

Brainchild

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Two days of rooting around in Delmar Schoonover's records by the now-frantic Ruth Purley had resulted in the formation of a precarious mound on his living room floor which threatened avalanche at any moment.

Dr. Schoonover watched pensively. Seated on a nearby ottoman, he'd long ago gnawed away his last consumable fingernail, and was reduced to simple fidgeting.

On the floor, sprawled out in a most unladylike manner. Ruth displayed her own frustration in regular bursts of muttering, as she slipped through yet another of the many notebooks. In her right hand a brand-new yellow pencil, already cracked, suddenly snapped, and she jumped to her unshod feet. A towering five foot three, she glared down at him, hands on hips, brown hair falling over hazel eyes, white blouse half fallen from the waist band of her severely slit black skirt. "Dummy," she roared at him.

Schoonover's eyes fell. He looked crushed, his hands grinding into one another.

She dropped to her knees and place her hands on his shoulders. "I'm sorry Delmar. That was cruel of me. I take it all back. If you were a dummy you wouldn't be in the fix you're in, with all your own words about to bite you.

"But I'm frustrated. Worse yet. I'm sorely in need of some fresh cuss words. The ones I had are worn out."

"There's no need to apologize. Ruth. You're doing your best. Don't ruin your own career trying to save mine."

"It's not a question of that, Delmar. I'm your lawyer, remember, and lawyers thrive on controversy. None of this is going to do me one bit of harm. Notoriety like this could make my reputation. Why do you think I've been working my buns off out here, instead of at the office? It's to keep the senior partners from taking you away from me." She grinned and rubbed his shoulders.

And that, she thought, had been true enough to start with. Now, it was different. He'd grown on her, big awkward baby that he was: helpless, bumbling, absent-minded, thoroughly lovable man. And she, Ruth Purley, modern, independent, liberated professional woman in the tradition of the old bra-burners, was falling in love with him. "Disgusting!"

"What did you say?"

Think quickly, Ruth! "I said it's disgusting. There has to be something basically wrong with a social system that can do a thing like this to you and to Adam. There has to be a way out of it. Everything I believe in depends on finding it. If I lose this case my faith in the system gets lost too. I think that's the part that really scares me."

"I'm satisfied with what you're doing, Ruth. And I'm grateful. You have no idea how scared I was when the F.B.I. grabbed me, and when they took Adam away. Just when I needed an angel, there you were, breathing fire on Marshal McGill. If you hadn't bailed me out I would've told them anything they wanted to know."

"There's nothing they need from you they haven't got already. Everything necessary to make the charge stick is right there in your published papers. 'Simon Legree Schoonover,' it says at the top."

"Then why'd they try to get this?" He pointed to the jumbled pile of notebooks and loose papers.

"To gild the lily, Delmar; to gain publicity, sympathy, rabid followers; and to pacify Madelyn Hundin. That's what really irks me: Here's an ignorant, big-mouthed busybody who probably never had an original thought, who makes her living raking muck and printing lies in that scandal sheet, and she's got enough influence in this country to get you indicted for slavery. You, Delmar Schoonover, M.D., Pioneer Genetic Engineer, Nobel Prize timber. She picks you to be her Big Tuna."

"I only met her once, Ruth. For about five minutes. Why is she doing this to me?"

"She's not after the Pulitzer Prize, Delmar. She wants the hide off your rump because, at the moment, that's a highly salable commodity. Right now it's selling papers that otherwise wouldn't be fit for outhouse use. Then there's T.V. appearances on the talk shows. Later, it'll be books. It'd be better for her if you lost, of course, but either way she'll make money. If you're acquitted she'll write an exposé on the crooked courts; you can book it."

Schoonover's mind didn't work that way. To make money, he thought,

was a pretty poor reason to ruin a man and a worse reason yet to consciously impede the progress of science. He'd always looked on his research as a way to make an age-old dream come true; to make every child yet to be born healthy, happy and alert; to make every man and every woman as perfect as nature intended.

Now the dream was dying. Only Ruth believed it could be saved—or did she? Perhaps she, too, played out a part for reasons of her own, or maybe she intended simply to make the best of a bad situation and salvage what she could from the wreckage. Somehow, he doubted that, although it was possible that initially he'd represented only a professional challenge to her.

Ruth had forward ways, utterly alien to his personal concept of the feminine role. These, at first, had bothered him, until he found out she enjoyed their effect. Now he was at the point where he'd almost stopped blushing when she'd make an offbeat suggestion. If he could get his mind off his troubles long enough to let it happen, Schoonover thought, he just might be able to con her into seducing him. "Now there's a thought."

"O.K., so now we're both doing it, Delmar. Have you got an idea?"

"Yes, but on second thought, it's probably impractical. Forget it." He'd been vocalizing thoughts.

"Well, we have to think of something pretty soon. We've got jury selection tomorrow at ten, and probably no more than a week or two before a trial setting. I'd better get back to the pile."

"All rise," yelled the bailiff.

Schoonover jumped to his feet and breathed deeply, his lungs filling with the sweetly scented air. Ruth's perfume devastated him today, on this, the first day of his professional death. He reached down, found her hand, and grasped it firmly. Ruth, his small, ferocious champion, hair hanging down over the shoulders of her somber black suit, stood like an oak in a storm.

Through the door behind the bench a tall, gray-haired man swept the skirts of his black robe around him, walked briskly to his chair, and sat down.

"Hear Ye, Hear Ye!" the clerk's voice boomed. "The United States District Court for the Southern District of Texas, now holding session in Corpus Christi, is open pursuant to adjournment. God save these United

States and this Honorable Court."

"Heavy stuff, eh, Delmar?" Ruth whispered.

"Be seated," said the court.

Ruth looked around at the rest of the room. She'd seen movies of the old Scopes "monkey" trial of a couple of generations ago. History does repeat itself, she mused.

Admission was by ticket only, with serious-faced GSA guards on the doors, checking credentials carefully. Most spectators were media people, and they came from everywhere, as witness the variety of clothing and racial types. The front rows were reserved for artists, who now worked furiously to pencil figures on pre-prepared background scenes.

So here I am. Me, Ruth Purley, at center stage. And why not? Slavery prosecutions were news. There hadn't been one since U.S. vs. Booker, out in the fourth circuit, back in '81. That had been a relatively colorless affair. But Schoonover was no cotton farmer and Adam was no farmhand. No, this trial wouldn't be colorless.

She gazed to her left. Marshal Ralph McGill sat on a wooden chair, knees crossed, looking banal, twitching his right foot inside its fancy boot.

To her right was Roberto Monte, the Assistant U.S. District Attorney, relaxed, hand on a massive file, conversing in whispers with the Agent In Charge of the local F.B.I. office.

Then she looked up at the bench. Judge Cook was silently reading the minute sheet, determined to be certain that in this, the most controversial trial of his career, he made no errors obvious to the press. Around him, the various functionaries waited patiently: the minute clerk, who smiled demurely behind folded hands; and Paul, the reporter, surrounded by microphone wires that spread like spider legs from his recorder, hands resting on the keys of his stenotype.

Finally the court spoke. "The court will call case number CR C-95 101, the United States of America vs Delmar Schoonover. What says the Government?"

Monte stood. "Ready, Your Honor." He resumed his seat, shuffling his file aside.

"Very well, what says the defendant?"

Ruth stood. "Subject to our motion to dismiss the indictment and our motion to suppress the defendant's statements, we're ready, Your Honor. If the court please, I'd like to be heard on those motions before we bring

the jury in."

Monte jumped to his feet. "Your Honor, if it please the court, we've already been over the motion to dismiss, and the court has memoranda from both of us on the only issue raised, that is, whether the indictment has to allege that the victim of this crime was a human being. I think the law is pretty clear that this isn't required. As for the statements, there may come a time when the defendant can move to suppress for other reasons, but not on the basis of Miranda. The statements she's talking about were made prior to the arrest of the defendant. She's only entitled to suppress custodial statements which violate Miranda." He sat down.

"I'm inclined to agree with Mr. Monte, Miss Purley. So at this time I'm going to deny both motions. If, as Mr. Monte suggests, the occasion arises later and you wish to re-urge them, then the court will hear you. Now, are there any other motions before we bring the jury in?"

"The defendant would invoke the *Rule*, Your Honor," Ruth said, knowing that was one he couldn't deny.

"Very well. The rule has been invoked. Will all those persons who expect to testify come forward and be sworn?"

A number of people rose and passed through the gates toward the bench.

"Will counsel please approach the bench?"

Ruth left Schoonover and there was a short conversation he couldn't hear. Then they left the courtroom with the marshal. Presently both she and Monte returned followed by a crowd of other people, among them Dr. Blatchley. There was a subdued buzz of whispered conversation. Schoonover peered into the crowd and saw why. In the center, dressed in a light blue cord suit, white shirt and shoes, was Adam's tiny figure. He held tightly to Dr. Blatchley's hand, looking around him through his thick-lensed glasses, his face a stern mask until he saw Schoonover. His free hand went up in a wave and tears appeared in his eyes. Schoonover knew that without Blatchley's firm grip Adam would have run to him, crying in terror. That mustn't happen, he told himself. Ruth wouldn't like it.

"What is this all about, Ruth?"

"I invoked the rule. That means the judge has to swear all the witnesses who were in the courtroom or might enter, admonish them against talking to one another about the case and exclude them from the courtroom until they've been dismissed by both sides. It's supposed to keep them from

coordinating their stories; as a practical matter both sides do that before we ever get here. I did it for show. It gives the reporters something to say."

"Does that mean I have to leave?"

"No, you're a party. You can't be excluded. And the other side gets one person of their choice to assist. That'll be the A.I.C. It always is."

"What about Adam? Is he going to testify?"

"I don't know. I haven't made up my mind about that. And I don't know if the court would permit it."

Monte had started his opening statement. "... expects the evidence to show that this man, Dr. Delmar Schoonover, seated at the table next to Miss Purley, has, by meddling with nature, brought intelligence to a creature that didn't have it before, and having done that, proceeded to enslave him, or it, as you choose, to deprive it of the civil rights the Constitution requires be given any intelligent creature ..."

Ruth was on her feet at once with an objection. "That's a misquote. Your Honor, and it constitutes unfair comment calculated to mislead and prejudice the jury. We move for a mistrial." Monte had turned to listen. "I believe the statute uses the word *person*, Your Honor, but the average man, and this jury panel, understands that it's a distinction without a difference."

