a cork-stop bottle, and a nickel in good condition dated 1889. We also found an impressive fragment of glazed edgeware, typical of the style between the 1820s and '40s, with a blue decorative edge. Al said it was a dinner plate, and after checking the foot-ring on the bottom and finding no signs of wear, he said it had probably been set up on edge somewhere and not stacked for use. This meant it was probably a family heirloom, brought over from Ireland. It would hardly have been within the Conleys' means to buy and use such a fancy plate.
Then test unit 2, one meter away from us, reached their own level 2 and found two ceramic marbles—children's toys—pocked and rust colored like iron bearings but much lighter. Other artifacts found in the three test units on the Conley lot included several buttons with both four and two holes (two-holed buttons tend to be older) made of either ceramic or bakelite, an early plastic; pieces of glass with glass disease (deterioration which tints the glass with rainbow patterns after the glass has been in the ground a long time); two black mason's pencils (about the size and shape of a ten-penny nail without the head) and a carpenter's pencil (a fat, hexagonal crayon like the ones still used today). But our big find that week was in unit 1 when we uncovered the corner foundation of the Conley house, of layered red brick, in the corner of the test unit. It was a lucky find, as the Sanborn maps showed its location only in measurements relative to the old West River Road, and Al had no way of knowing exactly where that edge was. He had planned the location of the test unit hoping the foundation would appear in the center of the unit, and it had shown up only six inches to the northeast. "You have to live right three hundred and sixty-five days of the year to come close on the first try," he said with a smile.

When I asked Al why he was having the units dug behind the house he explained that he was looking for areas where garbage might have accumulated, such as in garbage pits or outhouses. A garbage pit is lucky for the obvious reason that there would tend to be a high concentration of artifacts that for the people at the time were simply garbage. But even broken bottles and plates give the archaeologist some idea of the types of materials that were used by the residents and where those materials were manufactured. Catalogues at the museum listing the manufacturers, locations, and dates of production can be used to identify many of the fragments. "Any time you have a deposit that's spatially confined it tends to build layers of stratigraphic data, which means the artifacts can be precisely dated." Such stratification is particularly valuable because the dates of manufacturing can be compared with the date the item was thrown away, giving the archaeologist some idea of whether it was an heirloom or a product that was purchased and consumed. Outhouses, much to my surprise, are especially lucky, not only because residents tended to use them as garbage dumps, but also, as Al explained, because "when you drop something down the hole in a privy you don't go after it." As a result these sites often yield artifacts that might otherwise have been retrieved, such as watches, rings, or even wallets.

Work went a little more slowly at the Quinn lot because the ground was at least a foot higher than the Conley's. Though it had more surface rubble to remove (chunks of concrete, steel, insulation), level 3 turned out to be culture-bearing. A level is not absolute, but relative only to the test unit being dug. So level 3 at the Quinn lot, sixty-nine centimeters down, was the same stratum of earth as level 2 on the Conley site, only thirty centimeters down. Test unit 1 had to be abandoned when a telephone pole was found just under the surface lying diagonally across the unit. But another foundation was found in unit 2 of something that wasn't on the Sanborn
maps. It consisted of large, mortared sandstone blocks that had been brought from the Berea quarries. Al decided it was worth investigating and had three more units opened alongside, but the edge still wasn’t found, and it had to be left open for future excavations. Meanwhile, the other units on the Quinn lot were bringing up the same types of bone, pottery, buttons, glass, and other bits of artifacts we had found in the Conley lot.

Bob Segedi, Director of Education at the museum, joined us the second week with a group of eight junior-high and high-school students from the museum’s Future Scientists program. There were now about twenty-five enthusiastic diggers, and we were able to open up several new test units further back on the lots. Most of the initial units had bottomed out when we hit the old riverbed, which was level 3 on the Conley lot and level 4 on the Quinn lot. This was a layer of orange sand and pebbles worn round and smooth by the river, dating back to the time before the area was inhabited. These units were then back-filled except for the two revealing foundations. With the extra help, six new test units were started on the Conley lot, and four on the Quinn lot.

Then on the Conley lot a vertical tile pipe about a foot in diameter was discovered 88 centimeters beneath the surface. With the extension of the unit it proved to be intact, the possible foundation of an outhouse. A thin layer of white could be seen in the wall which Al said was possibly a layer of lime, typically used at the time to cover the area when an outhouse was capped off. A soil sample from inside the pipe was taken to be analyzed at the lab with the micro artifact test, which looks for the presence of pollen grains or other organic substances such as strawberry seeds. The rest of the dirt inside the pipe was carefully screened until a shovel could no longer reach down and back out of the narrow walls. Nothing was found inside, but that was hardly discouraging, considering that from where the ground level was in the 1880s we were digging only about a foot down into the outhouse. The unit promised potential for the future when its depth could be extended. One of the most frustrating things about the dig was the time limit, even though, encouraged by the success of the first week, Al extended it two days. The site would then remain an occasional dig until field classes started again next summer. Outside the outhouse foundation, pieces of a ceramic doll’s head were found, the largest piece showing a side of the face, the drawn eyebrow and blush of the cheek still colored. And in other units four post molds were found in four different units, separated from each other in the form of a square. (A post mold is a hollow area left after the post has rotted out.) They were probably used for a staircase leading up to Franklin alley, a level area between the lots fronting on Riverbed and on Franklin.

A medicine bottle with level markings going up the left side, found on the Quinn site.
Ten volunteers showed up, all enthusiastic and experienced. We uncovered a lot of broken pottery and glass from a test unit on the Quinn lot which seemed to be a garbage dump. A group of students had discovered it Friday afternoon just before quitting time at three-thirty and it was hard to get them to pack up and leave. Pieces of a large pitcher were found, including the spout and lid, and fragments from either two or three beer mugs (so they seemed). One stone-ware fragment had the letters STEINMEYE...imprinted on the side, and another of glass had...EVELAN...engraved on its front. Because it was engraved and not painted it would have come from about the turn of the century.

Since future excavations look very promising, the museum would eventually like to see Irishtown Bend declared an Historic Site by the State Historic Preservation Office if CMHA is willing. In addition to offering insights into the everyday life of the residents, discoveries made at the dig will help historians see how those residents interacted with Cleveland’s economy as a whole, and how they gradually initiated themselves into society, especially in relation to other working-class neighborhoods. The museum hopes to dispel any negative Irish stereotyping with evidence taken right out of the residents’ own backyards. And when science is finished, there may be something for the public too. “We hope to have another option for this land if the Flats are developed,” says David Brose, who would like to see the area turned into what is known as an interpretive park. Al Lee is also enthusiastic about the idea. “It may add an attraction to Cleveland, something different, something interesting and informative and of potential value to people.” Other cities have set up plaques, enclosed cross-sections of earth in glass, and put up open frame structures where houses once stood to give the public an idea of their spatial relationship to each other, all of which could be done at Irishtown Bend.

Whatever is done with the area, the information obtained by piecing together the lives of the early inhabitants provides a valuable understanding of history. More lasting than a few calluses and a sun tan, what I came away with after two weeks of digging and listening to David Brose and Al Lee was a new ability to see the past and present at the same time. Now, whenever I hear the Flats mentioned, I think of nightclubs and industry—and also of a crowd of American day laborers gathering at the docks every morning by a river filled with masts.
Drug Money and the Lawyer's Fee

William Tabac

The youth is white and twenty-three, a graduate of an elite college with no prior record—and no job either. A bobbing Adam's apple is Ron's one distinctive feature. Busted for selling cocaine to an undercover agent, he's facing a mandatory five-year prison term.

We are in a plush downtown law office. Dennis is a criminal lawyer. Dennis and I are seated behind his desk. Ron is seated across from us. This is the initial interview. From it, Dennis will determine whether he will take Ron's case. I was invited to observe.

The telltale signs of lawyers' stress abound. Dennis's stomach bulges unabashedly over his belt—the tailor-made, three-piece suit has become too snug. The white hair about his temples gives him a distinguished air although he's only thirty-five. His fingertips are deeply stained with nicotine. The cigarette he is sucking on, he discovers, is nearly spent; he uses it to ignite another one.

The youth is cocky. "I don't give a shit if I go to prison," he says, smirking.

Dennis resists an impulse to roll his eyes. Instead, he makes them narrow slits. "Listen!" he roars, suddenly thrusting himself forward, across his desk, to within inches of this potential client's face. The youth, startled by the outburst, cowers backwards as if to ward him off.

"When you get in there, they're gonna lock the door," Dennis says heatedly, thrusting a finger at his potential client's slender nose. "And you're gonna have to walk around with your hand on your ass because your asshole won't be yours anymore."

The youth, now trembling, avoids Dennis's eyes.

"Look at me!" Dennis roars. The potential client, still trembling, looks. Like a crusty Marine drill instructor with a raw recruit, Dennis is firmly in control. The communion between lawyer and client has begun.

Dennis would probably like to take his case. But first comes the nitty-gritty: the matter of the fee, the green that fuels the lawyer's fire. "You have $25,000?" he asks the youth when he's finished lecturing him.
Like all good cross-examiners, however, Dennis knows the answer to his question. The youth, having been forewarned, nods his head obediently, opens his wallet and makes a neat stack of big, brand new bills on Dennis’s desk.

Dennis glances at the money. He feels a rush. This feeling is induced by cash—the bills stacked before him on his desk—not from nicotine.

He still can’t believe the fee figures that tumble from his lips. “Even after all these years,” he will tell me later, “the sight of the money piled there still thrills me.”

Enter now The Dilemma of the ‘80s, the one that confronts today’s criminal lawyer with increasing frequency. The money is cocaine money. Although Dennis knows it, he must not ask. The Comprehensive Forfeiture Act of 1984, a Reagan-era statute, prohibits him from knowing the money’s source if he has any hope of keeping it. Should this potential client plead guilty or be convicted after trial, the prosecutor may then try to seize Dennis’s fee as contraband.

There’s no sure-fire way of predicting whether this will take place. Nor does he wish to testify against his client in a later fee forfeiture proceeding about discussions that occurred in the sanctity of his office—no potential client could ever trust him to keep a secret. It is also clear that the youth has no other resources with which to pay him. For these reasons, Dennis might just say no to this potential client.

It was of little solace, Dennis explained afterwards, that the law presumed the quaking youth before him innocent:

Few drug cases go to trial anymore. The typical drug bust today is so good that a trial is usually an expensive waste of time—winning means that I plead them guilty and get as little prison time for them as I can. [A shrug.] I might be tempted to accept a drug client like Ron and gamble on the fee. In exchange for a rotten deal for my client the prosecutors might agree to leave my fee alone—other lawyers might go for that but I won’t. [He refers here to the ethics that govern his profession, the rule which holds that a lawyer must be free of external pressures that might lead him to compromise his client.] Yeah, I defend the guilty, day in, day out. All criminal lawyers do—the ethics of my profession require it. Because of the complexity of these cases, it might mean exhaustive, backbreaking work. In the meantime, though, I’ve got to be paid. I can’t afford to work for nothing.

I.

The moral strictures of attorney fee forfeiture in drug cases might strike one as unassailable: criminals shall not use their ill-gotten gains to pay the lawyers who defend them nor shall lawyers knowingly accept tainted monies for their services.

The Comprehensive Forfeiture Act of 1984 gives these precepts the force of law. Under it, the lawyer will be entitled to his fee only if he can convince a judge that he did not know that the money or property that was used to pay it stemmed from drugs.
As the recent "Zero Tolerance" controversy suggests, the government's reach under forfeiture legislation today is broad. It not only extends to property actually used in the criminal enterprise—yachts, airplanes, houses—but "property derived therefrom" as well. Consequently, the Department of Justice, whose U. S. Attorneys prosecute drug cases, may claim any property used in or generated from such endeavors. Even legitimate businesses can be shut down if drug monies can be traced to them. Deprived of its ill-gotten gains, Congress argues, the drug trade will wither away like a discarded coca leaf.

The lineage of the act is, however, suspect. Legal historians agree that forfeiture legislation is extraordinary for a country that has traditionally abhorred the taking of property as a penalty for crime—indeed, on the break with England, the Colonies flatly outlawed forfeiture as a form of punishment. In 1963, however, criminal forfeiture was resurrected by Congress as a weapon against organized racketeering. Then, in the Comprehensive Drug Abuse Prevention and Control Act of 1970, Congress went a little further and extended forfeiture to drug related crimes.

