

## THE GAVEL FELL

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It was a hot, humid afternoon in Potster, Georgia, so everyone was enjoying the wait in Jake's just sitting around and sipping saspirilla when suddenly a young boy burst into the cafe calling, "It's time, it's time!"

Everyone understood and quickly filed out as Jake turned over the open sign and followed leaving glasses and ashtrays lying on the table. The judge was already seated and wiping his greying brow. All eyes settled on twelve men as they entered and took their places.

The judge paused for a moment between strokes to ask, "Have you reached a verdict?" "We have, your honor," came the reply, "We find the defendant guilty."

The next question was directed at the defendant, "Do you wish to make a statement before sentence is pronounced?" There came no response, so as stillness settled over the room, "This court has found you guilty of murder of the first degree and I hereby sentence you to death in the electric chair." The gavel fell, court was dismissed, townfolks would have a lot to talk about and the defendant died three months later.

Only you know I found that case to be both typical and strange. Irwin D. Robertson died when 50,000 volts of electricity shot through his body. He didn't leave much to his wife and two children as he had been born and raised a share-cropper never receiving a formal education.

Perhaps during the trial he didn't respond because he couldn't even summon the mental prowess to read the charges against him. Yes, Mr. Robertson was an illiterate negro, but what is worse he was innocent.

He died without appeal because his family could scarcely afford enough to eat let alone more lawyers' fees. More evidence was found a year later which could have freed him, only then he wasn't alive to share a simple, but happy life with his family or hold his three year old son.

Was it the heat, the amount of pigment in Mr. Robertson's skin or was it our American democratic system of determining a person's guilt or innocence?

As Oliver Wendell Holmes put it, "I've never found jurors especially inspired for the discovery of truth." His expression was borne out by the Ruth Commission of Pennsylvania in 1964 when they found jurors making decisions by flipping coins and drawing straws. Their most striking example was that of a lady who voted a man guilty and was able to sentence him to life imprisonment because she had more pressing business at home.

This is our system, we created it and allow it to exist whether justice prevails or prejudice rules.

Prejudice plays an important role again we find this time when I turn back the pages of history to March 30, 1957. Two white men are on trial. On trial by twelve other white men for bombing a Negro church. The defense attorney used a very effective approach in appealing to pigmentation with his concluding words, "Every white man, white woman, and white child is looking to you to preserve our sacred tradition." Well, one hour and thirty minutes later that tradition was upheld and the white men were set free.

The traditionalists cling to the constitution and its concept of a trial by jury, but what they really mean is a trial by peers and you can rest assured that when your day in court arrives that it isn't going to be the educated making up that peer group. A few of those exempted from this elite panel of judges include doctors, lawyers, clergymen, businessmen, pilots, policemen and pregnant women.

It has been said that nurses and wives of professional people should be excluded for they pay no heed to calls for pity or hurt. Married men and women favor plaintiffs and accountants should be shunned at all costs for they may inform fellow jurors that the defendant will pay no income tax on money recovered as a result of personal injury.

In other words, the people who are most qualified to make a decision on the evidence presented aren't even required to do so.

When the question is posed to a prospective juror, and it always is, "Have



you read about or formed an opinion on this case?" I submit, how many intelligent men and women haven't read about or formed an opinion on an important criminal case?

When the courts screen these people out, it seems that the majority of our peers are truck drivers, ditch diggers, liars and illiterates.

Miles Davis murder trial of 1960. One-hundred and forty-five people of Erie, Pennsylvania were questioned before twelve jurors could be found. Result...very simply, a trial no longer representative of the community from which it was drawn.

But one with which I'm sure we're all familiar was the trial of Jack Ruby for the murder of Lee Harvey Oswald. In this case, it took 642 prospects to find twelve who had no scruples against capital punishment. The vague term "death qualification" was used in screening out who was to determine whether this man was temporarily insane or a cold blooded killer no longer deserving to live in our society.

What could it cost our society should the gavel fall and in error be compelled to change a man's life. I think that Leion Hanby of my home state of Colorado could best answer that question for us today. You see, Leion served six years of a life sentence set down by his peers before more evidence was found proving his innocence. In that period he lost his family, his business, his savings and even worse I feel was the unreturnable loss of six useful years of his life.

As I remember somewhere, someone mentioned the words "speedy trial." However, it often takes as long as three years to get that day in court because the selection and questioning of jurors takes time. It took so much time that in November of last year some 75,000 cases were on the docets awaiting jury selection.

I am convinced that no system which takes as much as 60% longer and has so little to say in its behalf should long survive. Maryland and Massachuettes have begun the system which I am calling for, that of waiving trial by jury. Last year in Baltimore only 700 of some 9,000 criminal cases were tried by the traditional system. But we can look elsewhere in our 20th century and witness the declining popularity of the jury trial. England, Ireland, Switzerland, France, and Spain have virtually abolished the jury trial and replaced it with a judge or panel of judges.

They feel that a judge is much more qualified to weigh the evidence presented and to pass judgement upon that without allowing the emotionalism and personal values to enter the picture. As a judge is a permanent function of a court and a jury a transient body of private citizens, it seems only logical that a judge would be much more concerned with seeing true justice prevail when the gavel falls.

The time for our jury system has long since passed and its method of carrying out justice has become barbaric. We passed a law entitled nebulously as civil rights, but yet not a single negro in the town of Birmingham, Alabama has served on a jury in the past eighteen years. Seem ironic...how many of the names, the infamous, the famous names which I have mentioned are you familiar with? Let's allow the truth Mr. Holmes spoke of to become a reality, a reality in the lives of future Robertson's, Ruby's and Davis's. Let's caste prejudice and inequality out of our judicial system and perhaps in the near future when the gavel falls, we can replace them with the words of our great emancipator...life, liberty and JUSTICE FOR ALL!