"I'll sustain the objection, counsel, but your motion for mistrial is denied. The jury will disregard Mr. Monte's remarks and be instructed that constitutional protections apply to persons. You may proceed, Mr. Monte."

"Thank you, Your Honor," Monte said, making it sound as though he were accepting an apology from the judge. "We will introduce evidence to show that the creature known as Adam is, in fact, a person within the meaning of the 13th Amendment of the Constitution of the United States; that he has been forced to labor against his will, as the indictment charges, restrained in his liberty, deprived of his freedom of choice to stay or to go.

"I'll go further than that; I'll suggest to you what the defendant may and, I believe, will attempt to prove. I expect he will challenge the humanity of the creature he brought into this world, to attempt to convince the twelve of you that Adam is an animal not protected as you and I are. I can only urge you to listen carefully to the evidence you see and the testimony you hear and decide for yourself what it is he made. Thank

you for your attention."

The judge looked at Ruth. "Miss Purley?"

"If it please the court, the defendant would ask leave to reserve the opening statement until the Government has finished its case in chief."

"Any objection, Mr. Monte?"

"None, Your Honor."

"Very well, so ordered. Call your first witness, Mr. Monte."

"Your Honor," Monte asked, "May counsel approach the bench?"

"Come forward, please."

When the two of them reached the bench, Monte said, "The Government plans to call Dr. Blatchley as its first witness, Your Honor, and although we have no present intention to indict him, his testimony may result in the discovery of criminal activity on his part which would require me to go to the Grand Jury. So I'm suggesting to the court that we send the jury out while he's being admonished. Also, Your Honor, we anticipate Dr. Blatchley will be a hostile witness, in that his sympathies and prejudices are with the defendant, and I'd ask the court to rule him hostile."

"Miss Purley?"

"Well, Your Honor, I've explained Dr. Blatchley's immunities to him, and he's prepared to accept the risk and testify. I'd planned to call him later if the prosecution didn't, but I will object to ruling him hostile at this point; there's been no proof he is."

"I agree with her, Mr. Monte. I'll rule on your motion and deny it for the time being, until Dr. Blatchley's testimony demonstrates his hostility, if it ever does. And I'll get the standard admonition in the record while the jury's out." They nodded and resumed their seats.

"Ladies and Gentlemen of the jury, the court's going to take up some preliminary matters for a few minutes. Meanwhile, I'll ask you all to go with the marshal and be back here at 10:30. You'll be permitted to leave the building but you must not discuss this case with anyone, not even with one another." McGill rose and the jurors followed him out of the courtroom. Schoonover was perplexed and felt left out of things.

Ruth explained. "I know it looks like a lot of foolishness to you now, but it all has a reason. We've scored a couple of points already, whether you know it or not."

"I must have missed them, Ruth. It looks to me as if they're ready to

hang me already and they don't even know what it's all about. Mr. Monte's already got them worked up by telling them I don't think Adam's human. Why didn't you do something?"

"That's one of the points we scored. You'll see. It's called a rabbit trail. And don't worry about the jury. Juries are wishy-washy. Their minds flap back and forth like tumbleweeds. You're only in trouble when the wind stops blowing, and it isn't going to. Ah, there's Dr. Blatchley."

"What's he doing here? I thought he was our witness."

"He is, but Bob has a right to call him, too, and since he gets to put his case on first he has that advantage over us, if it is an advantage. Blatchley's programmed, you know that. I worked most of yesterday on him. All this really means is that in effect the cross examination comes first, then the direct."

"Ruthie, I hope you don't mind all these questions. It's just that I don't ... I never was that interested in law before. I don't understand all this cross and direct stuff."

"It's simple, Delmar. Direct is questioning by the party who calls a witness. He vouches for the witness's testimony. He's bound by it. The other side attacks the witness's credibility by cross questions. The answers don't bind him, ordinarily. He starts out with the presumption the witness is a liar. Unless he adopts the witness as his own we can't comment to the jury about unfavorable answers. That's why lawyers sometimes don't object when the other side exceeds the scope of direct examination; sometimes, if you know in advance what the answer will be, you can let it go and then claim the other side adopted the witness. Understand?"

"No. Why'd the jury leave?"

"The judge is going to make sure Dr. Blatchley understands his Fifth Amendment rights before he testifies. That's another piece of showmanship on Monte's part. He knew the judge would deny his motion to rule Blatchley hostile, so he'll try to rattle him by suggesting he could face prosecution later."

"But Dr. Blatchley *is* hostile. At least, he'd better be."

"Of course he is, in layman's terms. But not legally; not until he demonstrates such obvious prejudice against the prosecution that it's unfair to require them to vouch for his testimony. What Monte really wants is the right to lead him and then impeach him. If he gets a hostile-witness ruling from the court, then he can. You can lead and impeach on cross. You can't on direct."

"Oh," said Schoonover. "I see." But he didn't really.

The admonitions didn't take long. Blatchley was a positive, matter-of-fact man who lost no time in convincing the judge he fully understood the risk and was willing to take it. Ruth had already decided he'd make a superb witness. He had just the right amount of age to be robustly grandfatherly. The fringe of gray hair around his bald pate, together with his gold-rimmed bifocals, framed an honest, open face. He had a tendency to cock his head in a manner suggesting righteousness, although this was only the result of trying to look through the proper part of the lenses. Moreover, he was possessed of a melodious voice and a superlative command of the English language. Monte would discover he was slightly a tiger.

Seated in the chair with his hands together, joined at the fingertips, the old man waited patiently for Monte's first question.

"Tell the jury who you are and what you do, Doctor."

Blatchley cleared his throat. "My name is Clarence Blatchley. I am the founder and current director of the Blatchley Institute of Genetic Research."

"How long have you done this?"

"Since it opened, twelve years ago."

"How many people work there?"

"Do you mean everybody or just the technical people?"

"Technical people, Dr. Blatchley. Those who actually do any scientific work."

"Well, let's see. Besides myself and Dr. Schoonover, there's Dr. Smith and Dr. Fleming; Dr. Smith's a botanist, Fleming's an entomologist. Then there's Roy Leeper, a bacteriologist, and Harry Shabelman, a pharmacist. Then we have a bunch of maintenance people, animal handlers and so on."

"Tell me: Who was involved in Adam's development?"

"That was Delmar—I mean, Dr. Schoonover's project. He worked on it pretty much alone. He had some technical assistance from the rest of the staff, of course, and we had some outside specialists in on it too. I could check the records."

"Later, perhaps. Were you involved in this research in any way?"

"I'm involved in everything that happens at the institute. I supervise all the projects, and I have to approve them to start with."

"Did you approve the project that generated Adam?"

"I did."

"How long ago was that?"

"Oh, let's see. Adam's six. It must have been eight or ten years ago. I really don't remember."

"And that was Dr. Schoonover's brainchild?"

Ruth flinched. The question was leading as well as being a characterization, but she decided to let it pass. Objections have more punch if used sparingly and she might be able to utilize the term herself, later.

"It was his idea, if that's what you mean."

"Yes, Doctor, that's what I mean. Now, you would never have approved a project that didn't have a commercial object?"

"That would depend on the project. Naturally we try to select things that produce revenue, because that's what supports our research. But that's not the only criterion ..."

"Let me stop you there, Doctor. Please just answer the questions simply."

"I was about to say . . ."

"Doctor, please!"

Blatchley settled back. Ruth had warned him about this tactic. It was designed to get a witness rattled; to trap him into simple answers that sounded wrong.

"Let's go on, Doctor; you said Dr. Schoonover started the project eight or ten years ago, with your approval. What was the object of the research?"

"Dr. Schoonover was working on congenital birth defects, specifically, neurological defects—the kind responsible for mental retardation with hereditary causes. He was attempting to find genetic methods of eliminating them."

"Do you know how he intended to do this?"

"Yes."

"Can you explain it to me?"

"Yes, I can explain it. The question is whether you will understand it. I don't know how good your scientific education is."

Touché, Ruth thought. The old man was following the game plan.

Monte started stonewalling. "Well, Doctor, just explain it to me as you would any average, run-of-the-mill high school student, with average intelligence, who took the average subjects and got the average grades."

"That's a tall order, but I'll try. To begin with, you have to understand that life doesn't just grow, like Topsy. Any organism follows plans. The plans differ slightly even in individuals of the same species. Differences increase as relationships between species grow more remote. We call the plan the genetic code. The name's derived from the primary unit, the gene. Genetic alignment changes slightly from generation to generation, and forms combinations that are almost endless in variety. Statistically, it's a fairly predictable system; individually it's highly unpredictable." He looked the D.A. squarely in the eye. "O.K. so far?"

"Yes, go on, Doctor."

"Natural forces affect genes; therefore they also affect heredity, which is the key to evolutionary process. Back to that in a moment, but first let me say that man also affects evolution by what he does, and has since time began. For instance, causing a species to prosper by domesticating it, or causing its extinction by hunting it or overrunning its habitat. Man has been responsible for most of the changes in animal evolution in modern geologic times.

"He also learned to select stock for breeding or for planting, and he understood the results this produced even if he didn't know why. It was pretty much a cut-and-try affair until Mendel explained it in statistical terms a couple of centuries ago.

"Genetic changes can produce beneficial results, but they can also produce the other kind. Effects such as Huntington's Disease, the sickle cell trait or Tay-Sachs; all systemic diseases of genetic origin. Their incidence among the population conforms with the known laws of genetics. Statistically, they're insignificant when you consider humanity as a whole. They're not communicable except through the reproductive process, and then only to offspring with the right ancestry.

"Genetics affects communicable disease organisms, too, and its victims. This is where genetic engineering really started. Because of the built-in plan of the genetic code, certain organisms became genetically acceptable hosts for genetically compatible parasites. As a result certain classes of microorganisms could make certain other classes of life sick.

"Here again was an opportunity to use the selective process to cure the illness; to identify and isolate the organism, grow it and find out what killed it; to change the host body at the cellular level and cause it to produce defensive mechanisms it wasn't born with. The process was crude, hit or miss. Statistically, however, it was completely valid and as a result there aren't many communicable diseases we can't cure or prevent. Some organisms, such as gonococci and flu virus, fight back with their own mutations, but by and large it still works."

"This is all very interesting, Dr. Blatchley. But I'd like to get down to basics ..."