Still, few could seriously quarrel with a policy that deprives a criminal on conviction of a crime of ill-gotten gains and their fruits. Recently, however, goaded by the Reagan administration, Congress made conviction an afterthought. Under the Comprehensive Forfeiture Act of 1984's "relation-back" doctrine, the government is vested with title to all forfeitable property on the date that the offense is committed. The accused's subsequent conviction simply confirms the government's paramount claim to it.

It is this relation-back doctrine that has fee forfeiture opponents up in arms. Under it—unless the attorney can convince a judge that he was unaware that the source of his fee was drugs—the money paid by the client was never his to pay: the property was the government's, not the client's, even while the client was presumed innocent.

Worse, no matter what the eventual outcome of the case—guilt or innocence—or of these thorny title issues, the government may prevent the attorney from receiving any payment whatsoever until the case is terminated. The mere filing of an indictment containing a forfeiture count will allow the government to enjoin the transfer of the challenged assets to the attorney in payment of his fee.

Even the proponents of forfeiture concede that this uncertainty about fees discourages private counsel from taking drug cases. They point out, however, that while the U. S. Constitution may guarantee an accused the right to counsel, it does not entitle him, as one judge quipped, to a "Rolls Royce lawyer" if he cannot afford one. If the filing of the indictment and the impounding of his property make the accused functionally indigent, they correctly point out, the court will appoint a free lawyer for him.

The critics of fee forfeiture point to more lofty considerations. The threat of fee seizure by the government, they contend, chills the Sixth Amendment guarantee of competent counsel. Because of the reluctance of private lawyers to take drug cases, and the channeling of these defendants to public
sector lawyers where resources and talent are sadly wanting, they believe the criminal justice system itself, which is designed to pit a strong defender against the power of the federal government, is seriously at risk. Stormed by defendants in need of lawyers, the critics gloomily predict, the Federal Public Defender, and the few lawyers willing to accept court-appointed cases at the meager rates of pay provided under federal law, will become so bogged down that it will be impossible for a drug defendant to be represented as the U. S. Constitution requires.

There is also a certain willfulness, even a malevolence, the critics say in fee forfeiture. The Department of Justice, they argue, is attempting to drive the "good" criminal lawyers from the field so that it can increase its drug conviction rates.

II.

Sandwiched between a savings bank and an all-night drugstore, the gray edifice is not an imposing one—a casual stroller probably would not even notice it if he were not on the lookout for an address. From its nondescript appearance, it would be impossible to guess that the modest downtown Cleveland office building is the front line in the Northern District of Ohio's war on drugs.

The fourth floor entrance provides a clue. The receptionist is completely shielded from the small waiting room by a glass partition several inches thick. The bare walls are painted a stark white as if to symbolize the singular determination of this unit's mission. One cannot be admitted to the inner offices without being identified as an expected caller and then buzzed in. Inside, one quickly becomes conscious of a massive, energetic presence, the thirty-odd assistant U. S. attorneys, the mostly young G-men and women who pursue the heavies of the drug trade.

Required by Congress to prosecute every crime committed against America, these attorneys find that 40% of their work is drug cases, primarily cocaine. Five years ago, heroin was the problem. But drug prosecutions then amounted to only 10% of their work.

J. Matthew Cain, in tie and shirtsleeves, warmly greets his visitor in the waiting room with an extended hand. He is the assistant U. S. attorney in charge of federal drug prosecutions in the Northern District of Ohio. [Upon seeing him, I think of The Untouchables—The Movie. Cain reminds me of an older, paunchier version of Kevin Costner, who played Eliot Ness.] But this stocky, amiable lawyer is a tough, seasoned prosecutor, having tried some grisly murder cases while serving Cuyahoga County Prosecutor John Corrigan. Like so many of the city's law enforcement personnel, Cain is Irish Catholic through and through. Inside his large private office, the ruddy-looking ex-Navy sonarman proudly points a stubby finger toward the wall where his law diploma from Cleveland Marshall College of Law hangs, and boasts that he received it on St. Patrick's Day.

J. Matthew Cain, assistant U. S. attorney.
Ron Bateman, another federal prosecutor, drops in and pulls up a chair. The contrast between the two dope-busters is striking. Behind Bateman’s intense brown eyes is a demeanor that is more subdued. The dark-complexed Bateman is a member of the United States Drug Task Force, a combined effort of several federal agencies (among them the DEA and FBI), that forms a sort of flying wedge against illicit drugs.

These prosecutors view their jobs differently. Cain is intrigued by the intricacies of his trade. “Each case is like a puzzle—you take it apart and put it back together again.” They’re all the same,” he says. For his part, Bateman prefers to glance up now and then to reflect upon his work. “I sleep okay at night. I feel that what I’m doing is more than band-aid justice,” he says.

My purpose in coming was to talk about fee forfeiture, but we begin with a discussion of drugs in general. Cain quickly sets the tone, a moral one. The conversation becomes somber—a religious sermon without the fervor. Small wonder. These men are fact-men practiced at presenting cogent, balanced arguments to support their parallel points of view.

To Cain, drugs bring out the baser human traits. Drug abusers, he insists, with a fist clenched to emphasize the point, are selfish and impulsive—they must have their drugs immediately. “Their activity feeds a lust,” he says. He refers to a drug called “reds”: “You see these guys do this”—he thumps his chest twice with a thumb to illustrate—“and say ‘Gimme my reds. I want it now because I want it!’” Like the cases he tries, he believes that drugs are all the same.

“Cocaine’s addictive,” he asserts, nodding emphatically, referring to several conversations he has had with a Glenbeigh Hospital official, a treatment facility for substance abusers which buys radio, TV, and outdoor advertising to promote its services. “It’s a habit that must be fed. Addicts will do anything to get it,” he warns. “That’s the problem. They’re walking time bombs. It’s the same with alcohol and sex.”

Bateman, who is willing to differentiate somewhat among abuses, shakes his head. “It’s the drugs in school that get me. We can’t have people walking around a foot off the ground!”

The conversation finally turns to money, always a looming background presence. “Look,” Cain points out. “A cocaine habit can cost $500 a week. That money’s being taken from somewhere. Ask yourself, who’s losing out on that money?”

“I’m aghast at how much money is being exchanged,” Bateman says, referring to a recent case he tried involving a crack house on Cleveland's east side. He shakes his head slowly, incredulously.

The profits are indeed enormous. According to Cain, “A kilo in Miami sells for about $15-20 thousand. An ounce of cocaine cut to 50% sells for $2200.” (Later Bateman will show me a flow chart that was used as evidence in a drug case to show the tremendous cash-flow in a dilapidated east-side ghetto crack house.)

The economies of the drug trade in general are spectacular. Not what these lawyers make: the salaries of assistant U. S. attorneys, who earn from $30-65 thousand yearly, are modest when compared with what they could earn in private practice. Their defense counterparts are paid handsomely: fees of
over half a million dollars for drug cases are not uncommon. Modest as they are, though, Cain's and Bateman's salaries are guaranteed.

Despite the concerns of the private bar about fee forfeiture, these prosecutors resoundingly endorse the federal forfeiture law. Bateman points out that defendants will fight harder over seizure of their assets than jail time.

"We haven't done it," Bateman says, referring to attempts by the U. S. Attorney's office for the Northern District of Ohio to recover attorney's fees. "I know, I know," he acknowledges. "Defense lawyers think we're trying to dip in their pockets. [A prominent defense lawyer] is always screaming that we're trying to take his fee. But we just don't do it."

Bateman mentions an informal procedure currently in vogue. "A defense lawyer will call me up and say, 'Ron, I'm thinking of taking this property as my fee. Is it okay to do so?'" Bateman says, "I might say, 'If I were you I'd try to get it from somewhere else.'"

Citing the Department of Justice guidelines on fee forfeiture, Cain argues that defense counsel have slight basis for concern. These rules, issued by the Attorney General of the United States, set forth the procedures that U. S. attorneys must follow when seeking to recover an attorney's fee. (For example, an assistant attorney general must officially approve any such attempt.) Expressly recognizing the importance of attorney-client confidentiality, the guidelines also limit the scope of any subpoena that may be served on defense attorneys in an attempt to gather fee information as well as testimony that might be compelled from them if forfeiture proceedings are undertaken.

But by establishing procedures for such cases, the guidelines confirm that fee forfeiture exists, and that circumstance alone, it is claimed, will chill the relationship between the private criminal lawyer and his client.

"There's a lot of paranoia out there—look, this office hasn't done it," Cain emphasizes. Bateman nods emphatically in agreement. Both men insist that the government is not trying to drive the good lawyers away to make convictions easier.

Cain proudly points out that the drug conviction rate is 99%. Cain ticks off the names of a half-dozen or so competent narcotics lawyers. "It's the inexperienced lawyers who cause us problems," he says, "the characters who don't know the business."

According to Cain, few defense lawyers are competent to handle complex drug cases, a claim that members of the defense bar agree with. Asserting that the outcome of these cases—a plea bargain—is both inevitable and predictable, he says that the incompetent lawyers simply complicate the process.

III.

Ed Marek, the federal public defender for the Northern District of Ohio, is willing to make some fine distinctions when it comes to fee forfeiture and his friends in the U.S. Attorney's office. He both likes and respects the prosecutors there—he worked as an assistant U.S. attorney himself before assuming the role as the Northern District of Ohio's first federal public defender.

He does not, however, trust his government. He feels that the Comprehensive Forfeiture Act of 1984 is working havoc on the legal system. "Drugs have ruined the law in this country," he says, referring to other government policies like "Zero Tolerance."

Marek's office, located in a familiar downtown Cleveland lawyers' haunt, does not have a fancy walnut border around its outer door like those of his brethren of the private bar. Instead, a simple hand-lettered sign announces without ostentation that the visitor has reached his office.

His clients are indigent—of sorts. Federal indigency guidelines can be, as he explained, quite liberal. "Some of my clients are actually pretty well off. They have nice homes in quiet suburbs and successful businesses. But they can't afford to pay the $50,000 fee that many lawyers want to represent them in complex narcotics cases. And, if their wealth is derived directly or indirectly from narcotics, none of it is theirs to keep."

Pointing to a rash of cases throughout the country in which the Department of Justice sought to claim fees paid to private counsel, he regards the fee forfeiture concerns of the private bar as "quite realistic." A graduate of Case Western Reserve University's law school, Marek has taught for a number of years part-time at Cleveland State's. Recently, Chief Justice William Renquist appointed him to a blue-ribbon commission to evaluate sentencing practices in federal courts.

His approach to fee forfeiture might remind one of a law professor's. In his plain brown suit and skinny tie, the respected trial lawyer could probably even pass for one. He likes to reflect upon the legal issues. Recently, when Congress invited him to testify about them, he told the Senate Judiciary Committee that fee forfeiture has the "potential for altering the criminal justice system."

To him, the Sixth Amendment problem is not that a drug defendant will go unrepresented. He agrees that a public lawyer will always be available—if not a federal public defender, who represents approximately 52% of indigent defendants, then a member of the private bar doing pro bono work at public rates. Rather, the issue as he sees it is one of the lawyer's competence.

The client may be the target of a grand jury investigation. Private counsel will be able to monitor the grand jury investigation and protect his client. I can't do that. Under federal law a target in a grand jury probe isn't entitled to free counsel until he's been indicted. The government's investigation may last several years before that happens. Then, because of speedy trial requirements, a judge might force the public defender to trial in a couple of months.
Think of it: the government, proceeding at its own pace, had years to prepare its case while the appointed lawyer, with his limited resources, will have weeks. How can this be adequate representation as the Sixth Amendment requires?

According to Marek, fee forfeiture implicates other Constitutional guarantees as well. For example, he points to an accused's Fifth Amendment right against self-incrimination:

If, in order to get a lawyer, a person of ostensible wealth has to appear before a federal magistrate to explain why he doesn't have the money to hire one, that, to me, is an admission that his wealth came from criminal activity. Nothing prevents the prosecutor from using his admission against him at his trial.

He applauds a recent federal court of appeals decision which held that, if the government seeks to freeze assets pending trial so that a defendant will not be able to pay his lawyer, it must first meet a weighty burden of proving that he is probably not only guilty of the crime but that his assets are likely to be forfeited.

"If that decision stands, it will deter fee forfeitures," Marek flatly predicts. "If the government must prove its case in advance of trial in order to freeze a defendant's assets, they won't do it. That will jeopardize their case. It just won't be worth it."

In a 1987 Wisconsin Law Review article, a commentator claimed that Marek's position is that legal aid lawyers cannot competently handle complex drug cases.

"I didn't say that," Marek asserts. "What I meant was that if private counsel reject these kinds of cases there will be an overload on the public defenders. In this era of budget cutting there simply aren't enough resources in the public sector to handle complex drug cases."