"We are down to basics, young man—*basic* basics. I'm talking down to you already. I thought you wanted to understand this process."

There were snickers from the spectators, some even from the jury. There wasn't a face in the courtroom without a smile, except Monte's.

"Well, Dr. Blatchley—What I'd like you to tell the court is how all of this relates to the production of the creature who is the subject of this prosecution."

"I told you I'd get back to the question of heredity, didn't I?"

"Yes, you did, Dr. Blatchley. Would you please do so?"

"O.K., heredity means that the offspring of any parents share the characteristics of each, whether these are observable in one or the other adult or not. Some characteristics are called dominant; they appear in the offspring and one or both parents simultaneously. The recessives don't. They appear only in the offspring and result from the combination of two or more genes not dominant in either parent but dominant in combination. It's like adding two small numbers together to make one big number.

"Mutations are seldom dominant, but they occasionally combine in their effects with recessive genes and produce a new characteristic. Sometimes the new characteristic is beneficial, sometimes it's harmful, and on most other occasions they're simply harmless.

"Dr. Schoonover was working on harmful effects—the results of past mutations to the gene plasm that either alone or in combination produced what the public used to call feeble-mindedness.

"Now, there are four common sources of mutations. First, there's radiation, natural or manmade. There's no way to eliminate all of it because it comes in from outer space and out of the earth. We have to live with it. Another source is other organisms, such as viruses, which enter

the reproductive cells and change them. It's not as important as radiation, but it is there. The third, biggest, present cause is chemical. Modern man brings that on himself and it's going to get worse.

"These three are natural causes. However, there's also a fourth, artificial cause: manipulation, what we've started calling genetic engineering. Man now has the capability to tear down and rebuild individual genes; to rearrange their constituent fractions in new configurations to do different things than nature intended; to add and remove things from them. In other words, to selectively change the genetic plans and control evolution.

"That was Dr. Schoonover's objective." He paused.

"Go on, Dr. Blatchley. Explain what he did."

"He was seeking ways to detect and either alter or eliminate damaged areas of genetic coding. This is not easy. There are thousands, perhaps millions of variables, all affecting one another. It takes time and hard work to find out which gene or genes are responsible for any given characteristic, and longer still to identify the fractions within it which give it the power to do what it does. Finally, the mechanical, or chemical, process makes it complete, and the result is, hopefully, a gene that will do what we wish it to do."

He looked at Monte, who simply watched him. Then he continued.

"So you see, the process is a long one. It means taking one step at a time up the evolutionary ladder until we finally get to man. The usual starting point is microorganisms, because of their rapid propagation; then sometimes insects, for the same reason; and then on to lower orders of better-organized life forms. Until we get to rats, guinea pigs, and rabbits, the generations are fairly short and results come fast. But the trouble with working with the lower forms is their remoteness from the human line, which causes the results to be valid only in generalities. You have to get much closer before you can work on human subjects. Fortunately, man has relatives in this world, beginning with monkeys in the very remote past and ending with the great apes, who split off the hominid line relatively recently. The closer the relationship, the more identity there is in the genetic code and the more similarity there is in physiological behavior. This makes them extremely useful as experimental animals. They're subject to many of the same diseases that men are, because their nearness to humanity makes them compatible with the disease-producing organism, too.

"But more important, their skeletal and neurological systems vary least from man's and in many respects the genetic information is substantially

the same as man's. That's why Dr. Schoonover used apes, specifically chimpanzees, in his experiments."

"Was Adam the only altered ape?"

"No. There were six."

"What happened to the others?"

"Well, early in the experiment the technique was relatively crude. There were failures."

"What sort of failures were there, Doctor?"

"Basically they were physically or mentally defective, or both, to the extent that they needed life-supporting devices. There was a set of Siamese twins joined at the neck, for instance. Gradually, however, we learned what we set out to learn and the results got better."

"Were these animals destroyed in the experiment?"

"Yes."

"All of them?"

"All except Adam."

"For what purpose, Doctor?"

"So that the bodies, particularly the brain, could be examined in detail."

"It was the brain development that primarily concerned you?"

"Yes."

"Any particular part of the brain?"

"Yes, the frontal area."

"Why?"

"This is the part of the brain where conceptual thought takes place, anyway in human beings."

"Don't animals think. Dr. Blatchley?"

"Yes, but not the same as you and I. In the case of the apes the threshold of reason is relatively near, but they haven't crossed it."

"Not even Adam, Dr. Blatchley?"

"Adam's a special case. There has never been anything like him before."

"Are you saying you do not know?"

"Yes. Someday we may know but we don't yet have enough information

to measure his full capabilities. He's too young."

"Well, Doctor, Adam's six, I believe. Is that right?"

"That's his chronological age, but he's still a child. Normal chimps don't mature until eight or nine. We don't know what the alterations have done to Adam's metabolism or how they'll affect his life span. That's one of the things we're trying to find out."

"And is that why he hasn't been killed and studied like the others?"

Blatchley was ready for this. Ruth had anticipated it and warned him to expect it. The turning point of his testimony had been reached. From now on he could expect Monte to get mean. He answered carefully.

"As I said, Adam's a special case. No, we never considered killing him. He's the proof of the experiment's success. We should learn enough by observing him to confirm Dr. Schoonover's findings."

"O.K. Let's talk about your observations. Do you take an active part in the experiments with Adam?"

"Yes, I do."

"Does he, in your opinion, and based on your observation, differ from his parents?"

"Yes."

"How is he different?"

"Well, to begin with, he doesn't have a pelt. He isn't hairy except on his head, like a man."

"What else, Doctor?"

"The foramen magnum is farther forward, so his head has a better balance than a chimp's, and his pelvic girdle is different, too. His legs are set back farther. He walks more erect than a chimp, but still not like a man. He doesn't have the S-curve."

"What is the S-curve?"

"It's a pair of curves in the spinal column, one concave, the other convex, which cancel each other out. Only human beings have it. If we didn't, we'd all walk slightly stooped."

"Go on, Doctor. What other differences are there?"

"Those are the big ones. Aside from that I can't think of any that are really that remarkable. He still has the prehensile feet, for instance, with the opposable great toes. Possibly his face is a little less

prognathous—snoutlike—and he doesn't seem to have the massive brow ridges the others have. We don't know how long that will last, though, since he's far from mature, and this is a characteristic of the adult chimp."

"So these are the physical dissimilarities, right?"

"Yes."

"Would you not agree that although they might represent dissimilarities between Adam and the apes, they appear to also represent similarities between Adam and a human being, such as you and I?"

"Well, they do give him a resemblance. I can't tell about myself, but yes, I guess he does look something like you." He patted his bald head.

There was laughter. Even the judge had to hide a snicker. Ruth looked at the jury, hoping they wouldn't characterize Blatchley as a wise guy because of this. But they appeared to be staying awake and enjoying the entertainment. Blatchley's face retained its open, friendly look, and that touch of the angelic some older men have. He waited patiently for Monte's next question and Monte was striving mightily to maintain composure.

"Tell us about neoteny, Doctor."

So, thought Ruth. *Monte's been hitting the books, or else he's got his own expert socked away somewhere, priming him.* She herself had only heard the term a couple of days ago.

"Neoteny is a term we use to describe arrested fetal development," Blatchley answered.

"How is it significant to the subject of Dr. Schoonover's work?"

"The presence of the effect in Adam was confirmation that Dr. Schoonover was on the right track with his experiment."

"Does the effect have physical characteristics?"

"Yes, several."

"What are they?"

"I would say that the most notable is the lack of body hair, which I already mentioned. Then there's a prolonged infancy, delayed sexual development, and generally a longer life span with dramatically increased intelligence. That's what we expect, anyhow."

"Isn't it a fact. Dr. Blatchley, that this effect is best known as a human characteristic?"

"Yes, it is."

"Would you explain to the jury what that means?"

Blatchley cleared his throat and turned slightly to his left. "Well, I'll try. The arrested fetal development I just mentioned prevents man from going into the last stage of his biological physical development. He stops just before that happens, and you might say that birth, whenever it occurs, is premature. He is unfinished. He emerges unprepared for life on his own, has a protracted and helpless infancy, a long childhood, and physiologically speaking, a lifelong adolescence. Somehow, this is related to intelligence. We don't know all the reasons, but we believe it involves not only the increased capacity for cranial growth, but also the effect of sensory data upon the developing individual. My knowledge in that area is rather limited. I'm not an expert."

"You are an expert in the sense that you are a doctor, and by virtue of your experience with the field, are you not?"

"There seems to be some misunderstanding about that part of it. I have done some work in the field of genetics, but I'm not an M.D. I thought you knew that."

"I had assumed that's what the 'Doctor' meant. What is your specialty?"

"I'm a Doctor of Dental Surgery. I got involved in genetic studies trying to grow teeth—with some success, I might add."

Apparently Monte hadn't done his homework. Almost everybody over fifty had benefited from Blatchley's work in that area. You didn't get dentures anymore; you got an implant. Several of the older jurors were smiling and, hopefully, now looking on Monte as fallible. There was one old geezer in the front row of the box who sported a fine smile through brand-new choppers he hadn't been born with.

Ruth whispered to Schoonover, "Monte's in trouble. That's good for us."

"How can you tell?"

"I can tell. Professional secret. The ears never lie. Shh!"

Monte plodded on. "Going back to Adam, Dr. Blatchley; you said that the neoteny effect was apparent in him?"

"Yes, Adam was different in appearance from the time of his birth. So much so, in fact, that his mother rejected him."

"You mean she didn't want him?"

"She seemed afraid of him. She didn't know what to do with him."

"She was a chimp, of course."

"Yes."

"What did you do about this?"

"I myself did nothing." He gave Monte that look the British used to call "Dumb Insolence."

"No. No, Doctor. I'm speaking of the staff collectively. What did they do?"

"Adam was removed from her and raised on the bottle. That's relatively common with laboratory animals anyway. The nature of their environment makes adjustment difficult."

"Did you have an opportunity to observe how the staff treated him?"

"Yes. I was around a lot during normal working hours."

"Isn't it true that Adam got pretty much the same treatment a human baby would get?"

"He got the same treatment any infant would get from my people."

"Nothing special?"

"Not unless you count the clothes. Adam needed those. He didn't have any fur. Remember?"

"What about later, after he was a year or two old. Wasn't he provided with toys?"