Appointed counsel are paid only a pittance by today's fee rates: $60 per hour for in-court time ($40 out of court). Marek says that too few good lawyers will be willing to work for that amount of money.

The limited resources available to public lawyers might prejudice their clients in other ways. Experts must be hired at great cost to sort out complex transactions. While virtually unlimited resources are available to private counsel for this purpose, "In each case [involving a public defender], a judge must approve the expenditure," Marek says. "So it is not merely a question of whether 'dirty money' is being used to pay a lawyer's fee—no one should have that right. Rather, the problem is the tremendous impact that fee forfeiture has on our adversarial system."

IV.

The nation's judges are deeply divided over the constitutionality of fee forfeiture. One prestigious federal circuit court, the Court of Appeals for the Second Circuit, has been struggling with the problem that Marek described for two years.

With a house worth $350,000 and $35,000 in cash on hand, one would think that Carl Monsanto would have had little difficulty persuading a lawyer to represent him. The law-
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yers, however, were reluctant because the government was seeking to claim all Monsanto's property on the ground that it was derived from drug-related activity.

What made matters worse for him was the fact that he was enjoined from disposing of his property until his criminal trial was concluded. That meant that, although he was then presumed innocent, he was unable to provide his lawyer with a retainer, the glue that binds the lawyer to his client, to defend against the government's efforts to convict him.

A majority of the Second Circuit panel concluded that Congress could constitutionally provide for the forfeiture of attorney's fees. The country's interest in starving out drug enterprises outweighed an accused's Sixth Amendment right to counsel of his choice, the court concluded. What troubled the court, however, was the ability of the Department of Justice to tie up an accused's assets until he was either convicted or set free.

In a ground-breaking decision, the court held that an accused like Monsanto, who has been enjoined from disposing of his property pending the outcome of his case, is entitled to an immediate adversary hearing at which the government must establish that he is likely to be convicted and the property that it is seeking is probably forfeitable.

The panel filed Monsanto in January, 1988. Recently, the whole court agreed to rehear the case in banc, an extraordinary sitting of all the court's twelve judges. In another recent case, an in banc decision from the Fourth Circuit Court of Appeals, a divided court recently upheld the constitutionality of fee forfeiture without any qualification whatsoever. The Fourth Circuit case is currently pending before the U. S. Supreme Court.

V.

"I worry about it all the time," lawyer Mark DeVan says of fee forfeiture. "A client offered me a brand-new Porsche once as a retainer. [A pause; a pained expression floods his face before he resumes.] I turned it down—I figured it would be challenged. I had no idea where he got it and I didn't want to have to fight for it."

Lest one get the wrong impression, DeVan is not usually bashful when it comes to fee matters. Accustomed to demanding $25,000 in up-front money from his clients, he is one of a small band of Cleveland lawyers who specialize in narcotics cases. His fees support an impressive lifestyle. Just as some devout expect it of their preachers, DeVan's clients expect it of him—the glitz is part of what they pay for.

Cleveland's Leader Building, where DeVan keeps his office, is the city's most familiar—and elegant—criminal lawyers' enclave. Each office's outer door is bordered in luxurious hand rubbed walnut; the interior of the building's elevators are lined with brass and marble. DeVan's desk is solid oak as is the gargantuan bookcase that fills the wall behind him. An oil painting of a speeding sailboat in full racing gear adorns another wall. Only one thing seems out of place amid this tasteful ambiance, a concession to that part of his work which

Mark DeVan, criminal lawyer.
requires that he sift through purloined conversations. Perched atop each corner of the towering bookcase to his rear is a massive Sony speaker.

Deeply tanned, he is seated behind his desk. The fit of his clothes is impeccable; his hair is neatly razor-cropped. He doesn’t smoke. A look at him might suggest that he is immune from the pressures of his work. He’s thirty-nine but could easily pass for twenty-five.

Yet, something is not quite right in this shining portrait of success. It’s not respect that’s lacking; the federal prosecutors in Cleveland speak highly of his skills. Nor money: after less than a decade of practice, his income is in the six figure range. As a modern-day criminal lawyer, DeVan is a lawyer under siege. The dour look about him is a wistful longing for the revolution, the one spawned in the 1960s by the Warren Court.

It was the criminal lawyer’s heyday then: so many new rights were established by that court that law enforcement was actually on the run. Reagan-era pressures have changed all that, of course. Because Congress has been unrelenting and few judges are willing to buck the tide, the criminal lawyer of today must wage an uphill battle. The conviction rate for all federal crimes, which includes the plea bargains as well as guilty verdicts, is well over 90%. In drug cases it is almost perfect.

The drug war, DeVan believes, has gotten “out of hand.” Today’s Supreme Court, he says bluntly, “doesn’t give a damn about individual rights—my clients don’t have any rights. The odds are overwhelmingly against drug defendants. They’re up against a wall of massive government agencies, prodigious amounts of paper generated by drug litigation and legislation that makes it impossible for an innocent man to defend himself.”

The feds, according to DeVan, are “zealots.” The characterization is uttered with some disdain. “Most prosecutors are fair,” he concedes. “But the machine is out of control. It’s a humongous one bent on destroying drugs.”

Drug conspiracy cases especially involve massive hours of preparation, he explains. “We have to go through reams of telephone, credit card, and travel records—every kind of record you can imagine. The paper we get from discovery is so massive it swamps my office.”

I mention the Sony speakers perched atop his bookcase which flank him to his right and left. With his “quality ghetto blasters,” as he refers to them, he spends untold hours monitoring dreary tapes that government agents make through wiretapping and electronic eavesdropping. “The feds send their informants in with body wires, transmitters—every sort of sophisticated bugging device you can imagine,” he explains.

He searches for a nugget—any weakness in the case—that might enhance his ability to drive a favorable bargain for his client who will then plead guilty.
With few exceptions he sees his clients as victims, people who start off using drugs casually and then get heavily involved as addicts and in selling them. One approach he takes is to urge that they get treatment. In sentencing negotiations, he urges their addiction as a mitigating circumstance.

An illustration he gives supports Ed Marek's point that competent representation under the Sixth Amendment might mean representation at the pre-indictment stage, which federal public defenders like Marek cannot, under current rules, now provide: "They're frightened when they come to me even though an indictment may be years away. They first show up after the government has subpoenaed their bank records—they get a letter from the bank, and panic-stricken, they come in. I tell them to stop dealing and get treatment right away. Later, when the indictment comes—and it always does—I can show the feds that my client has led an upstanding life. That goes a long way, believe me."

Fee forfeiture, he says with agitation, is frustrating for him. For one thing, it means more dreaded paperwork. He points to a special IRS form he must complete, showing the source of the funds and the denomination of bills whenever clients give him more than $10,000 in cash.

He may even have to audit his client's books to try to find, if he can, "a legitimate source of income" which can be used to pay his fee: "But the very first thing I do is telephone the prosecutor to find out if there's a possibility of forfeiture. Sometimes he'll save me work by telling me that it's okay to take this or that piece of property—that he won't go after it. That removes some but not all of the uncertainty."

He is quick to acknowledge that the possibility of forfeiture has a "chilling effect" on his relationship with his clients, and abhors the prospect of having to testify in a fee forfeiture proceeding about conversations he had with his client.

With so few drug cases to try these days, much of the criminal lawyer's work is tedious and boring. Whatever romance is left to it is found in movies, TV, and novels. Mark DeVan mentions Presumed Innocent, by Scott Turow, a gripping account about a lawyer accused of murder. The genius of the story—and the justification for its title—is that, despite the overwhelming evidence against him, the reader is never sure until the very end if the accused hero is innocent or guilty. In the meantime, the hero pays his lawyer handsomely to represent him through all the grueling phases of his ordeal.

"Innocent till proved guilty," DeVan says, reflecting on the novel's theme. "Win or lose, no matter how it turned out, the client got his day in court. And the lawyer got his money." he adds wistfully.

Notes

"Zero Tolerance" is the term forfeiture critics have coined to describe a spate of recent seizures by government agents of multi-million-dollar pleasure yachts and aircraft upon the discovery, during routine on-board safety inspections, of a few marijuana cigarettes.

The "relation-back" doctrine is so called because the government's ownership of the forfeitable property—created when the accused is convicted after a guilty plea or guilty verdict—will be deemed to be first created and fully effective at an earlier point in time, namely on the date that the offense was committed.
Teacher, Long Noodle, Toad, Witch, and Crybaby look down at the grave. Our mother, the Old Bag, is being buried. I stand alone at one side, the other sisters ranged against me. I am on the shit list. I didn't remain Crybaby. I became Happybaby. They can't forgive me. We all got our names from Old Bag while we were still children, but Teacher gave our mother her name in recent years. It was at about the same time I changed myself into Happybaby. This is how it happened.

Being Crybaby, I was on the verge of spinsterhood (as it was known then), when I finally found a man I was willing to marry and who was willing to marry me. I am comfortable with him because he is also a crybaby, or what is now known as a wimp. Teacher, Long Noodle, Toad, and Witch approve of him. In fact, Long Noodle, who is divorced and living alone has invited him to stay the night during our courtship. She considers my property her property. But while it is relatively easy to annex a silver necklace, it is almost impossible to take possession of a one hundred-eighty-pound recalcitrant male. Being a backward person like myself, he has refused. Thank God!

Several years have gone by. My husband and I live peacefully and we even have a child. We do not have friends because both his family and mine have taken possession of our free time. They have, figuratively, moved in on us and we have accepted. That is our habit. Old habits are hard to break.

Then one day during a quiet moment of introspection after a difficult Thanksgiving dinner, during which Teacher's husband kept track of two ball games simultaneously on the radio and television, we decide to break the habit. Where are we to get the courage? We will have to resort to a "shrink" who can expand us. We are shrunken enough.

Several years into our transformation, I get a telephone call from Teacher. This has become a rare event. She is angry that we have given up family get-togethers, we are still married, and we have bought a tract house. She, of course, lives in an individually built one, which is as it should be.

By this time, my psychiatrist has hypnotized me into becoming Happybaby. My hair is pale blond again, I wear leopard skin pants and sometimes I don't wear a bra. My husband, who has shed his wimp persona, is not afraid to ask his boss for a raise, although he has to work late in exchange. He has bought me a diamond ring.
Not only that, but my daughter is beautiful and never answers back. I have two dogs, and I am not only in love with them and my husband, but, in between, with my psychiatrist.

"Why haven't you called Mother up," she asks. "You know she is having a cataract operation. That's the least you can do."

The psychiatrist has taught me to say things off the top of my head, so I say, "You never liked her. How come you want me to like her now?" She doesn't answer this. Instead, she says, "You're a mean, horrible person."

The psychiatrist believes in open communication. But she doesn't communicate any further. She hangs up.

I do not wish to be a mean, horrible person so I go to the hospital. Following the hospital, I am going out to dinner. I wear a blue velvet skirt, a pale blue satin blouse to match my eyes and the diamond ring. In my ears are gold earrings which go with the freshly and professionally set hair. Around my neck I wear a necklace made especially for me by a crafts­man in Vermont, who has fitted it to my neck and to my emo­tional make-up.

I go in to see my mother who is complaining, as is usual with her. "This room is terrible. The nurses pay no attention. And they don't change the bedding until afternoon."

"It's an expensive hospital," I say mildly. "You have a first­class doctor." I can't wait to leave because I am Happybaby now and don't want to be intruded upon.

"I have to eat slop," she says. I commiserate in a two­faced manner. In the middle of this Teacher arrives. She is wearing a nondescript brown dress. She is ten years older than I am and, as I scrutinize her, I realize she is showing her age while I am doing my best to hide mine. She looks me up and down while I cringe. An old habit.

"Where did you get the necklace?" she asks.

"I found it in a flea market," I lie, hoping to placate her. She says nothing about the diamond, although she is staring at it. I know that her husband, who is a short man and rather rotund, does not believe in ostentation. She agrees with him because he is rich and wealth is wise, so she doesn't have beauty shop hair, a mink coat or a diamond. They do maintain a Cadillac, but it isn't air-conditioned.

"Let's have lunch together," she says, during a break in our mother's list of complaints. With misgivings because Happybaby is only skin deep, I agree.

She chooses a seedy bar and grill and we order melted cheese sandwiches, since the menu is sparse. And we order a drink. For her a weak pink lady. For me, strong vodka and orange juice. I need it. The bartender winks at me from a distance and the waiter glances at Teacher, but looks at me and asks me what we want. I hope she won't notice.