"Certainly. Any animal can enjoy toys if they're suited to its needs. Puppies and kittens, for instance. They play."

"But they don't watch TV, do they, Doctor? You don't give them Tinker-toys, or modeling clay, or things like that?"

"Like I said, we give them what is suitable. In Adam's case we had to find out what that was. Also, we hoped to be able to measure his intelligence that way."

"Were you successful in doing this?"

"Yes, but the results are incomplete."

"You're still working on that?"

"Yes, of course. It's a long-term experiment."

"Adam talks, doesn't he, Dr. Blatchley?"

"Yes, after a fashion, but he wasn't born with the ability."

"You mean he wasn't smart enough?"

"No, that has nothing to do with it. He didn't have the physical capability. None of the apes do."

"How is it that Adam can talk now?"

"Adam's mouth and throat were still apelike when he was born. The—uh, what we call the dental arcade was elliptical, as opposed to semicircular as in the human being. The jaw was built for biting and the muscles in it were there to provide power, not control. He had to be surgically altered to achieve that."

"Is he understandable?"

"Yes, provided you're patient. You have to listen carefully and it helps if you're used to him."

"You can understand him, can't you, Doctor?"

"Yes."

"Could I?"

"If you did as I just suggested."

"Is it possible to hold a conversation with him?"

"Yes, provided you keep it simple."

"As a result of these conversations, have you been able to form a judgment about Adam's intelligence?"

"Yes."

"What is that judgment, Dr. Blatchley?"

"Adam has intelligence."

"We know that. How intelligent is he?"

"I don't know. There's no way to tell until he gets older."

"He's six now?"

"Yes, but you have to understand. Developmental rates differ vastly. The normal chimp infant's vastly superior to the human baby, in terms of what he can do, for the first eighteen months. That's the result of faster development. Up until the thirtieth month they're still roughly equal, but the chimp loses ground rapidly after that. With Adam, that stage had been somewhat delayed. We don't know for how long."

"O.K., can you tell me this: What's his intelligence level compared to that of a human six-year-old?"

Ruth had had enough. She rose and objected. "He's asking for a

conclusion, Your Honor."

"Sustained."

"But Your Honor," Monte protested, "Dr. Blatchley's an expert. He's entitled to give an opinion on that basis alone."

"The objection's been sustained," said Cook. "I didn't hear the proper predicate being laid."

There were two things Monte could do now. He could pursue his present line, qualify Blatchley as an expert and risk getting identified with him, then ask his question hypothetically, or he could go on to something else. He chose the latter.

"Does Adam know he's different?"

"Objection, calls for speculation," Ruth fairly roared.

"Sustained," the judge roared back.

Monte shrugged and went on. "You've had conversations with Adam?"

Blatchley nodded.

"You'll have to give an audible response, Doctor, so the reporter can take it down."

"Yes."

"Did the subject of Adam's origin ever come up?"

"Yes."

"Where does he think he came from?"

Ruth jumped to her feet. "I'll object to that, Your Honor. His answer would have to be hearsay. Also, again, it calls for speculation. And even if it were an otherwise proper question, it's too broad."

"Sustained."

Monte tried chasing salvos. "Well, now, Doctor, Adam knows he's not a human being, doesn't he?"

"Objection. The question is argumentative, calls for a conclusion, is leading and assumes facts not in evidence."

"Sustained, Miss Purley." The judge's voice had assumed a monotonous tone. "Mr. Monte, you'll confine yourself to proper examination."

"Your Honor, may we approach the bench?" Monte had had enough of this.

"Come forward, counsel."

Ruth joined him. "Your Honor," Monte said, "I'll again move to rule the witness hostile. I think that's been demonstrated over and over again."

"I don't," said the judge. "The only hostility I see is on your part. It's up to you to protect yourself, counsel. Just ask the proper questions and she'll have no standing to object. Your motion's denied."

Monte went back to his seat, leaving the crowd to wonder what this had been about.

Ruth tried to keep such things at a minimum, believing that it alienated juries to feel they were left out of things. So far, she was satisfied with Blatchley's testimony, though there were perils ahead and it promised to be grueling and lengthy. She knew what the prosecution was after, of course, and pretty much what her opponent would do next. In Monte's place, having taken a lump or two, she'd try to turn the witness around and make him the heavy. He was a good enough lawyer to do that; he just didn't have the range yet. But he'd get it—possibly fairly soon, from the sound of the next question.

"Dr. Blatchley, could you tell the jury how Adam generally occupies his time?"

"Now or earlier, Mr. Monte?"

"Now, Dr. Blatchley."

"I don't know. I haven't seen him for several weeks."

Cut that out, Doc, Ruth whispered to herself. Don't try to get cute. You're outclassed.

Monte took off his glasses and faced the witness. "Doctor, I'm talking about the period when you last saw him."

"Well, O.K. That would have been the 12th of last month, or thereabouts, when he was arrested ..."

"Without comments, Doctor, please just answer the question and tell us generally what he usually did."

Blatchley looked over toward the judge, met a stern gaze, then faced Monte. "Well, he always got up early; generally took a shower. He liked water. Most chimps don't. Then he'd eat breakfast, usually cereal and fruit, and watch a little TV, cartoons and things. We had a program for him. Sort of a tutor system, to see if we could teach him to read and do simple arithmetic. Later, if the weather was nice we'd have playtime outside. Adam liked to feed the chickens and pet the goats."

"Did he do any other work besides feeding the chickens?"

"Work? Well, we thought of it as training; part of the experiment to test his limits. Yes, he did other things."

"What other things did he do?"

"Oh, he'd help out whenever anybody asked. He could sweep, dust. That sort of thing. Wash windows. Adam's a really good climber."

"Did he have to clean the animal cages?"

"No, he never did that. We had maintenance people and animal handlers for that. Sometimes he'd play with the rabbits and guinea pigs."

"You said people would ask him to help?"

"Yes, we always tried to make him feel important, to make him think he belonged. Having something to do gave him a part to play and helped him to feel at home."

"But he was born there. Why shouldn't he feel at home?"

"He was the only chil— the only one of his kind on the place."

"Did you start to say child, Doctor?"

"Perhaps. It's natural to think of him that way even though he really isn't."

"Weren't there other young chimpanzees at the institute, Dr. Blatchley?"

"There aren't any now. We've had them there in the past."

"Did you get rid of them because of Adam?"

"No, of course not. They're simply not required for current experiment."

"Did Adam ever see another chimp?"

"Once or twice."

"How did he react to his encounter? If you know."

"It appeared to me that he considered them the same as any other animal. It didn't seem to bother him. Of course, we never let him get close enough to touch one."

"Why not, Dr. Blatchley?"

"Because apes can be like people in some ways. They sometimes react with hostility toward things that are different."

"Has Adam ever asked you about his parentage?"

"No."

"As far as you can tell, does he know he has any parents?"

"He knows."

"Has he ever asked where they are?"

"If he has asked anyone, it wasn't me."

"Has he ever met a human child?"

"Not that I know of."

"He's seen human children on TV, hasn't he?"

"I presume he has."

"And he's never asked why he hasn't met any?"

"He has not asked me."

"Dr. Blatchley, are you acquainted with a woman named Madelyn Hundin?"

"I think so. Is she that reporter?"

"Yes. You know who she is, then?"

"Yes, I know."

"Did she ever visit the institute?"

"Yes, she was there earlier this year, about January, I think."

"Why did she come?"

"She had read some of Dr. Schoonover's papers and wanted to see Adam."

"Did you allow this?"

"Well, I tried to discourage her at first. I was afraid Adam would be upset, meeting a stranger, but she wouldn't leave. Finally, I agreed to give her a guided tour, provided she didn't disturb him."

"You didn't know she was coming?"

"No, she didn't call or anything. Just dropped in."

"Where did you take her?"

"We went outside first so she could take some pictures. Then we went in the greenhouse to look at Dr. Smith's experiments. She wasn't much interested in them and we didn't stay long."

"Where did you go after that?"

"To Dr. Schoonover's lab."

"Was he there?"

"Yes."

"How about Adam? Was he there, too?"

"Yes."

"What was he doing?"

"He was helping Dr. Schoonover in the clean room."

"Doing what?"

"Replacing filters in the ducts. We have to do that every day or two."

"Tell us how he does that, Doctor."

"Well, Adam operates a little differently than a man would. He doesn't use a ladder."

"Exactly what does he do?"

"He usually climbs up a pipe until he gets to the ductwork and then walks it to the nearest grille. He opens that, goes inside, and gets the filters out. Then he drops them to whoever's on the ground and catches replacements that are thrown up to him. When he's finished he comes back the way he went up."

"How high off the floor are these ducts?"

"About twenty feet."

"What safety precautions are taken when Adam does this?"

"Why, none that I know of, but Adam's got two million years ..."

"Just answer the question, Doctor, please," Monte interrupted.

"But—"

"I haven't asked a question, Doctor."

Blatchley settled back, noting the stern look on Ruth's face.

"Where was Adam when you and Miss Hundin entered the clean room?"

"He was inside the ducts putting in the filters. He came out a little while after we got there."

"You testified earlier that Miss Hundin took pictures outside."

"Yes."

"Did she take any in the clean room?"

"Yes, I think so. She had one of those fancy cameras with the motor in

it."

Monte opened his file, took out an envelope and walked over to Paul, the reporter, who attached stickers.

"May I approach the witness, Your Honor?"

Cook assented.

"Dr. Blatchley. I'm handing you what have been marked as Government Exhibits 1 through 11, and ask that you examine each of them."

Blatchley took them and looked them over. No doubt about it; these were the pictures she'd taken, and the angle had been calculated to make it look like Adam was in danger of falling. In a few moments Monte asked, "Can you identify the scenes depicted by these exhibits, Doctor?"

"Yes. These are the photographs Mrs. Hundin took when she and I were in the clean room."

Monte took the pictures to the defense table and handed them to Ruth. She gave them a cursory glance and handed them back. Naturally, she'd seen them before. In fact, she had prints. Modern discovery methods had long ago taken the surprises out of law. She knew there was no way to stop Monte from getting them in and stipulated to their admission.

Monte went in for the kill. "Dr. Blatchley, you earlier testified that you are the founder and director of the institute?"

"That's what I said."

"In this capacity do you control the finances?"

"Yes."

"Do you sign the payroll?"

"Sometimes I do. Usually the bookkeeper does it."

"Can you recall ever signing Adam's paycheck?"