Teacher is loquacious. "I could buy a Mercedes if I wanted to, but I can't drive," she is saying.

I sip the drink and bite into the sandwich with appetite. What's the harm in flirting with the bartender?
"We are leaving all our money to Gretchen...Nobody else is getting any money," she says. She is referring to her daughter. "He gives his family plenty, but no one in my family gets any. Why should they? It's enough I'm paying the hospital bills." "He" is her husband.

Relieved that apparently she won't ask me to share the cost of the expensive doctor taking care of Mother (soon to become Old Bag), or the expensive hospital room, I smile to the waiter and take a large swallow of vodka. I am relaxed, breathing easily and hardly listening.

My mind is far from wills. I am crazy in love. Not only with the beautiful spring weather, but with my husband, my daughter, my dogs, my psychiatrist, my gold-tinted hair. I have also fallen in love with the bartender and the waiter.

I order another drink. By the time I finish it, it's possible I will fall in love with Teacher too. She is nice and rich and not afraid to say so. I am poor in relation to her, but that is as it should be. Rich and poor don't mix, as everybody knows but, recklessly, I imagine we are friends, that she won't discern that I have become Happybaby, that she will forgive me for being younger, prettier and more attractive than she is. I go into the bathroom and unbutton my bra.

When I return, she is also drinking vodka and orange juice. "Our mother is a miserable creature," she is saying. "Always nagging, especially at Poppa. Sarcastic. Giving all of us mean nicknames. And full of jealousy and envy of her sister-in-law."

But instead of calling our mother, "Mother," she has shifted into "The Old Bag."

"Did you hear that Old Bag complaining?" she asks. I assume this is a rhetorical question, so I don't answer. "That's all she does. Nothing is good enough for her. She doesn't have Poppa to nag, so she is using me." Our father has died a while ago.

I am leaning back, eating slowly, sipping the drink. Thinking of my evening ahead in the French restaurant. "I'll tell you something I would ordinarily tell only to a psychiatrist. I hate the Old Bag."

I am imperturbable. I know the new way is for daughters to blame (hate) mothers. But how can I hate her when I love everybody. It's not consistent. My chin is resting on my hand and I am glancing surreptitiously at the bartender, who looks effete, like the kind of man I am comfortable with. I needn't say anything because words are pouring out of Teacher's mouth.

"Poppa was the sweetest man," she is saying. "Wasn't he?" I nod. I don't intend to share him with her. He's mine. Crybaby was his favorite, as she well knew. So she has to blame him for something.

"But when he became a religious fanatic, he must have gone a little crazy. It must run in the family, this craziness," she is babbling.

"Yes?" I say, with interest. "Is someone else crazy?"

"You know his sister killed herself?"

I am relieved. She hadn't been referring to me. To hold up my conversational end, I say, "Is religion crazy?"

"He grew a beard. That was crazy."
"Lots of men have beards nowadays," I say. "He was a little early." My head is swimming. "Or you could say he was a little late. Moses had a beard and some of the prophets also," I amend. I don't know whether or not this is true because I am not a Biblical person. I am more a current event person, if that.

"Besides becoming religious, which cut down on his earnings, he didn't provide for his wife after his death. His trust was in God, not trust in money in the bank."

I agree and, flippant, reply, "That's why they call them 'trust funds.'"

"A trust fund is a guarantee of the future," she says, assuming correctly that I don't know what a trust fund is. I am completely lost in this arena. "Does your husband have a will?" she goes on, having known him in the past as a backward person.

"Yes," I say. I am not thinking of his death right now. I am thinking of him in bed. Actually, he doesn't have a will. There is hardly anything to leave and he is reluctant to think of death. So as not to be a complete liar, I say, "What difference does it make? Our assets are minuscule." I stumble over the word, "minuscule," because my tongue is recalcitrant.

"What will happen if he dies?"

I stare out of the window and the lovely sunshine seems to darken and I begin feeling sorry for myself. I am sliding into Crybaby. While I'm doing so, she says, touching a sore spot, "You've put on some weight." She has a flat, hard stomach, unlike mine, which provides a soft cushion for the head of any male who cares to sink in. If not watchful, I tend toward chubby, (to put it kindly). Although this is not one of my chubby times, I believe Teacher, like Crybaby always did. I slide down in the booth so that the effete bartender won't notice how fat I am.

"Did you know that the Old Bag wanted to divorce Poppa? I had to reconcile them. That was before your time."

I do remember. She must have been near twenty and already she was called upon to be mother to her own mother. I observe her with compassion. Being Crybaby was real convenient. It elicited mothering, which is more than she got. So I say, "It must have been hard for you."

She doesn't want my sympathy. Sternly, she says, "The least you can do is visit her."

If I do, I know I will bump into one of the others. I repress the impulse to recite a list of grievances. Witch slapped me around, Teacher said I slumped, Long Noodle said I was ugly, and Toad repeated what I said but with a different inflection. Old Bag, as I am beginning to think of her, was strictly hands off.

"Long Noodle said I was ugly," I say, to sum it up.
"Can't you forget the past? I have."
"You remembered about the divorce which happened thirty years ago."
"You always say nasty things. Start from now. Like me."
"All right." I am experiencing suffocation. "It's getting late."

She insists on paying. "When you're with me, I always pay."
I'm still little Crybaby in her mind whose lunch has to be paid for. I stand behind her as she is paying. I was always shorter but now I'm taller. I glance over to the bartender, who is making change, and I meet his eyes. He winks at me. He hasn't noticed that I tend toward chubby if I don't watch out. Teacher observes his flirting.

"Did you notice that he is gay?" she asks, as we stand outside while she counts her money.

We walk slowly to the bus stop and as I wait with her I put my arm around her. She is stiff and unyielding, as usual. She is not accustomed to hugs and kisses. I kiss her. I have never done so before.

She is going back to the hospital and I am running, running. "It is my duty" she says, as she gets on the bus.

I get into a taxi. I am not Crybaby. I am Happybaby. I will forget Long Noodle, Witch, Toad, Old Bag, and Teacher.

But here we are, together again, around the grave. We are old. Hopefully, I look towards them. They are cold, distant. I should have remained Crybaby. Then they all would have loved me, the way they always did. Only when I was crying.
The War of 1812 temporarily halted the tide of immigration flowing to the land west of the Alleghenies. But once hostilities ceased and the Indian menace abated somewhat, a flood of humanity poured into the “west”—Kentucky, western Virginia, Ohio, and beyond.

The land beyond the mountains was rich, far richer than anyone then imagined, but it was isolated. Bountiful harvests from the land and beneath it lay useless and low-priced on one side of the mountains while the necessities of life—coffee, iron implements, real cash—lay on the other. Individuals, organizations, and representatives from towns and states met in an attempt to solve this problem. A transportation system was required, a transportation system more reliable than the rivers that were dry in the fall and frozen in winter, or the spring mud-holes and winter axle-breakers that were the common roads.

New York State and DeWitt Clinton scored first and big in 1817 with the initiation of the 364-mile-long Erie Canal stretching from Albany on the Hudson River to Buffalo on Lake Erie. Before the canal was half-finished, New York City, by virtue of its soon-to-be-completed link with the west, took the nation’s commercial leadership from Philadelphia and threatened to run away with it. The state of Ohio planned two north-south canals tying the Ohio River with Lake Erie and gaining access to eastern markets via the Erie Canal. Philadelphia merchants stampeded the Pennsylvania legislature into authorizing a system of canals, inclined planes, and horse-drawn railways across the entire 390-mile length of the state.

By the early 1830s, nearly every state east of the Mississippi River could boast hundreds of miles of navigable canals. Not all were judiciously planned or financed, but for a while at least, until transportation technology developed locomotives that could negotiate the rugged American terrain, and iron rails that could withstand their powers, the canals reigned supreme.

Nothing, perhaps, epitomizes the glories of the canal age as much as visions of the magnificent Express Passenger Packets, flying along at near the speed of a trotting horse, six white stallions with belled harness a-jingling in front of the gleaming
white-and-green-trimmed craft with an immaculately-clad captain tending to the passengers' every want and desire. Charles Dickens's vivid description of travel on Pennsylvania's Main Line and Mrs. Trollope's acid-tongued accounts of her experiences on the Erie seem to be mandatory in any written account of the canal-age of any state or system. But each system of canals, by custom and necessity, developed craft designs and operating procedures unique to themselves. The Ohio & Erie Canal was no exception.

The first section of the Ohio & Erie Canal to be opened for traffic was the thirty-seven-mile northernmost stretch between Akron and Cleveland. On July 3, 1827, a boat credited by most historians as being the first canal boat constructed within the state, and named, appropriately enough, the State of Ohio, left Akron for Cleveland carrying dignitaries to the opening ceremonies scheduled there for the next day. On board were the Governor, several of the Canal Commissioners and Canal Fund Commissioners, plus a number of passengers who paid $5 each for the privilege of making this historic journey. Thus, passenger traffic on the Ohio Canal was inaugurated the day before it was officially opened.

That same month, July, John Blair of Cleveland brought the boat Henry Clay from the Erie and began a freight and passenger line. He had a sign painted for the boat's side, "The Farmer's Line—Night And Day." Blair also acquired the Sun under Captain Munson and began a regular passenger service between Cleveland and Akron on September 25, 1827. No record exists of how long the average trip took, but with a new canal, and hundreds of tons of freight rushing in both directions before winter came, clogging the canal and causing delays at the locks, it's no wonder that the Sun was given plenty of time to complete its journey. For the rest of the 1827 boating season (the canal froze over around Christmas that year) the Sun left Cleveland at 8:00 p.m. each Monday and Friday and left Akron for the return trip on Tuesday and Saturday afternoons at 5:00 p.m.²

As completed sections were added to the Ohio Canal (it was finished through to Portsmouth on the Ohio River on December 1, 1832), additional passenger boats were added. For a number of years to come, though, the Ohio Canal could boast no true express packets such as those of the Erie Canal, those narrow, swift, top-of-the-line craft that carried only through passengers, express freight, and, often, U.S. mail. Instead, the combination boat, with several bow and stern cabins fitted up nicely for passengers, but with the mid-ships reserved for cargo, reigned supreme on the Ohio Canal.

Charles Dickens never traveled on the Ohio Canal, but Alexander Phillip Maximillian, Prince of Weid in Rhenish, Prussia did. In 1834 he took a trip from Portsmouth north to Cleveland and described a typical early Ohio canal passenger packet:

This fine canal is navigated by numerous boats, which are built on the same style as the keelboats of the Missouri, but have many convenient small chambers; they are from seventy to eighty feet in length, fourteen in breadth, and are drawn by two horses, on which the driver is seated. These Ohio Canal
boats are not so well arranged and fitted up as those on the Erie Canal, where they have distinct boats for goods and passengers, which is not here the case. They are also slower, because fewer horses are employed. In the middle of the boat is the long space for the goods; in front two small cabins; and at the back is the saloon or dining room. At the sides of the cabins are cushioned seats, on which, as well as on the floor, the beds are arranged for the night. In the other cabins are berths for the ladies.3

We also have a description of the ladies' cabin on one of these boats that would have done Mrs. Trollope proud. Mary Pratt, wife of the first President of Granville College, traveled from Cleveland to Newark aboard a canal boat in 1831 and described her accommodations in a letter to her parents:

The boat on which we last took passage was so crowded with passengers as to render it very uncomfortable and unhealthy. Our party was composed of men, women, and children—and even babies, the noise of which you know I am not overly fond. Such an unrefined, illiterate, filthy set I never saw before and do not desire to see again.

The ladies' cabin was nearly half as large as your little kitchen, with six berths in it. Six grown women, three of which had babies, and one little girl, were stowed into this place. I occupied an upper berth, which was so high that I was in reality placed on the upper shelf.4

Lift locks, the method of going from one elevation to another on the Ohio Canal, were fifteen feet wide by ninety feet long.5 This limited the size of all canal boats to a length of from seventy-five to eighty feet and a width of from thirteen and a half to fourteen and a half feet. The early packets from the heavily traveled eastern canals such as New York's Erie and the Pennsylvania Main Line were narrow and sleek. A

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**Advert for the Ohio Canal Packet Boat Company**

**Daily Line of Ohio Canal Packets**

**Between Cleveland & Portsmouth.**

**Distance 309 Miles—Through in 80 Hours.**

A Packet of this Line leaves Cleveland every day at 4 o'clock P. M. and Portsmouth every day at 9 o'clock A. M.

T. Ingraham, Office foot of Superior-street, Cleveland, & Agents.

Otis & Curtis, General Stage Office, do.