"Adam doesn't get a paycheck. He's not an employee."

"But Adam does work, doesn't he."

"If you want to call it that. He helps out; does chores on a more or less regular basis. It's part of his training."

"What if he were to refuse to do something?"

"I don't know that this has ever happened."

"Would you permit it to happen?"

"I don't know. If it was an essential part of his training or an

experiment we might insist."

"How would you enforce your order? Would you punish Adam?"

Ruth considered objecting. The grounds existed. The question was compound, leading, argumentative, and speculative. She decided against it. Too easy for Monte to rephrase, and it would suggest a cover up attempt on her part. She let it go, and Blatchley answered.

"Physically, no. He's beyond the stage where that's necessary, just as a human child his age would be."

"Please, just answer the question, Doctor. Don't give us an explanation."

"Well, we might curtail his TV or something like that."

"Suppose Adam decided he wanted to leave the institute, Dr. Blatchley. Would you permit him to do so?"

Blatchley had discussed this point with Ruth the day before. Like any obvious question, it was anticipated and the answer planned. "No," he said, "we wouldn't."

"Pass the witness," Monte said.

This wasn't in their game plan. Blatchley was left sitting in the witness chair with his last answer hanging out in full view of the jury. He assumed Ruth would take care of that, now that she had the opportunity. He'd been a witness before, in other cases, and knew something of the routine.

But she fooled him. "I have no questions of Dr. Blatchley at this time, Your Honor. However, I may call him in rebuttal after the Government finishes."

"Very well, you're excused, Dr. Blatchley. I'll remind you you're still under the rule. You may not discuss this matter with anyone, except the two attorneys in this case. Each of them has a right to talk to you about your testimony if you are agreeable to doing so."

Blatchley replied that he understood, stepped down, and walked stiffly out of the courtroom.

"Call your next witness, Mr. Monte."

Monte sent the A.I.C. out the door. A few moments later he was back with a young woman in tow. She walked up to the bench without any direction and raised her right hand, all of which marked her as a professional. She settled herself in the witness chair, and Monte began.

"Please state your name and occupation."

"Mona L. Aikenhead. I'm a psychiatric social worker employed by the State of Texas, Department of Human Resources."

"Are you assigned regularly to any particular branch of that department?"

"Yes, I'm attached to the Juvenile Hall and have been for the last five years."

"Are you certified in that specialty by the state?"

"Yes."

"And would you tell the court what special training you've had and what degrees you hold which qualify you for the position you occupy?"

Before she could answer, Ruth stood. "We'll stipulate as to the witness's qualifications in the field of psychiatric social work."

She sat down and Schoonover was all over her. "Why did you do that?" he asked in a whisper. "You're supposed to be helping me."

"She's got more degrees than you have clean shirts, Delmar. What would you rather have the jury see: an impressive expert or a nosy, big-mouthed busybody? Shut up and listen."

"... school children. Usually they're only the disturbed ones, but occasionally we get one that's the victim of a broken home, by death or divorce."

"What is the age range of the children you work with?"

"From infants on. Sixteen's the limit."

"Are you acquainted with a creature called Adam?"

"Yes, I am."

"How did you become acquainted with him?"

"He was brought to us on November 12, by the sheriff."

"For what purpose, Mrs. Aikenhead?"

"Custodial care. He'd been in federal custody as a material witness in this proceeding. They don't have their own facilities so they use the county's. However, Adam's a juvenile; the sheriff couldn't hold him in jail, which is what he'd ordinarily do."

"To your knowledge are there any judicial proceedings pending anywhere which affect Adam, aside from the commitment order issued in this cause?"

"No. We anticipate there may be, but there aren't now."

"What arrangements did you make for Adam's care?"

"Well, our normal procedure would be to select a foster home for him from our list of approved people. We didn't feel that would be appropriate in this case."

"Why not?"

"He's different. He never had any contact with other children before and we felt the shock of meeting them should be a controlled event to lessen the impact. There was also a need to insulate him from the media people."

"Who actually has physical custody of Adam now?"

"My husband and I do. I felt his case was important enough to justify personal intervention."

"I see. You've had considerable experience with handling children, haven't you?"

"Yes, professionally speaking. I don't have any of my own."

"And you are a trained observer when it comes to handling them?"

"Yes."

"Have you had Adam under your observation for long enough to have formed a judgment as to his level of intelligence?"

"Yes."

"Have you administered any intelligence tests?"

"Yes, I have."

"What kind of tests were they?"

"Well, they vary. Some are designed for manipulative skills, some for object recognition, some for the ability to conceive relationships between two or more objects or geometrical patterns."

"How did Adam do?"

"Very well with the manipulative and object recognition, poorly on the other."

"From your observations and the test results have you been able to form an opinion of his level of intelligence?"

"Yes."

"What is that opinion?"

"The tests indicate that Adam is functioning slightly below the low-grade moron level. However, it is also my opinion that the tests were of marginal value in his situation."

"Please explain that."

"I am of the opinion that he's actually brighter than the tests would indicate. The tests were designed for human children. They don't necessarily fit Adam."

"Mrs. Aikenhead, is Adam an ape?"

"Objection, Your Honor. The question calls for an opinion this witness isn't qualified to state. The stipulation we made recognizes her expertise as a psychiatric social worker, not as a zoologist."

"Sustained."

Ruth knew Monte had wanted that question answered badly. He'd keep at it until he'd gotten the idea across to the jury, no matter what she did. But she wouldn't make it easy.

"O.K.," he said. "I'll rephrase the question, Mrs. Aikenhead. Are there any human attributes that you can think of, normally found in any human child, that Adam does not possess?"

Before Ruth could stand and object, the witness answered with a resounding "no."

Ruth stated it belatedly. "I object to the question: first, because it's leading; second, because it calls for an opinion outside her expertise; and third, that if she were otherwise qualified to answer, the foundation for the question is insufficient."

Cook raised his head, peering at her through rimless glasses, and his gaze told her she lost the toss. "I believe she's qualified to answer," he said, "and although the format was somewhat out of the ordinary, I can see no harm in it. However, I'll admonish Mr. Monte to refrain from asking such questions. So far as the foundation is concerned, even as a lay person with the normal acquaintance with children she'd be qualified to state she knows what these attributes are, and that she can or cannot discern their presence or absence in this individual. The objections are overruled and your exception will be noted in the record. Mr. Monte, you may proceed."

"I've concluded my direct, Your Honor. I'll pass the witness," Monte said with a smile.

Ruth would like to have excused Mrs. Aikenhead at that point. She'd expected someone like her to be called to testify, of course; but as with any

expert, cross examination could sometimes do more harm than good. In view of the judge's remarks, impeaching her was probably impossible. The most she could hope for was to chip away at credibility and try to reach to the point where the jury might conclude Mrs. Aikenhead just didn't know what she was talking about. She'd have to give the situation a couple of licks for that reason alone. But there was another reason, which was part of her overall strategy: to extend the rabbit trail past the point where even Monte's skills wouldn't save him. Monte was good. He was impressive and he knew how to lay out a case. But it was on cross that Ruth shone. She hoped she'd know when to stop. There was always the danger of opening up new doors better left closed.

So she decided to be firm while keeping the gloves on, opening with innocuous questions.

"Mrs. Aikenhead, as you look at me, am I a human being?"

"Yes."

"Are you?"

"Of course."

"When did you become a human being?"

"Why, I've always been one," she answered, sounding astonished.

"Do you see any creatures in the courtroom who aren't human beings?"

"No."

"If someone in the courtroom weren't human, would you know it?"

"I suppose. I don't quite see what you're getting at."

"How would you know?"

"I'd just know. Anybody would."

"You have scientific training, do you not?"

"Yes."

"You hold academic degrees in scientific subjects?"

"Yes."

"Are you speaking as a scientist as you testify here today?"

"Well, I use my training to answer the questions. Yes, I am."

"Humanity is a scientific term, is it not?"

"Yes."

"A scientific status is capable of definition in scientific terms, isn't it?"

"Yes."

"What is meant by the term *human*?"

Sensing a trap, the witness paused and considered. "Human relates to the dominant species of life on Earth."

"I will concede that that is an analogy, but I want your definition. What do you mean, human?"

"What do I mean? Well, human means to have human form and human intellectual capabilities. That's what human means."

"Perhaps I should ask the question in more basic terms, Mrs. Aikenhead. What are the intellectual capabilities of human beings?"

"Human beings are capable of reasoning, having logical thoughts and behaving in an orderly manner."

"Would you agree that any being capable of doing this would be human?"

"That would depend," said the witness.

"Upon what?"

"Well, a human being has a human appearance."

"You'd add physical form as a qualification, also?"

"Yes, I think so."

"Suppose, Mrs. Aikenhead, you were to construct a robot, giving it human form and appearance, which was capable of doing the things you've just described. Would it be human?"

"No, it wouldn't."

"Why not?"

"Because it's not alive. A human being is alive."

"What is the definition of alive?"

"Well, something that's alive has recognizable bodily functions that maintain its life."

"That's not a definition."

"When something is alive it has sensation, it finds and consumes energy, disposes of waste and reproduces its kind."

"I see. If a robot could be made which would do these things, as well as the others you've mentioned, would it be a human being?"

"No, I don't think so."

"Why not, Mrs. Aikenhead?"

"Because there's more to humanity than that. Much more."

"Tell the jury what else there is."

The witness took that literally and turned to address the jury. "Human beings feel like human beings. They laugh; they cry. They experience happiness and they feel grief and they have moods."

"If these qualities and characteristics could be instilled in our robot, Mrs. Aikenhead, would it be human?"

The witness stared at the jurors, who waited for her answer. She had known Ruth's question would reach this point and dreaded it. But there was nothing else she could say. "Yes, it would be human."

"So we now have a definition of a human being, don't we?"

"Yes."

"Let me summarize and ask you if you agree. A creature that thinks logically and behaves reasonably and orderly, which is alive and has human physical form, and which has the capacity to experience the emotions you've just described, is a human being. Could you agree with that definition?"

Ruth waited. "Is that a fair statement?"

The witness looked alternately at Monte and at the jury. Finding no help there, she answered weakly, "Yes."

Ruth was about to stick her neck out. The Bible Belt might not be the best place to ask the next few questions, but they were essential to her strategy.

"Do you believe in God, Mrs. Aikenhead?"

"Of course."

"How about angels?"