G. J. Leet, --- --- --- Portsmouth.

Neil, Moore & Co.'s Line of Stages leaves Cleveland daily for Columbus, via Wooster and Hebron.

Otis & Curtis' Line of Stages leaves Cleveland daily for Pittsburgh, Buffalo, Detroit and Wellsville.
A typical Erie packet was eleven feet wide by seventy-five feet long with a five-foot high cabin on deck, even though locks on that canal were the same size as those on the Ohio & Erie. Ohio's packets, even the early ones, used the full available dimensions, though their lines were somewhat sleeker than those of the freight boats that were developed later to crowd the maximum amount of tonnage into a limited package.

A typical Ohio Canal passenger packet of the 1830s was seventy-seven to eighty feet long, and fourteen feet wide, with a long low "house" over its entire length that was divided into many small compartments. Located at the stern of this typical packet were the kitchen and cooking apparatus, along with the sleeping rooms for the cook and crew, and the Necessary Convenience. Next came a cabin about ten feet square which was the saloon or dining area. In the middle of the boat would be the long space for the cargo. Next would be two small cabins in the bow, sitting rooms for the passengers, one about ten by twelve feet used by the gentlemen and a smaller cabin about ten by five feet for the ladies. Occasionally the two would be separated by only a curtain. This caused some embarrassment if the boat should be slammed against one of the stone walls of a lock while being raised or lowered to another level and unceremoniously pitch a passenger into the area reserved for the opposite sex, particularly if the traveler had been preparing for bed.

One advantage of traveling by canal was that miles could be traveled while a passenger slept. The sitting rooms and dining hall converted into sleeping quarters. Aside from Mrs. Pratt's "upper shelf" and the grim admission of one young traveler that sleeping in a canal boat berth gave a person "about as much elbow room as a man might find in his coffin," some of the sleeping arrangements on Ohio's early packets weren't bad. Cushioned settees within the sitting rooms...
doubled as sleeping couches. Additional cushions strewn about the floors of the other cabins took care of the remainder of the passengers. All of this luxury, including meals, which was in the American tradition of “heavy, salty and a lot,” cost the traveler about $.05 per mile. At that rate, a trip the entire length of the canal from Portsmouth to Cleveland would cost about $15.45.

These early Ohio Canal packets were slower than many of the eastern packets. As a rule they employed fewer horses, and their larger bulk didn’t permit speed. A speed limit of four miles an hour was imposed upon all boats navigating the Ohio Canal lest the waves from the wake of a faster craft damage the channel’s earthen banks. Also, the captains of these early packets paid little attention to strict schedules, but “sailed” whenever expected cargo and/or passengers were on board.

Until 1837, no formal locktenders were employed by the state for the Ohio Canal. The captain of each boat was required to send a crew member on ahead to “fit” a lock as they came to it. When there were many locks per mile, therefore, it was useless to work the animals at a faster pace than a man could run. Occasionally, to help make time, able-bodied male passengers were pressed into service to assist in fitting the locks.

Cyrus Bradley, a seventeen-year-old Dartmouth College student, took a western trip in 1835 and kept a rather detailed journal of his experiences, which included taking a packet north out of Portsmouth:

Several steamboats arrived last night and this morning, and brought several more passengers, so that we are sufficiently crowded for all good purposes. Indeed, I began to suspect that the captain, having no freight, was not particularly anxious to cast off last night (when promised) but was willing to add to the number of his passengers. . . .

Our breakfast was plain enough, a piece of bacon, a piece of mackerel, both salt as the Atlantic, baker’s bread and butter. . . . Close to Portsmouth are a number of locks, and we were a long time getting started. At one place we had to go ashore and assist them in opening the gate. This kind of traveling is undoubtedly pleasant enough for a short time, when one doesn’t feel in a hurry, so as to feel impatient at the delay of the plaguey locks. There are a great many of them on this canal in its whole extent—no long levels, as in the great New Yorker. They go slow, about sixty miles a day.10

Though a packet could approach a speed of four miles an hour on the levels between locks, the time required to fit and negotiate the numerous locks on the Ohio & Erie (there were 146 of them between Cleveland and Portsmouth) limited a day’s travel to the sixty miles noted by Bradley. A pace of eighty to ninety miles per day was regularly maintained by the packets on the Erie.11 A trip on an early Ohio Canal packet from Lake Erie to the Ohio River would take a little more than five days, though if accidents or breaks in the canal banks occurred, hours or days could be added to that time.

There were no locks or speed limits upon the roads and a traveler could average more than four miles an hour by stage if he could arrange for daylight, good weather, and passable roads. The problem was, the majority of the roads in Ohio, as
in the rest of the country, were literally impassable for wheeled vehicles much of the year. Severe accidents and overturned carriages were common occurrences. Young Bradley grew impatient at Chillicothe and he and three other passengers rented a hack to go to Circleville, where they caught a stage. His narrative continues above Columbus:

The road in the afternoon was, if possible, worse than before dinner. Besides the usual depth of mud, we would occasionally, without warning, dive into a hole of unknown depth, filled with a black mud, whose murky consistency effectively concealed the mysteries of the interior—and there stick. This they called being stalled—and on such occasions we were obliged to take a fence rail and help along. At one of these “swales” we broke our main tug and most of us concluded to walk on while it was repairing.

Where the fences were not covered up or carried away, we usually crossed these places by an interesting process which these fellows term—“coon the fence”—that is by clinging to the fence rails with fingers and toes and worming along in the best manner the case will admit of. For inducing a general perspiration, I know of nothing which surpasses it. But the grotesque figures, the grimaces and the reluctance which some of our grave old gentlemen displayed at this undignified and laborious way of traveling, was truly amusing. Being rather active, I generally got over first and then had a fine time laughing at their awkward maneuvers and occasional faux pas.

Apparently, in spite of their shortcomings, the early Ohio Canal packets were used by the wealthy and influential.

The packet lines, or companies, during this period of time appear to have been loosely knit groups of individual boat owners and renters of towing animals. What schedules there may have been were hardly adhered to. A runner for a hotel or steamship line would inform prospective passengers that a packet was about to leave port. When the vessel was loaded as full as the captain desired, he would leave. It would take an early Ohio packet as long to get to its next stop as it took, and then the whole procedure would be repeated.

All this changed, at least in intention, in March of 1837 when the Ohio Canal Packet Boat Company was organized in Cleveland for $50,000 as a private stock company. The company had a fleet of “eight new and well-furnished boats,” one of which left Cleveland and Portsmouth every twenty-four hours for the three-day trip to the canal’s other terminus. These craft, then, were true express packets, running on fixed schedules between the major cities on the Ohio Canal and junction points with other canal systems. The next five or six years can be considered to be the heyday of passenger travel on the Ohio & Erie Canal.

These express packets carrying only passengers, express packages, and U.S. Mail ran the length of the Ohio canal and its major branches. Schedules were set up so that interconnections could be made for travelers heading in any direction. Packets running north and south on the Ohio Canal interchanged at Lockbourne with boats coming down the feeder canal from Columbus, at Dresden with travelers from the Muskingum and Lower Ohio River steamers, and at Akron with the eastern packets of the Pennsylvania and Ohio Canal.
Travelers could then leave a packet at either Ohio canal terminus and book passage on a steamer for any port along the Great Lakes or Lower Rivers. During this heyday period, the Ohio Canal packets were equal in speed and comfort to any in the nation. Nineteenth-century British author James S. Buckingham left Columbus on a packet bound for Portsmouth on April 30, 1840. He found the canal-boat quite as commodious as those on the Erie canal, in which we had traversed part of the State of New York, but with the same inconvenience of course and disagreeable companions as fellow travelers, though the Captain and his wife who superintended the ladies' cabin, were both very desirous to gratify our wishes, and made us as comfortable as their arrangements would admit. The boat was drawn by three horses and our rate of speed was about four miles per hour. The canal was in good condition, the weather beautiful. These packets were the epitome of fashionable traveling. Nearly everything the railroads did later with passenger trains were, in reality, echoes of things done on the packets. Dining while traveling, mail runs, sleeping berths, even political excursions had their beginnings with the packets. During the presidential campaign of 1840, when the Whig nominee, William Henry Harrison, was to speak in Chillicothe, the owner of the New York and Ohio Line, apparently a staunch Whig, offered free passage on his packets to the event to any good Whig who cared to attend. Over 200 people from Portsmouth traveled free by packet to the convention. A packet's dimensions weren't materially increased during the heyday. Though the area previously designated for cargo was now converted to passenger cabins, space on any packet

Canal system of Ohio at its greatest extent (in the 1840s).
was necessarily at a premium. Men and women of the highest 
social strata in the 1830s and '40s weren't used to eating, 
sleeping, or existing in close proximity to non-family members. 
All complained, but many quickly became familiar with the 
close quarters and found the experience enlightening. As 
young Bradley put it when he left his packet at Chillicothe:

We chartered a hack, with two seats and four horses, and put 
off about eight. There were four of us, all old friends; that is 
we had been thrown together in the same boat for twenty-four 
hours, and he must have an abundance of sourkraut in his 
composition who does not get acquainted with his shipmates 
under such circumstances.\textsuperscript{19}

In the early days of packet traveling when passenger man­
ifests were high, narrow canvas "sleeping shelves" were sus­
pended from the cabin walls upon thin cords. With the use of 
hammocks, a packet could sleep ten men in a ten-by-ten-foot 
cabin. When conditions were less crowded, however, and in 
the more luxurious latter-day packets, passengers on the Ohio 
Canal slept on cushions scattered about the cabin floor or on 
convertible settees.\textsuperscript{20} The early combination packets carried

\begin{center}
\begin{tabular}{|c|c|c|c|}
\hline
NO. & NAME & CAPTAIN & HOME PORT & YEAR REPORTED \\
\hline
1 & SUN & MUNSON & CLEVELAND & 1827 \\
2 & DOLPHIN & LEWIS & COLUMBUS & 1832 \\
3 & INDIANA & & PORTSMOUTH & 1835 \\
4 & GRIFFITH & SHANKLIN & CLEVELAND & 1838 \\
5 & TRAVELER & & & 1838 \\
6 & ANTELOPE & HECOCK & CLEVELAND & 1839 \\
7 & LA GRANGE & STEPHENS & AKRON & 1841 \\
8 & ROB ROY & & CLEVELAND & 1843 \\
9 & ECLIPSE & HENRICK & MASSILON & 1849 \\
10 & FASHION & LEMON & CLEVELAND & 1849 \\
11 & PETUNIA & ASSON & CLEVELAND & 1849 \\
12 & AKRON & ELRED & CLEVELAND & 1850 \\
13 & CLEVELAND & LEWIS & CLEVELAND & 1851 \\
14 & BOSTONIA & WILLIAMSON & CHILlicoTHE \(\text{converted to steam freight boat in 1860}\) & 1859 \\
15 & EVENING STAR & & PORTSMOUTH & 1866 \\
16 & EAGLE & SHOOP & Waverly & 1874 \\
17 & FITCH \& SON & & PORTSMOUTH & 1874 \\
18 & WAVE & & PORTSMOUTH & 1874 \\
19 & CAPITAL & & PORTSMOUTH & 1874 \\
\hline
\end{tabular}
\end{center}
from twelve to twenty people in their bow passenger cabins. The Ohio Canal express packets carried a maximum of thirty to fifty. Apparently their owners never resorted to the flagrant overcrowding found on several of the packet lines on the eastern canals. On Pennsylvania's Main Line, craft no larger than those in Ohio were reported to have carried as many as 150 people! In some cases, though, captains of the Ohio packets did follow a Pennsylvania practice and assign sleeping locations by lot. As one man testified after an 1838 trip on a packet from Cleveland,

Shortly after leaving there the list of names was called by the Captain, so that the passengers should choose their berths in order. I had the good fortune to stand third. So large a number of persons as there were on board necessarily created much confusion; not a few of those last called having the last choice, grumbled at their quarters for the night.

To maintain the advertised schedules, it was necessary for a packet's horses to be kept at a brisk trot. One Ohio line, in 1837, bragged that their boats could make the 309 mile trip from Cleveland to Portsmouth in eighty hours. This dictated that an average speed of nearly four miles per hour be maintained for more than three days!

The pulling force required to keep a loaded canal boat moving varied directly as the square of the speed. In other words, it took four times the force to pull a boat at four miles an hour than it did at two miles an hour. And to get a boat up to speed from a dead stop after each of the 146 lift locks required a temporary output of maximum force from the towing animals.