"Yes."

"Good and bad?"

"Yes."

"Are any of these entities human beings?"

"No."

"Why not?"

"Because they're spirits. They're superior to human beings."

"It's commonly believed that all are capable of taking human form, isn't it?"

"Yes."

"And that they sometimes do?"

"Yes."

"Under these conditions are they then human?"

"No."

"Why not?"

"Because they only look human. They have the form only."

"The differences are imperceptible. Would that change your answer?"

"No. The observer would merely be fooled. It wouldn't change the reality of the situation."

"You'd consider divinity a special case?"

"Yes," said the witness, looking relieved.

"Are there any other special cases you can think of?"

"Not offhand, no."

"Mrs. Aikenhead, it's generally conceded that the universe is a rather large place, isn't it?"

"Yes."

"Large enough so that we don't know its limits or even if it has any limits?"

"Yes."

"All we know about it is what can be observed from Earth?"

"Yes."

"Do you believe that somewhere out there there are other worlds which have life?" Ruth saw Monte flinch at that but he didn't object.

"Yes," came the answer.

"Do you believe it is possible that there is life out there which is equivalent to man in intelligence?"

"Probably."

"Is it not possible that some of it is man's superior in intellectual capability?"

"Yes."

"If this is true and such life in fact exists, and if it had the attributes described in our agreed definition of humanity, would you be prepared to accept it as human?"

"Well, I don't know. It would depend."

"Upon what?"

"On how I felt about it when I saw it."

"Are you saying that the effect on the observer is also a part of the definition?"

The scientist in her would not permit the affirmative. "No, it isn't." But she had accepted a robot; why not an extraterrestrial?

"So humanity actually is not an Earthly term, is it, Mrs. Aikenhead?"

"No."

"It is a universal term?"

"Yes."

"A creature that meets the standards is human; a creature that doesn't is not?"

"Yes."

"Even if it looks human?"

"Yes."

"Adam looks human?"

"Yes."

"Not exactly like you and I, but close?"

"Yes."

"But not nearly as close as the average idiot?"

A stunned look washed over the witness's face. "Idiots are human."

"Do they meet the definition we just agreed on?"

"Well, no. No, they don't. But that's because of physical defects."

"Does the definition require us to take the reason into account?"

Monte was on his feet objecting, "Counsel's arguing with the witness, Your Honor."

"I'll allow her to answer. In my opinion it's proper cross-examination, Mr. Monte. Overruled."

"Answer the question, Mrs. Aikenhead. The objection's been overruled."

Ruth let her know she meant business.

Resigned to the fact that Monte couldn't help her, the witness became sullen. "No," she answered reluctantly.

"Neither does a person who's been deprived of his reason by illness, such as a schizoid?"

"Under the definition we're using, no. I guess not."

"Nor would a baby?"

No answer. Ruth ignored the fact; she went on.

"There was a time when you and I and all of us in this room weren't human, wasn't there?"

"Again, under the definition we're using, I suppose so."

"Is there something else which we should add, Mrs. Aikenhead, to improve the definition?"

The witness was silent. Ruth let her take her time, but after waiting almost a minute she felt she had to move. "Mrs. Aikenhead?"

"No. I can't think of anything we could add."

"Yet you're not comfortable with the answer you're getting under the definition?"

"No, I'm not."

"Is it possible, Mrs. Aikenhead, that the term is not capable of definition?"

"Yes, I suppose it is."

It was time to quit. And Ruth did. She had proven her point and then provided the witness with an escape hatch. The witness had taken it. She could do nothing else. What Monte would do about it was not at once apparent, and it would be an hour and a half before they knew. The Judge had given him the choice of going ahead now or continuing after lunch, and he had chosen to play for time.

She and Schoonover waited until the courtroom had been cleared and then, in the company of escorting guards, went to her car, now parked officially in one of the probation officer's spaces. Once underway, Ruth headed for North Beach.

"Where are we going?" Schoonover asked her.

"Anywhere, away from the crowd. I'm not particularly hungry, are you?"

"No. I'm too excited."

"Why don't we just park for a while?" She turned and smiled. "You can't get in any trouble in this car, I don't think."

"Right now that wouldn't seem like trouble. Can you tell how we're doing yet?"

"There are trends emerging. I think Monte took the bait. We won't be able to tell for sure until he tries to rehabilitate Mona Aikenhead, if he does."

"You mean he might not. Oh, but that'd be great. Do you think there's a chance? I mean, you really worked her over."

"There's a good chance he won't try. I wouldn't."

"But she's a crucial witness."

"No, she isn't. You said that because you think like a layman. You haven't got the legal training to appreciate what happened up there. Monte knows this case is going to be decided on emotion, not logic. He thinks he already has it made. So Mona Aikenhead can't define the term 'human.' So what? She knows one when she sees one. So does the jury. They know in the viscera."

The car came off the end of the bridge, took a 180° turn under it, and headed south toward the ship channel, where there was a small park. Ruth pulled it up to the seawall and cut the engine. "Do we stay in or walk?"

"Let's go up on the lookout. I might want to jump and get it over with. It sounds like you think we're going to lose."

"There's always that possibility, but I try not to think about it. I don't intend for it to happen."

They got out of the car and started up the stairs, which took three flights to reach the top. Below, tugboats struggled to push an aged, rusty tanker away from its berth. For a while they watched in silence.

"It's nice up here," Ruth said. "Did you ever get the urge to just get on one of those and go wherever it went?"

"Sounds like a good idea. Shall we swim for it?"

Ruth took Delmar's arm, raised it, ducked under, and wrapped it around her.

Troubled as he was, Schoonover had to admit that his relationship with her, while somewhat irregular and certainly unorthodox, had many advantages. He thanked his good fortunes for her aggressiveness. He,

himself, was far too shy, and his life style far too sheltered for this to have happened in any other way.

Long moments passed and they stood there, facing the wind and looking out to sea, where the waters lay bright blue and untroubled. How easy it would be for him to run from this, thought Schoonover. "But I can't."

"Can't what, Delmar?"

"Did I say that out loud?"

"Uh-huh. Can't what?"

"I can't run. That's what I want to do. I'm not a fighter, Ruth. I never have been."

"You don't have to, Delmar. That's my job. It's up to me to take my battleaxe and cave Monte's roof in, just like they did in the old days. Nothing's changed."

"I know you're trying hard, Ruth. And I don't want to seem ungrateful, but I can't help feeling things are turning out all wrong. I guess I'm just too used to the physical world where things are real. Law's just a muddle."

"Uh-huh! And I'm a shaman rattling bones. Is that how you see me?"

"Please, Ruth. It's nothing personal, but I'm used to concrete thinking and stable, disciplined scientific reasoning. I just can't see where all this mumbo jumbo is getting us."

Ruth turned and faced him, raising her hands to straighten his tie, and pulling on it rather harder than she'd meant to. It wasn't the first time she'd heard such talk, but coming from Delmar it hurt her a little. She tried not to show irritation, but he was sure to take it wrong.

"It's not mumbo jumbo, Delmar. It looks that way to you because you don't know the rules. You're not an expert. Your work looks the same to me, and both of us would consider the average mathematician mad. Everybody works in his own universe, Delmar. Rational thought requires boundaries, and law's no exception. Errant thinking is just as dangerous to me as it is to you."

"Are you sore at me, Ruth?"

"No, Delmar. If I were, I'd push you off the edge. No, I don't think the time will ever come when the layman will give lawyers the credit they're due for keeping the world running. You're not to blame for that; we are. We've been too secretive about what we do. People look at the results and don't understand why things worked out that way, so they think of it as

magic. It isn't; it's far more basic. It's war."

"War!"

"Sure. Lawsuits are substitutes for combat. Nobles used to be able to wage law: challenge the other side to a duel and let God judge. In fact, that was the law of Maryland until the 1920s. They'd adopted the old English Statutes at the time of the revolution, and while wager was abolished in England, Maryland never got around to it. Until some sharpie with a pretense to noble lineage claimed the right to challenge an indictment by fighting the state's attorney."

"That's weird, Ruth."

"No, it's conservatism. Law's the most conservative of all professions. We hate change. Change destroys people's orientation in society; ruins society's stability. That's why a really workable government is always top-heavy with lawyers, and I mean from city councils on up. That's why most U.S. Presidents have had law degrees. It takes one to understand government. Croakers, like you, mess it up. Look what Allende did to Chile thirty or so years ago. Duvalier did an even worse job with Haiti, and scientists, in general, don't make very good political leaders."

"O.K., Ruth, so I don't understand politics. Where does that leave Adam and me? It seems to me that Adam's case is special. He's unique, and the law ought to take that into account. Couldn't there be an exception in his case?"

"Not unless the legislature says so, Delmar. They haven't seen fit to change the law, and the courts can't. It's not their job, not that they don't sometimes try.

"Besides, they don't have to. Adam's unique to science, but legally speaking, he's old hat. The law's handled his kind before, and there's a very large body of precedent on the subject."

"Huh?"

"Sure, Delmar. We're way ahead of you guys. You think blacks were always human? Don't you believe it. It took the 13th Amendment to make a black man your legal equal. Even that didn't help black women. You'd be surprised how few rights married women had a hundred years ago, even as humans. And Indians. Indians achieved humanity after blacks did, when they finally gave up shooting arrows at the white man and started filing lawsuits instead. It was the same old battle, fought a different way. A way where they really had a chance to win. There, does that make you feel any better?"

"I don't know. It seems to me that what got the black people out of trouble got me in. I didn't mean any harm. They couldn't have meant me when they passed that law. That was over a hundred years ago."

"The law anticipates problems, Delmar, and works out solutions in a regular, systematic way. That's what makes it so valuable. The precedents which are established can live on indefinitely. Law operates on the theory that if it's not broken you don't fix it, but if it is broken, fix it good. There are occasions when precedent has to be overruled, but you'd be surprised how rarely that happens."

"It sounds to me, Ruth, like lawyers are stuck in the past."

"We are, Delmar, and in the future, too. If we lose, and your case goes to the higher courts on appeal, their opinion may be cited as precedent a thousand years from now. Now, isn't that a pretty good reason for Judge Cook to be careful?"

"I suppose so. But I'm sorry to say I don't understand it any better now than I did before."

"Remember what I said a while ago, Delmar, about lawsuits being combat? I meant that. Aside from the fact that our roles have been reversed, and we're missing an opportunity to do some serious necking, I'll bet you never thought of me as a general, did you?"

"No." He hugged the "general" close and kissed her.

When he finally let go, she said, "That's essentially what I am, you know. Every lawyer is. And every really good lawyer studies war. He has to, because that's the only way to win. Some lawyers have been generals, literally. Julius Caesar, for instance. Bismarck too. Lawyers were really active in the American Revolution and in the Civil War. Their influence might even have been decisive. And they were oddballs, mostly, who took a new look at things and spotted opportunities others didn't. It wasn't just the big names like Andrew Jackson or Breckenridge or Moseby. There were lots of others, natural leaders, that you never heard of."

"You can see how a new angle can win for you. Look at Castro. In your lifetime he took a handful of guerrillas and beat a modern mechanized army with them. The profession's not all that proud to claim him, but he was undeniably successful."

Ruth glanced at her watch. "Aw, look at that, Delmar. It's time to go back. We'd better get started."

Ruth put the key in the ignition but didn't turn it. "Let's not be pessimistic, Delmar. If the case wasn't winnable we wouldn't be trying it. Only mediocre cases ever get tried, just like only mediocre wars ever get fought, and for the same reason. If I stood facing you with a .45 in my hand and you had nothing but a club, would we fight? Of course not. When one side or the other knows it can't win, the case gets dealt out. In the criminal end of it the D.A. just lets the grand jury know he doesn't want to indict and they 'No bill' it, or the hopeless defendant plea bargains."

"How do we win then, Ruth?"

"I think what's confusing you is the difference between the law and the facts. Each gets different treatment. That's why every lawyer wants a learned judge and an ignorant jury. The lawyers know what the law is if they've done their homework; the law is whatever the Supreme Court says it is at any particular time in history. But until the jury tells us what the facts are the law can't be applied. The jury resolves all factual disputes; they decide whether testimony is credible and how much weight to give it. Then the judge tells them what they're expected to do with the issues they've resolved. You can see how careful we are to keep out information that doesn't bear on these issues or has a tendency to be unreliable. Hearsay's a good example. It's generally considered incapable of direct proof. Of course, there are exceptions, like dying declarations, or ancient documents, made so long ago that their falsification for use in court is manifestly improbable. These are admissible like any other evidence."

"That part I appreciate, Ruth, even if I don't understand it. What I want to know is how, if everybody—you and Monte and the rest of these people—know both the law and the facts, how do we gain the advantage and beat them?"

"Because knowing something is one thing, Delmar, and using it is something else again. True, we're locked into the Matrix, the battlefield, so to speak, but we can maneuver within it. So we marshal our facts and march our witnesses across, in whatever deployment we judge most beneficial. We take advantage of procedural barriers to protect our flanks and hit where the enemy is weakest. Sooner or later, one side or the other will blunder. That happens one hundred percent of the time."

"And you think Monte will blunder. Is that what you're telling me?"

"No, I think he already has." She started the engine, and they drove off. For the rest of the trip neither spoke.

"You may proceed, Mr. Monte." Monte stood up. "Your Honor, if it please the court, the Government will forego re-direct of Mrs. Aikenhead at this time and reserve the right to recall her in rebuttal at a later time."

So he's decided to keep the jury guessing, thought Ruth. *Good thinking!* Judge Cook nodded. "Very well. Mrs. Aikenhead, you are reminded that although you have been excused you remain bound by the Rule. The marshal will escort you to the witness room. Call your next witness, Mr. Monte."

The A.I.C. rose and left the courtroom. He returned with a huge black man.

"I don't like this," Ruth whispered. "The ear test doesn't work on black people. I wonder who he is?"

"I know him," said Schoonover. "That's George Russell. You said Monte had been talking to an expert. George is an expert. He probably knows more about genetic engineering than any man alive."

"Where does he practice?"

"He doesn't. He teaches and researches. He's also on the editorial staff of the journal which published my papers."

"Then it's obvious why he's here."

"It is?"

"Of course. They'll want to get those papers into evidence. It's the next best thing to being able to call you to testify. They can't do that."

"What are we going to do about it?"

"We're going to let him put them in."

"What?"

"Shh. Delmar, did you say anything in your papers that wasn't true?"

"Of course not. I backed up every claim with experimental proof. Anybody can reproduce my results if they follow my instructions."

"And you never published anything you haven't shown me?"

"No."

"O.K., I'm going to stipulate. You already know the reason. And we'd never be able to keep it out anyway. Let's let the jury take the stuff in with them when they deliberate. They won't understand it even if they read it.

Let's not give them the advantage of an explanation. O.K.?"

"O.K."

She let Monte get as far as name and occupation, then stood when he asked his first qualifying question. "We'll stipulate as to Dr. Russell's expertise in the field of genetics, Your Honor." She sat down.

Monte appeared delighted but not surprised. Ruth wasn't the kind of opponent who liked to waste time. Neither did he. He went right into it.

"Now, Dr. Russell, in addition to your teaching duties and your own research, you're also involved in the publication of a journal?"

"Yes. I'm on the staff of the *Journal of The American Society of Genetic Engineering.*"

"Are you acquainted with Dr. Delmar Schoonover?"

"Yes."

"Do you see him in this courtroom, and if so, would you point him out?"

"Yes. He's wearing a blue suit and glasses and sitting next to a woman at the table in front of me."

"When did you first become acquainted with him?"

"Oh, let's see, about seven or eight years ago, I think, yes. It was at a seminar, in Switzerland; University of Bern."

"Since that time have you and he corresponded?"

"Yes."

"Did any of your correspondence relate to his work on genetic birth defects?"

"Yes."

"Did he submit any papers on the subject for publication in the *Journal?*"

"Yes."

"How many?"

"Four."

"Did you publish any of them?"

"Yes. We published all of them."

"When?"

"If my recollection is correct, they're all in the last four issues."

"Have you read these papers yourself?"

"Yes. I read both the manuscripts and the published articles."

Monte went to his file and took out four magazine-sized objects. The reporter marked them on his instructions, and forgetting to ask leave, Monte approached the witness.

Ruth noted the critical look on the judge's face, but he was apparently willing to let the transgression pass in the interest of brevity.

Oblivious, Monte continued.

"Now, Doctor, I'll show you what have been marked Government's exhibits 12, 13, 14, and 15 and ask you to examine them."

Russell took them, examined them.

"Can you identify these objects?"

"Yes."

"Please do so."

"Exhibit twelve, is the issue of the *Journal* published in June 1994. Thirteen is the September issue of the same year. Fourteen was published in December, and fifteen in March of 1995."

"Dr. Russell, are these the issues which contain Dr. Schoonover's articles?"

"Yes."

Monte took the journals from him and started for Ruth's table. Ruth waved him off. He looked puzzled, as if expecting her to interrupt and renew her motion to suppress at this time. However, he continued without pause.

"Your Honor. The Government moves for the admission of its exhibits numbers twelve through fifteen."

"No objection, Miss Purley?"

"None, Your Honor."

"There being no objection, they are admitted."

Monte got back to his witness. "Dr. Russell, you said you read the papers more than once, if I'm not mistaken. Is that correct?"

"Yes, sir."

"Do you have personal knowledge of their contents?"

"Yes."

"Do you understand their contents?"

"Yes, I believe so."

Ruth knew what Monte would try next, and what he would expect her to do about it. She was resolved to disappoint him even though it might encourage him to go further than she might like. If she had correctly assessed his attitude, he was convinced she'd written Schoonover off and was just playing out the string. That's what he'd probably have done. Most lawyers would have, but not Ruth Purley.

She let Monte have his head, and the testimony droned on. For over an hour Monte pumped innocuous bits of useless knowledge out of Russell and into the jury box. The jury looked bored and Ruth was certain they understood none of it.

Yet Monte wouldn't quit. Was Schoonover's work important? Russell agreed that it was, called it a breakthrough.

Did Russell have an opinion as to Adam's status as a person? Ruth stopped that with an objection, and the judge ruled the stipulation didn't qualify him to give an opinion as to an ultimate fact outside the field of genetics.

Monte did get one lick in, however, that Ruth felt was highly prejudicial to Schoonover's case. That was when he expressed an objection to further experiments which raised primate intelligence.

"Such artificial races would be abused," he answered. "My ancestors were slaves for four hundred years because their skin was black."

Ruth managed to get the remark stricken, but she knew no juror could possibly fail to be persuaded by such words, especially when uttered by a man as impressive as Russell.

She did not cross examine, which caused an expression of great relief to appear on Judge Cook's face. He wanted to move things along.

"Mr. Monte, it's now four o'clock. Is your next witness going to take long?"

"I plan to call Madelyn Hundin, Your Honor. Direct should take half an hour. Of course, I have no way of knowing how long Miss Purley will be."

"The court is prepared to stay a little late, counsel, if that's your pleasure, or we can let Mr. Monte finish and start on cross in the morning."

"I have no objection to splitting it up, Your Honor," Ruth replied.

"Your Honor," Monte stood. "The Government will call Madelyn Hundin."

Moments passed. Then McGill opened the door for a woman about 40. She was dressed in a light green tailored suit, the jacket of which covered a blouse of some silken material, in a red-and-gray striped pattern. Her hair was short, bleached blond, and slightly curled.

Ruth had not seen her before in person, although she had been on TV almost continuously for the past month. She decided she wouldn't have liked the witness even aside from her relationship with Schoonover, but she had to admit that the woman was attractive and probably would make a formidable witness.

"Mrs. Hundin," Monte began. "Is it Miss or Mrs.?"

"Miss. I'm not married." She said it like an invitation.

"Tell the court your full name, please, and where you live."

"Madelyn O. Hundin. I live at 4418 North Cleveland Avenue, Chicago."

"What is your occupation, Miss Hundin?"

"I'm a reporter for the *National Interrogator*."

"How long have you been so employed?"

"Not quite 18 years."

"What kind of publication is the *Interrogator*'?"

"It's a weekly newspaper. It comes out every Tuesday, nationally."

"Now, Miss Hundin. Are you acquainted with Dr. Delmar Schoonover?"

"Yes."

"How did you meet Dr. Schoonover?"

"I went to see him at his laboratory at the Blatchley Institute."

"When was this?"

"January 12th of this year."

"What time of the day was it?"

"Early afternoon."

"Did you see anybody else there besides Dr. Schoonover?"