This burned up horses fast. It was estimated that a horse could be used to tow canal boats for only one to three years before it was worn out. Mules could stand the work better than horses and were used to pull packets on a few of the nation's canals, but there is no direct evidence of their being used to any great extent on the Ohio & Erie.

A team of horses, therefore, was limited to working no more than ten to fourteen miles before they were replaced with a fresh team. This meant equipping and maintaining way stations all along a packet's route. Obtaining the horses and boats and setting up the extensive system of way stations needed for an express packet line required a large outlay of cash before a line could even begin to handle passengers. It is little wonder that the Ohio Canal Packet Boat Company had to capitalize for $50,000.

A financial panic struck the entire nation in 1837 and it was an inauspicious time to begin any new business that required extensive outlays of cash. Another collapse two years later shattered what remained of the nation's economy and considerably reduced public acceptance of paper currency. It was in this economic atmosphere that the Ohio Canal's express packet lines attempted to operate. Passenger traffic on the Ohio Canal actually grew during this period, peaking around 1840; but it was the cheaper line boats carrying bankrupt immigrants from the east to new beginnings in the west that kept the numbers up.
There were fewer and fewer Ohioans with cash who could afford to patronize the express packets. Through the years, passenger lines came and went. The Daily Line, Ohio Line, and New York & Ohio Line were only three. In 1842, the short-lived Mail Line was established. North- and south-bound mail packets continuously traversed the state between Cleveland and Portsmouth. Akron's connection with the P. & O. and the east was considered important enough that both mail packets were scheduled to interchange there between 7:00 and 8:00 a.m. each day.27

At least one line operated two sets of packets, one on a northern division and one on a southern division. William Case of Cleveland describes at least one such interchange that took place in June of 1838:

At One p.m. we arrived at Frazeysburg. The Griffith proceeds no further, as this is the end on the northern section, 155 miles, one mile more than half through. The other section is run by another boat, the Traveler I think. They intend to meet here at the same time, but the boat from the north generally arrives four hours sooner than the other. I cannot imagine what inducement there can be to stop here instead of Newark, some 20 miles farther. This is a little insignificant, dirty Dutch place of a dozen houses, with not even the convenience of a decent tavern to rest in, while at Newark a stop of two or three hours would be very interesting.28

Economic conditions continued to worsen, and 1842 appears to have been the last year for the through express packets with the expensive system of way stations.29 When no less a person than former President John Quincy Adams traveled between Akron and Columbus in November of 1843, he traveled in a packet that carried its relief animals in a stable on board the boat! President Adams described the packet Rob Roy as sumptuously set up with six compartments, settee beds for all and a dining hall for thirty people, but there were those horses on board!30

But Ohio canal packet service didn't die out completely, not just then. As the national and local economies improved during the late 1840s, there proved to be some local markets for the finest in traveling luxury. In July of 1840, Curry's Cleveland and Akron Express Packet Line began operating with two packets that were "new and nicely fitted up for the accommodation and convenience of passengers, with separate cabins for the ladies and gentlemen."31 The two boats, Fashion and Petunia had to run at an average speed of close to four miles an hour to maintain their schedules.32

Then, in October of that year, a third packet, the Eclipse, joined the other two and began making the sixteen-mile circuit between Akron and Massillon on a schedule that allowed passengers to travel from Cleveland to Massillon with a change at Akron. The company changed its name to Curry's Cleveland and Massillon Express Packet Line and was quick to point out in its advertisements that their line connected at Massillon with Ward's Daily Stages to Zanesville. The fare from Cleveland to Akron ($1.00), and to Massillon ($2.00), might have indicated some unusual expenses in the Akron-to-Massillon
run. It isn't clear how the problem of maintaining fresh towing animals was solved, but we can assume the motive power was changed at the Boston stop, thus requiring each team to work a stretch of sixteen to eighteen miles—a long, but not prohibitive distance in those pre-SPCA days. There is also some indication that the old packet boat stop at Johnny Cake (Everett, Ohio) was in operation from 1837 to 1852.

The Curry Line may not have made any money, for they didn't operate the next year. But the business must have looked promising, since the 1850 boating season found a new packet line running between Cleveland and Akron with, if we are to believe the copy, "new" boats. The run to Massillon wasn't offered, but the packets Cleveland and Akron were promised to be the last word in convenience and comfort. As their ad writers put it,

These boats have separate cabins for ladies well furnished with every accommodation requisite for comfort and convenience and commanded by careful, experienced, and gentlemanly Masters who will use their best efforts to render pleasant and agreeable the passage of their patrons. Each packet also has an iron safe for articles of value and will convey express packages.

The owners of this line, Chamberlin & Crawford, reportedly made money, but railroads were being constructed at a rapid rate in the area, and Chamberlin & Company moved the line to Columbus before boating began in 1851. There they expected to run a profitable business for several years at least, free of immediate railroad competition.
The Cleveland & Pittsburgh R.R. began operating between Cleveland and Ravenna (on the P. & O. canal) in the spring of 1851. Stages met the rail cars at 10:00 a.m. and 6:30 p.m. each day in Hudson to convey passengers to and from Akron and Massillon. Persons with a strong desire to ride passenger packets could board one of the boats of the Clark, Parks & Company line a half hour later in Ravenna for Beaver, Pennsylvania, and the river steamers to Pittsburgh.37

Though Crawford & Company had relocated their packet line at the beginning of the 1851 season, they still operated a freight forwarding business in Cleveland. Then, in July of that year, apparently reconsidering their decision regarding packets, they reentered the express packet business between Cleveland and Akron with two "new" boats, carrying the same names as the previous year with at least one of the old captains.38

The boating season for 1852 found Chamberlin & Company again offering an ambitious express packet line, but that year appears to have been the finale for passenger packets on the northern division of the Ohio & Erie. The Chicago & Pittsburgh R.R. was completed through Massillon early in 1852, and the Akron Branch R.R. was finished to Hudson in July of that year. The Cleveland & Pittsburgh R.R. advertised their summer schedule for 1853, but whereas in previous years mention had always been made of the connection with packet lines, now it was simply stated, "The above trains connect at Hudson with the Akron Branch R.R."39

The southern end of the canal, not as affected by railroad competition, was able to maintain limited packet travel for quite a few more years. But the completion in 1876 of the Scioto Valley R.R. south from Columbus, parallel to the canal, removed the last need for passenger packets on the Ohio & Erie Canal.40

It was still possible for an individual to take passage aboard a canal boat even after that. Some independent boatmen fitted up their craft to take an occasional passenger; and the line boats still carried both passengers and freight upon occasion for another five to ten years. But the fleet, fancy Ohio Canal passenger packet disappeared into the smoke and steam of the faster passenger trains about ten years before the Civil War on the northern division, and some ten years after the war on the southern. ■

Notes
2S. J. Kelly, "Old Boats of the Erie & Ohio Canal," The Cleveland Plain Dealer, 1943. Though touted as a passenger packet, the Sun was also set up for, and carried, freight.
4Diary of Mary Pratt, 1831. Copy now in the possession of the Licking County Historical Society, Newark, Ohio.
5Rules and Specifications Relating to the Construction of the Ohio Canal: and the Estimating of Work Performed Thereon, eleventh annual report of the Canal Commissioners (Columbus OH, January 22, 1833).
Every written account of travel on the Ohio & Erie confirms that the boat dimensions approached those of the locks.

*Samuel Hildveth, *Journal of a Visit to Boston, Etc.—1839*, in *Genealogical & Biographical Sketches of the Hildveth Family*, by Samuel Hildveth (1840), Miami University, Miami OH.

*Harry N. Sheiber, Ohio Canal Era (Athens OH: Ohio University Press, 1969). Also *Journal of Cyrus Parker Bradley* (1835), published in the June 1906 volume of the publication of the Ohio Archaeological & Historical Society, Columbus OH. Sheiber, on p. 235, mentions the lack of lock tenders on the Ohio Canal. When they did exist, their duties appear to have been mainly those of keeping the mechanisms working, not to fill locks for boat crews. Bradley recounts instances of passengers assisting in the fitting of locks and he bemoans the number of locks and the delays they cause.

*Bradley.*

*Bradley* recounts the mileage made each day of his trip and estimates the sixty-mile-per-day figure. Harlow, Chapter XXXII, states packets on the Erie made eighty to ninety miles per day as a matter of course.


*Bradley.*

*Hildveth, Maximillian, and Bradley all speak of the "We’ll leave when ready" aspect of traveling on the Ohio Canal.

*An advertisement and an article in the Cleveland Herald (March 2, 1837)* describes the beginning of the Ohio Packet Boat Company. The collection of the Massillon Museum in Massillon, Ohio, contains a copy of that company’s stock certificate showing a capitalization of $50,000.

*Sheiber, 236.


*John R. Grubb, The Canal: Its Rise and Fall in Ross County (Chillicothe OH: 1985), 14.*

*Bradley.*

*Bradley.*

*John Case, "Travel on the Canal—1835, recounted in Cleveland Plain Dealer (March 6, 1943), S. J. Kelly’s column.

*Civil Engineer’s Pocket Book* (New York: John Wiley & Sons, 1885), 377.

*Ringwald, 54.*

*Samuel A. Lane, Fifty Years and Over of Akron and Summit County (Akron OH: 1892), 66-7.*

*Annual Reports of the Board of Public Works, 1837-1845* shows the number of passenger arrivals and departures at various cities along the canal. Harlow, Chapter XIII ("Westward Ho"), chronicles the western migration by canal. Passenger traffic on the Ohio Canal peaked at 52,922 in 1842, then fell off to 50,145 in 1843, despite a big increase in traffic at Portsmouth.

*Advertisement, Summit Beacon (May 4, 1841).*

*Case.*

*Seventh Annual Board of Public Works Report (January 1844).*

*Memoirs of John Quincy Adams, vol XI (1876). Also Journey Through a Part of the United States of America in the Years 1844 to 1846*, by Dr. Albert C. Koch, trans. Ernst A. Stradley (Carbondale, Edwardsville IL: Southern Illinois University Press, 1972). Both of these state that Ohio & Erie packets of the 1840s carried their spare teams on board.

*Advertisement, Summit Beacon [July 18, 1849].

*Canal Commissioner’s Report for 1829 (January 1830).*

*Advertisement, Summit Beacon [October 24, 1849].

*Lane, 656.*

*Advertisement, Summit Beacon [April 3, 1850].

*Article, Summit Beacon [May 14, 1851].

*Advertisement, Ohio Repository (April 9, 1851).* Papers in Cleveland, Akron, Massillon, Canton, New Philadelphia, and Coshocton were asked to copy the advertisement and bill the packet line $2 per insertion.

*Advertisement, Summit County Beacon (November 12, 1851).*

*Advertisement, Summit County Beacon [May 25, 1853].

*Grubb, 16.*
The Detectives

Take the man in the crowd
who seems to hang off from
the rest, who watches the
door or smokes on the porch.
He's the one we're after.

Not the woman in red
dress who courts the mayor,
or lawyer with Scotch who
watches above his glass
the lady professor.

Bring him into the room
with the wooden desk, grab
his shirt and slap him twice,
as stoolies were slapped in
movies in the forties.

If he won't talk, why at
first we'll offer him a
cigarette and stare out
the window ourselves or
take a walk in the dark.

When we come back, we'll piece
the things he says into
a confession, and hope
he won't think the story
good enough to get him
life, then sing out the rest.
For if he does we must
release him quick, forget
him fast and, in his case,
forgive him everything.

Trent Busch teaches
English at Valdosta State
College in Valdosta,
Georgia. He was edu­
cated [B.A., M.A., and
Ph.D.] at the University
of Utah. His poems have
appeared in The Hud­
son Review, Poetry,
Commonweal, North
American Review,
Georgia Review, and
elsewhere. When he is
not writing poetry or
teaching, he builds wood
furniture and cultivates
his orchard—pears,
apples, plums, and
grapes.
Trent Busch

**Left**

I cross the ridge's back.  
I travel west,  
right hemisphere  
in control.

It is a bloody trip,  
full of reptile teeth  
and eyes in trees,  
mapped illogically  
and filled with fear:

low cave with  
a hundred ready  
snakes, darkening  
sky behind them,  
astonished girl  
whose naked breast  
is smeared  
for sacrifice,  
awakened face  
falling from a bed  
built in branches.

And the ridge itself  
alien, trying  
to topple me  
into right-handedness.

But I travel west,  
sinister left  
leading to the valley  
of serpents  
and certain evil,  
unchained, wrong-headed,  
making my awkward  
and primitive way  
past the flaming swords  
protecting Eden.
J. B. Goodenough

New Neighbors

Homesteaders: he tends
To house, she to garden.

She plants both by book and
Hearsay, hedging her bets:

In her new dirt she plays
It safe with perennials,

The guaranteed return of
Poppies, phlox, mint, daisies.

She trusts to zucchini
And cucumbers, sure things.

And by the road she sets
The post of her mailbox deep,

Hoping there too for
Good crop and early yield.

Summer House

We have folded the blankets,
Upended the dishpan,
Brought in the clothesline.

We have locked away
Soap from the winter's mice,
Meal from the weevils.

We have closed the flue,
Locked the windows,
Nailed the screen door shut.

We stand on the front porch,
Ready to go.

Inside, the clock,
Winding down, strikes noon.

J. B. Goodenough lives in
Pittsburgh, where she
works at being wife,
mother, housekeeper,
drudge, chauffeur,
painter, quilter, musician,
songwriter, gardener. She
was educated at Harvard
University. She believes
that "I' is often very dull
reading, unless you can
move 'I' into a world of
your own making." Her
first book of poems was
Dower Land (CSU
Poetry Center, 1984); her
second is forthcoming
from St. Andrews Press
in North Carolina.
Even Parnassus has its slum quarter: You've opened an anthology of modern poetry, say Paul Carroll's *The Young American Poets*, by chance at page 364, and you find there, in a characteristic synthesis of Aram Saroyan's poetic vision, a single word, unaccompanied, and unadorned by typographic embellishment:

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oxygen
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A chastening experience. Why would anyone think of collecting such stuff?

In fact, the defense has quite a case. Between the poems of A. R. Ammons and those of Louis Zukofsky, taken as convenient alphabetical bookends, a sympathetic reader can share in what is often a luminous and moving literature. True, the twentieth century has choked the presses with pap. But in our time we have also met minds and hearts that have shaped a language that can, in Dickinson's phrase, make you feel as if the top of your head has been taken off. *It is lean, or not. It has rhyme, or none. It gathers itself into neat little stanzas or splashes out across the page. No matter. Real poems are being written, some even read.*

In the reading of this poetry, in the subjective search for what seems worth saying and well said, a slow or sudden transformation takes place: the reader is snared by a line from Roethke, "I measure time by how a body sways," and gets himself entangled in the whole oeuvre. He becomes . . . The Collector. Combative and voracious, he elbows his way through the opening-day crowds at book sales, snatching and grabbing for the rarest treasures. In small moments, he leafs through dealer catalogs, looking for the elusive *Ommateum With Doxology*, Ammons's first book, a vanity press rarity that ranks with the most desirable volumes in a modern poetry collection, priced around $800; or *Jim's Book*, by James Merrill, now fetching near $4000 in the first edition marketplace.

People become collectors because they want to possess books. They believe they can feel a special kinship that comes with owning a poet's book; they need to have the book at hand, to be able to call upon the poet at their convenience, even when the poor writer's not feeling well, or is out of town. Others will wonder at this passion. After all, one can
find all the poems one wants in the local library. No need to buy—simply borrow. But no, we need to be near the thing we love. Or at least we publicly offer that as motivation: collectors are sometimes moved by lesser, some would say ignoble, motives.

Investment, a more genteel word than greed, remains a strong motive for collectors, even for collectors of such a fashion-fickle product as poetry. Prices rise and fall with reputations. Should one order the limited edition of Seamus Heaney’s new work, *The Haw Lantern*, with the expectation that market pressures will push up the value in years to come? His volume from the Limited Editions Club was published six years ago and already commands—in some shops—more than twice its published price. Still: no open market exists to establish the firm value of any book. Auction records are thought by many to represent real value; they report what was actually paid for a book, not simply what is being asked. But practically speaking, few of the titles you’ll own will ever have found a place in an auction room. The bulk of any modern collection will consist of the commonplace. You’ll have to rely on your own good sense and dealer values to judge the worth of a book, keeping in mind that no dealer can offer more than a fraction of his selling price. So your investment will have to appreciate to at least twice its original figure before you can think of breaking even. If this bothers you, stick with pork bellies. You won’t be running the risk that fashion will turn against your favorite.

The social advantages of accumulating and exhibiting a collection of poetry are small and few. Long shelves of poetry will not enlarge your literary circle; few care. And those who do will draw a bloody line between your choices and the correct ones. “James Dickey,” they will say, then sigh. “He hunts with a bow, you know.” And you will be sent to bed without supper for inviting into your home a man publicly charged with the murder of Bambi. Just as those chiding readers responded to Edmund Wilson’s disparaging remarks about detective stories, that he simply hadn’t read the right authors, so will you hear that your volumes by Richard Howard (who, we have to mention, is shamefully neglected hereabouts, especially for one who was born in our town, graduated from Shaker Heights High School, and won a Pulitzer Prize a few years back) are the works of a “coterie poet.” And though you will remain puzzled about the exact nature of the rebuke, you’ll be thoroughly certain about the pejorative tone.

With a certain public, though, your shelves will raise you above the crowd. Poetry books can lend status. They bathe you in their light, give you credit, however misplaced, for recognizing their wisdom. Your tastes are finely tuned; you speak with the gods. But then some will say you’re simply a pantywaist.

The reasons for collecting may vary; but the rules for collectors of twentieth century books are fixed and few.

Collectors buy first editions. If they are so-called completists, that is, collectors of every published work by an author, including even dust-jacket blurbs for others’ books, they will also purchase new or revised editions of a title, any edition that varies in any substantive way from the original.
They will seek out earlier copies as well, versions of the book that can be identified as preceding the first large commercial printing—what is usually termed the first trade edition. These might be variously described in catalogs as “first state” or “first issue” or “trial binding.” Hart Crane’s first book, White Buildings, can be found, though rarely, with a first-state title page that misspells Allen Tate’s name as “Allan,” an accident that bumps the price of the book from several hundred to several thousand dollars. There are, too, advanced proof copies, issued in wrappers, and usually offered at a premium in dealer catalogues. And, of course, the now-commonplace “first limited edition,” often signed by the author and popped into a cheap slipcase to squeeze an extra fifty or so from the determined collector/victim.

Identifying first editions is a problem for everyone, including, it seems, some dealers. Books misidentified as firsts turn up often on local shelves, and collectors have learned to be particularly cautious at book fairs. The savvy collector relies on a good source book, such as First Editions: A Guide to Identification, edited by Edward N. Zempel and Linda A. Verkler and published by The Spoon River Press, as well as on his own instincts and experience. A trustworthy dealer is your best protection; one who knows modern poetry can save you the cost and embarrassment of making a foolish choice.

One distinct advantage for the collector of modern poetry is that—unhappily for the poet—few books reach beyond their first edition. Pop poetry, verse that simply panders to the public appetite, books such as Lawrence Ferlinghetti’s Coney Island of the Mind, have soared through many printings. But your favorite poet, your Anthony Hecht, or Heaney, or Howard, will be counted among the blessed if his reputation keeps him out of the remainder bin.

Today’s plethora of paperbacks leaves the collector unmoved. Rule Two: buy hardcovers whatever the cost, if the publisher has made one available. [Atheneum and others frequently publish poetry in paperback editions only.] Since most of the stores stocking poetry won’t buy hardcovers for stock, collectors have to take the initiative and special order. True, the text is identical. But we’re not talking substance at this point; this comes under the rubric of financial counsel. Though the hardcover costs more, it is scarcer than its paper brother and will, in time, become the desired edition. [Unless you’ve put your money on an also-ran.]

Third rule: the book must have its dust jacket. Like the book, the jacket should be in excellent condition, allowing for age. No tears or chipping. No sunning or browning. And no clipping! Fussy collectors [read: all collectors] sputter and froth when dealers snip the price off the corners of the jacket. It is vandalism, pure and simple. To us, the book is no longer whole, and scrupulous dealers will note such specimens in their catalogs as “price clipped.” Imperfections of any sort compromise the value of a book, whether it’s a wrinkle in the jacket or someone’s scrawled felt tip inscription (not the author’s) on the end paper. Every mark of misuse, anything not put there by the publishers, takes away from the desirability of the book, including book plates. The habit of branding a book with a glued-in card proclaiming “ex libris” etc., once a
widespread vice, has given away to apathy—and to something worse. Now we have, widely advertised as being for the “book lover,” dandy little hand embossing machines with which the owner can impress his identity into the title page, never to be expurgated, except with scissors. These make exceptional gifts for librarians, who have demonstrated over the years an unquenchable passion for defacing literature. But collectors hate ‘em.

Condition is king. Some collectors are so demanding they will shuffle through a stack of brand new books to find one without the slightest flaw, no dimples or dents. One collector was in the habit of cutting, out of wallpaper, a second dust jacket for each new purchase, shielding his treasure and its jacket from the ravages of sunlight. Foolish persnicketiness, until it came time to sell. But the books could, at least, still be read. Another collector of fine first editions wrapped his books tightly in brown paper, and stacked them away in drawers and closets, never to be opened. It’s not unknown for a collector to borrow from the library, to read, a book he already has at home, so that there will be no fingerprints or coffee stains on his private stock.

If it is true, and it seems to be, that the public shares a common indifference to poetry, it should come as no surprise to the budding collector that book dealers feel the same. Recently the Los Angeles Times Book Review announced that it was getting out of the business of reviewing poetry. Jonathan Yardley, a columnist and book reviewer himself, wasn’t surprised.

“Although poetry pours forth in unprecedented volume—in magazines, in literary journals, in books—it seems to have a smaller place in American life than ever before.” He goes on: “Contemporary American poetry is read by poets, by writing students and by students of literature—and by almost no one else.” And further: “As for the people generally conceded by those in the know to be the leading poets of the day—A. R. Ammons, John Ashbery, Gary Snyder, Amy Clampitt, James Merrill, Anthony Hecht, Stanley Kunitz, Robert Hass, Adrienne Rich, et al.—they and their work are almost entirely unknown in the general culture.”

What is unknown in the general culture is unlikely to show up in the general bookstore. And it doesn’t. A quick count through the Cleveland area Yellow Pages turns up some 125 new-book shops, and another 30 or so that fall into the category of “used and rare.” Most of the new shops apparently feel complete if they offer their customers a handful of collected poems: Eliot, Cummings, Yeats, a few others, along with some odds and ends that somehow became identified as poets: Rod McKuen, Lois Wyse, Kahill Gibran.

Even among merchants of old and rare merchandise the product—poetry—receives little attention. If there is anything with less of a potential market than a bright, fresh volume of verse, it’s an aging, scruffy bit of a poet’s book, languishing with its tattered neighbors on some dusty shelf. Not many dealers take much interest. They don’t sell the stuff, so they don’t learn it. And that ignorance has its blissful side.
How delightful it was to find waiting on the open shelf of the now-departed Coventry Books the first trade edition of Hart Crane’s *The Bridge* adorned in ink with an inscription from the author to a local music luminary. The ransom for this treasure was a mere $12.50, reflecting (1) the pathetic state of education now current in the book trade, and (2) how even a great bargain goes begging when it comes under the sign that says “Poetry.”

The unfortunate corollary is that few booksellers have much wisdom to impart. Unless we are seeking an investment advisor, we’re not looking primarily for people to suggest things we might collect; we want to know what to *read*. We want dealers anxious to share their enthusiasms, to make us aware of the best books, the new ones as well as yesterday’s. We want someone with taste, smarts, and experience, as well as a fine stock of poetry on the shelves. Usually we live with much less.

Though not always. If one follows U.S. 422 eastward out of Cleveland, turns left onto Route 44 and drives on for another mile, one will notice on the left a large blue mailbox, and off the road, a tidy white house with attached bookshop: The Asphodel. Although the shop and its proprietor, Jim Lowell, are known to readers, collectors and dealers across America and Canada (even Great Britain) you’ll encounter few local book buyers, even collectors, who have made the pilgrimage to Auburn Corners. Their loss. No bookstore in this part of the country can offer the collector a richer variety of new and out-of-print poetry: broadsides, chapbooks, trade editions, limited rarities, by virtually every major, minor, and minuscule poet of our time (prose, too). Mr. Lowell is somewhat more reticent about poets than one might wish. His crowning encomium goes something like: “He’s a good man.” Yet what writing he chooses to offer his customers speaks clearly for the range and character of his own interests. Where else hereabouts will you find, or even hear about, the works of Lorine Niedecker, Mina Loy, Norman Nicholson? (A Mina Loy book, *The Last Lunar Baedeker*, a hefty collected verse priced at $25, was a best seller for the Asphodel; 23 copies were shipped off to the faithful. This is a laughable total when compared to the sales of the latest Stephen King novel; but for poetry and particularly for the Asphodel, a signal success.)

Few other visits hereabouts will be as profitable, but for those who find the West Side more congenial, the Book Store on West 25th and John T. Zubal’s warehouse of books further south along the same street are worthwhile. And in Oberlin, at Backlot Books, the proprietor has arranged across several stacks an interesting assortment of old and some new books, that lately included such curiosities as a couple of Guido Bruno chapbooks, and such substantial works as Harvard’s three-volume edition of Emily Dickinson’s Letters. Of the shops specializing in new poetry, the best in my experience has been Booksellers, in Pavilion Mall. Who else in town had, in stock, the recent huge volume from California of *The Collected Poems of Charles Olson*? Or the hardcover edition of Charles Wright’s new *Zone Journals*? An added incentive for the generalist who buys the works of many new poets is the 20% discount on new books tendered at this large store. Since most
of the forty poets represented in my collection are still creating, the equivalent of one free book for every five is enticing. Otherwise, few if any new-book peddlers seem to recognize any obligation to their public to present better writing, especially the sort of writing that people call poetry. For new books, as well as older stock, the poetry collector who lives in Cleveland leans for support on dealers who live elsewhere, i.e., on those purveyors of first edition verse who issue catalogs, and on those publications specializing in poetry—The American Poetry Review, Poetry [Chicago], Agenda and others—that can alert the reader through their reviews and their advertisements to what is current in the art.

The question of which authors are, in a word, “collectible,” is not altogether a matter of personal taste. Though your own reactions should and will normally move you toward one poet or another, there is a cadre of writers whose works appear and reappear in dealer catalogs, from which we might, perhaps too hastily, infer quality. These same people, many of them, are regulars in the anthologies, although even the most cursory examination of the older collections will introduce you to poets once well recognized whose names now strike only the most minor chord, another warning that investments in fashion are often lost with time. Maybe the best gauge of collectibility is: can this poet—or at least, some books by this poet—be sold to a first-edition dealer? Using that measure alone, one might mention alongside those already referred to above: W. H. Auden, John Berryman, John Betjeman, Elizabeth Bishop, Basil Bunting, T. S. Eliot, Robert Frost, W. S. Graham, Thom Gunn, Ted Hughes (the current Poet Laureate of England), Randall Jarrell, Galway Kinnell, Philip Larkin, Robert Lowell, Marianne Moore, William Meredith, Howard Nemerov (former Poet Laureate of the United States), Sylvia Plath, Ezra Pound, Stevie Smith, Wallace Stevens, Dylan Thomas, William Carlos Williams, and Richard Wilbur (Nemerov’s successor as Poet Laureate).

Many of the early books by those poets have attained quite a high value in the book trade. Lowell’s first volume, Land of Unlikeness, now brings around $3000 without the enhancement of an authorial signature or inscription. With that extra personal touch, of course, any coveted volume awakens new lust in the collector.

The author’s signature, by itself, is usually enough to nudge up the value. Some signatures are so common that the upward thrust may be very slight; but dealers will usually add ten dollars or so to even a new catalog listing if the poet has penned his name across the page. If the book, on the other hand, is inscribed to, say, some other well known poet, then what you have is described as an “association copy,” and depending upon who the poets are and the nature of their relationship, the value may very well go up several times. A small leather copy of Theophile Gautier’s poems signed and dated by Auden when he was a student at Oxford was made much more alluring when it was discovered that the previous owner’s signature above Auden’s name—“C. R. Bicknell”—belonged to the woman who would become the poet’s mother, signed and dated when she was a French major at London University. A late printing of Yeats’s Collected Poems, a scruffy
copy, otherwise worthless, contains in its annotations by the then-student Richard Howard what amounts to an unpublished essay by the young poet . . . certainly a unique copy, and if Howard ever were to become a collected author, one that might attract considerable bidding. (Wishful thinking, of course.) The truth is that rare books are commonplace, an oxymoronic observation that could be made by any collector of poetry. The fact that only a few copies of a book were printed, or that only a handful now exist, means precious little to its value if the author isn’t in demand. A book by a collected author, signed or annotated or scribbled with warm thoughts aimed at a mother or mentor or lover, that book is what collectors collect. Lay that volume before a collector and you have him at his most vulnerable. And that’s why all of us have, too often, fallen victim to “the scourge of the limiteds.”

In this time of designer food and pet rocks, swindles of all sorts have come to be accepted. The racket that brings us the artificially rare book, though, is not merely acknowledged among collectors; we are its willing co-conspirators.

The smaller presses, Black Sparrow for example, routinely offer books published in paperback, hardcover trade, limited-number, and limited-lettered editions. The fanatic will want one of the “1 of 26” lettered copies; he may even hold out for the hors commerce (not for sale) copy, or the “one of six copies reserved for presentation by the author.” There is no end, as long as collectors continue to swallow this hook. But at least these titles are, for the most part, real books. The onerous part of the limited edition scam is the practice of publishing a single poem, often on handmade paper, fussied up in a fancy wrapper and boldly placed on the A list in the author’s bibliography. A typical listing: “Carver, Raymond. FOR TESS. Ewert, 1985. 1/125 numbered copies only signed by Carver. A previously unpublished broadside poem printed at the Janus Press etc.” The asking price for this treasure (not even a pamphlet, simply a broadside) is $100. This may be a beautiful work, and it does include a so-called pulp painting by Clair Van Vliet, but that’s not the point. The collector’s hardship comes in buying an author’s output one poem at a time, rather than in collections every year or so. It is becoming, for this reason, more and more difficult and costly for a collector to tell himself that he’s aiming for everything by a modern poet.

Recently, Richard Wilbur’s bibliographer estimated that his forthcoming compilation of the laureate’s work would contain a hundred or so primary publications, and several hundred more B list items. A bibliographical checklist of James Merrill published in 1983 by the American Book Collector describes forty-seven primary publications, a number from major trade publishers: Alfred A. Knopf, Atheneum, Chatto and Windus. But the bulk of the work was delivered from private presses, some in very small editions indeed. The item marked A7 is titled A Birthday Cake for David from James, Jimmy & Claud With Greeting Fervid is an 8 3/4” by 6 3/4” broadside, printed in black, in an edition of only four copies. How many Merrill collectors can crow about having a complete collection?
Concentrating on a few poets is wise and prudent, shelf space and money being finite. But collections have a way of self-starting. You chance upon a bargain copy of a scarce early work and around this centerpiece you begin to assemble a collection. Not till you’ve acquired the makings of a fair and representative shelf full of the author’s stuff do you begin to become aware of your distaste for his poetry. Or else an enthusiasm for the poet that once flamed brightly is now but a gray and cold ember: you’re sick of the stuff. Enthusiasms diminish, that’s natural. And a sensible collector will cut his losses and dump his lost love on the open market. (This counsel comes, of course, from a collector who has never received an iota of satisfaction from John Ashbery’s writings, yet maintains a half-shelf of his books, and dutifully trots out for each new offering. I plead entrapment: *Some Trees*, an early Ashbery, came into my hands for pennies years ago.)

A final injunction: remain clear of the poetry wars. Poets tend to bond. Those who went to Black Mountain College write about poetry as if it were written exclusively by Black Mountainers. For people who practice such a gentle trade, they war in print like gladiators. Most of the verbal mayhem takes place in the vicinity of humbug and twaddle. Ignore it. America is a tough enough place to collect poetry. You’ll find that out.

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**A Boy and a Dog and a Lawn**

*A Perversion of Values*

Michael Zimmerman

A boy and his dog. Although a mite sexist, that phrase conjures up an image that is as all-American as motherhood, the flag, and an apple pie. Ten years ago my wife and I (although she wasn’t my wife then) started down the road toward fulfilling that image. We adopted an abandoned dog (a mostly beagle) at a truck stop in Missouri. It took us another seven years (although, to be honest, we weren’t actually trying during that period) to finally add the boy. Everything was great.
Sure, Alioth (the dog) and Alex (the boy) virtually ignored each other for three years, but all parts of the image are now in place.

And then this evening we had to face the real problem. Yes, like most serious problems, there had been warning signs, and, yes, we ignored them. This evening the four of us were taking an after-dinner stroll around Oberlin, Ohio, the small college town in which we live. Alex, pretending that he was Alioth, walked slightly ahead of us, the leash attached to the waistband of his pants; Alioth ran free.

And then it happened. A gentleman in a police car called me over, introduced himself as the town's dog warden, and asked if I was aware of the new pet law in town. I pleaded ignorance. Predictably, he noted that all pets had to be leashed if they were off their own property and commented that although we were using a leash it seemed to have the wrong item attached. After a chuckle, I asked about all of the locations where people had, for years, taken their dogs to exercise and play. I asked about the reservoir, the town green, the arboretum, the school yard. Nope, even those traditional spots were covered; dogs had to be leashed.

When I asked him for his suggestion about giving Alioth some exercise, he suggested running alongside her, leash in hand. Alioth loves to run in circles so, even if I were in better shape than I am, I didn't think I could handle that.

Then the dog warden came to the heart of the law. He claimed that he would have to ticket anyone whose pet defecated or urinated anywhere in town unless the act occurred on the owner's property. I just laughed, but he said that he was serious.

Now a dog's bladder has to be an interesting organ; it simply never goes dry. When she wants to mark something, Alioth never has trouble, regardless of how many things she's already marked. And marking is instinctive—it's a dog's way of demonstrating ownership. There's just no way to keep a dog from being territorial; at least no way that would win the approval of the ASPCA.

The warden was adamant. If your dog urinates anywhere other than in its own yard, you get a ticket. A second "offense," a second ticket. Ticket prices increase through the third urination, while the fourth wins you a trip to court. It was very clear that our family strolls were going to become expensive.

I understand the rationale behind leash laws, although I may not agree with them. I even understand "pooper scooper" laws, although I find them demeaning to the participants on both ends of the leash. But a law making it illegal for a dog to urinate is absurd. (Sure, all of us have had the unpleasant experience of struggling to scrape the bottom of our shoes clean after a misstep. But how many people have ever had to wipe dog urine off their shoes? Has anyone ever stepped ankle deep in a puddle?) I wonder why the members of the Oberlin city council didn't have the nerve to be honest about their intentions. Why didn't they directly enact a law making it illegal to walk a dog in town, since that is the effect of their law?
Numerous studies have shown that dogs repay their owners in many ways. Health, both physical and mental, is improved by pet ownership. Dog owners get more exercise than do non-owners. And there’s that boy. A pet teaches kids about responsibility. (I’m sure you’ve seen the ad suggesting that virtually all of our astronauts started out as paperboys. Well, virtually all of them had dogs, as well.) But if you can’t take the dog off your lawn, how can you romp, how can you play, how can you even own one? And what about those people who live in apartments and don’t have lawns?

O.K., by now you’re thinking that the situation in Oberlin, although extreme, is unique and that this really couldn’t affect you. That may not be as true as you think. Remember, I said that the early warning signs had been present for some time. Within the last year my wife and I have been scolded in Ohio, Colorado, Kansas, and New York for allowing Alioth to urinate on someone’s lawn. Please note that I said urinate, not defecate. Oddly enough, at least one of the people complaining had a dog of her own. In New York we were even vociferously chastised for allowing Alioth just to walk on one suburban lawn. And every piece of public land that we encountered there—parks, school yard, beaches, etc.—had signs saying: “No Dogs.”

We live in a bizarre society when people apply massive amounts of chemicals to their lawns and worry about a drop of dog urine. Increasingly, I’m seeing little signs saying: “Chemical Treatment—Stay Off Grass Until Dry.” Something has to be wrong when people are not outraged that our federal government refuses to acknowledge the links between industrial pollution, acid rain, and the devastation of plants and animals, or that no one complains about the subsidies we pay to tobacco farmers, but they are incensed when a dog leaves a drop of a non-toxic liquid that is 95% water on their lawn. I’m afraid that many people must be out of touch with reality. These laws and people’s actions reflect their feelings about nature. Such feelings cannot be healthy either for them or for society.

Perhaps people are just more similar to dogs than they would like to believe. Perhaps this antipathy to urine is the way property owners can exercise their own territorial rights.

A boy and his dog. The latter, by her very nature, is turning the former into a criminal every time they go out for a walk. What am I to do?

At least the dog warden only works two hours a day in Oberlin, and our friends, whose two-and-a-half-year-old son liked to urinate on the grass, just moved out of town. ■

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