"Well, I don't remember everybody I met. There were a lot of workers around, but I did talk to Dr. Blatchley for quite a while. He showed me

around."

"Is there anybody else you saw that day whom you remember?"

The witness's face took on a faraway look and her voice was drawn as she answered. "Yes, the child, Adam."

My God, thought Ruth, *a ham actor!* "Objection, Your Honor; her answer assumes facts not in evidence. It has not been established that Adam is or is not a child. We'll also move to strike."

"Sustained; the answer will be stricken and the jury is instructed to disregard it."

Monte appeared unruffled, "Can you describe Adam?"

"Yes. He's a little fellow, about two-and-a-half feet tall, with black hair and the biggest brown eyes you ever saw. And he was wearing glasses, and little white coveralls, and no shoes."

"What was he doing when you first saw him?"

"Climbing around up on the ceiling."

"While this was going on what did you do?"

"Well, I had my camera so I snapped a few pictures."

Monte addressed the court. "May I approach the witness, Your Honor?"

Leave was granted and he walked to the stand, pausing briefly to retrieve the pictures from the reporter.

"Miss Hundin. I now show you what have been marked as Government exhibits one through eleven and ask you if these are the photographs you took?"

"Yes," she said, shuffling the photos. "Here's the one where he was losing his glasses."

"It would appear, Miss Hundin, that the coveralls are soiled."

"Yes. He was pretty dirty from crawling around in those pipes."

"Did you mention this to Dr. Schoonover?"

"Yes."

"What was his reaction?"

"He said Adam was a great help to him; that he'd take a shower and be as good as new."

"Did you express any concern to him about the danger of falling?"

"Yes, I told him I thought it was too dangerous for a little boy."

"Why don't you object to this, Ruth?" Schoonover whispered. "I thought they couldn't use hearsay."

"Shh. It's not hearsay if a party says it. It's an admission against interest. You're expected to deny it if it isn't true."

"How can I if I don't get to testify?"

"Let me alone, Delmar. I gotta listen."

The witness droned on. "... told me the child did all sorts of hard work around the place; work I wouldn't want to do."

"Did you have any conversations with Adam, Miss Hundin?"

"Well, I tried, but he's hard to understand, you know. He doesn't talk very plainly. But it seems to me I asked him ..."

Monte interrupted. "Don't tell us what the conversations were about. You did have words with him, though?" He obviously didn't want to give Ruth a chance to rattle the witness with valid objections.

"Yes," the witness answered. "I did."

"Did you see any kind of safety devices in use while Adam was up on the pipework?"

"You mean nets or ropes? No, I didn't see any."

"Did Dr. Schoonover explain the absence of any such devices?"

"Objection, Your Honor. Counsel's leading the witness. Her prior testimony was that she didn't see any, and there's no proof she asked for an explanation.

"Sustained."

"I'll withdraw the question. Did you ask Dr. Schoonover whether any safety precautions were taken when Adam went in the pipes?"

"Yes."

"What was his answer?"

"He said Adam didn't need them. He had natural climbing ability. He said all chimpanzees did."

"Miss Hundin, did Adam look like a chimpanzee to you?"

"Objection. No proper foundation for the witness to express such an opinion." Ruth knew it wouldn't stick but did it anyway to irritate Monte.

"Overruled. It's within the knowledge of the average lay person. The

witness may answer." The judge's face told Ruth he thought the objection was frivolous, and his eyes were on the clock.

"Why, no, he didn't. He looks like a little boy."

"Did he act like a little boy?"

"Yes."

"Did anything else unusual happen while you were there?"

"Well, I wasn't in Dr. Schoonover's laboratory all that long before he told me to leave."

"Do you know why he wanted you to leave?"

"It was because of what I'd said about the climbing. He told me it wasn't any of my business what they did there."

"Did you then leave?"

"Yes."

"Did you ever see Dr. Schoonover or Adam after that?"

"Well, I never saw Adam again. And I didn't see Dr. Schoonover until I came in the court room a while ago."

"Had you ever met Dr. Schoonover before that day in the laboratory?"

"No."

"Pass the witness."

Now it was Ruth's turn. "How did you happen to go to the institute on January 12?"

"I knew a man in Chicago who told me about the experiments. It seemed to be news so I went to get the story."

"The paper you work for is generally considered to be part of the so-called Sensational Press, isn't it?"

"Yes. That has been said about it."

"During your eighteen years there have you ever heard any one refer to the *National Interrogator* as a scandal sheet?"

Monte was on his feet immediately. "I've never heard a more inflammatory question put to a witness in my entire career, Your Honor."

"Neither have I, counsel. The objection is sustained, and Miss Purley, there will be no more of that."

Didn't work, thought Ruth. Once in a while she could mousetrap a prosecutor into moving for a mistrial, but Monte had obviously lost the

reflex. He'd been a prosecutor too long. She continued, this time more cautiously.

"You've been a reporter for a long time, haven't you, Miss Hundin?"

"Yes, since college."

"How many stories do you think you might have written in that time?"

"Oh, thousands." The witness shrugged. "Ten thousand, maybe."

"What is it that determines whether a story gets published or not?"

"Well, it has to be newsworthy. Otherwise who'd read it?"

"Would it be correct to say that the more unusual a subject is, the greater interest the public will have in it?"

"I suppose so. Man bites dog, that's news."

"You have to develop methods of finding these situations?"

"That's part of the job."

"Would it be correct to say that unusual stories sell newspapers?"

"Yes."

"And if a reporter gets a lot of good stories and sells a lot of papers this makes the publisher happy?"

"Of course."

"And grateful?"

"I guess so."

"And the reporter is rewarded?"

"For a good job, yes."

"Gets a bigger paycheck, maybe?"

"Maybe."

"So it's good for you if you can sell papers?"

"Yes."

"Does it ever happen that a story turns out to be untrue?"

"Of course. It happens all the time."

"What do you do when that happens?"

"We don't publish it."

"Do you manage to catch all the errors?"

"Well, occasionally one will get by us."

"But you try to be careful?"

"Yes, always."

"You check things out?"

"Yes."

"And still they get by you?"

"Like I said, sometimes. Nobody's perfect."

"What do you do when this happens?"

"We generally publish a retraction."

"Have you ever had to do this?"

"Yes."

"When was the last time?"

"About Christmas, last year."

"How many times have you had to do this during your eighteen years at the paper?"

"Maybe four or five."

"Possibly more?"

"Possibly. That's a long period."

"So you're not right all the time?"

"I never said I was."

"Is the retraction the last thing that's done, where there's an error?"

"No, not always."

"What else is done?"

"By us?"

"By anybody."

"Sometimes there are lawsuits."

"Objection, Your Honor; move to strike her answer. It's irrelevant." The prosecution wasn't too happy with that line of questioning.

"She's the Government witness, Your Honor," Ruth protested, "and the relevancy will be established if I can continue."

"This is cross examination, Mr. Monte, and she's entitled to explore the witness's knowledge and test her credibility. I'll overrule you. Continue, Miss Purley."

"Has a lawsuit ever been filed against the paper because of a story you wrote, Miss Hundin?"

"Yes."

"Do you know whether any of the plaintiffs have recovered judgments?"

"Yes."

"How many of them do you know of?"

"In eighteen years?"

"Yes."

"Six."

"On stories you yourself wrote?"

"Yes."

"Are there any lawsuits pending at the present time which are founded on stories you wrote?"

"Yes."

"How many?"

"Three."

"What is the basis of these suits?"

"I told you. Stories I wrote."

"Let me ask you again. Is it true that these are defamation suits?"

"Two of them are. The other is for invasion of privacy."

"The others were for libel?"

"Yes."

"Of the six judgments rendered in the past 18 years against the paper, in which you were also a party defendant, how many of them were for libel?"

"All of them."

"Looking back, Miss Hundin, using hindsight, do you feel these situations might have been avoided?"

"Objection, Your Honor," yelled Monte. "The answer could have no probative value."

"Overruled. Sit down, Mr. Monte."

"You may answer," said Ruth.

"I suppose so."

"How?"

"Oh, more investigation probably would have helped."

"Tell the jury what you did in the way of investigation before you wrote your first story on Adam."

"Well, as I said, I heard about the articles. They were available at the University of Illinois Library, so I read them. Then I called my editor and got permission to come here for an interview."

"Did you do anything else?"

"Well, yes. I caught a plane for Corpus Christi and when I got here I rented a car and went to the Blatchley Institute."

"That was when you saw Adam for the first and only time?"

"Yes."

"As a matter of fact, you spent most of your time there with Dr. Blatchley, didn't you?"

"Yes. He seemed reluctant to take me through. I didn't have an appointment, though."

"Did you let him know you were coming?"

"No."

"Why not?"

"It's not generally a good practice in this business. It ruins the spontaneity if people expect you."

"Did Dr. Schoonover know you were there?"

"I don't think so. He didn't act like he was expecting me."

"How long were you in Dr. Schoonover's lab?"

The witness shrugged. "Five minutes—ten at the most. I wasn't particularly conscious of the time."

"And it was on the basis of this interview that you wrote the first story?"

"Yes."

"And several follow-up stories?"

"Yes."

"Have you ever heard of Giuseppe Bongiovanni?"

"Yes."

"Who is Giuseppe Bongiovanni?"

"He's an aerialist. I did a story about him last month."

"His family, too, aren't they part of his act?"

"Yes, them, too."

"That includes two pre-teen children, a boy and a girl?"

"Yes."

"Is there any question in your mind that the Bongiovanni children are human children?"

"Of course not."

"What part do they have in the act?"

"They perform on the trapeze."

"Have you ever seen them perform?"

"Yes."

"How high off the ground do these performances take place?"

"Well, I've seen them twice, in different places. It varies."

"Where did you see them the first time?"

"At the circus, in a tent."

"How high was the trapeze?"

"I'm not good at judging distances."

"Was it higher than the pipes Adam was climbing?"

"Yes."

"Twice as high?"

"Yes."

"Three—four times as high?"

"I don't know."

"How about the second time?"

"That was in the Chicago Arena."

"How high was the trapeze that time?"

"About the same, I guess. But they always used a net."

"Always?"

"Yes."

"May I approach the witness, Your Honor?"

"Yes, counsel."

Ruth opened her case and took out a tabloid-sized newspaper. Paul marked it and she took it to the witness chair. "Now, Miss Hundin, I'll show you what has just been marked as Defendant's Exhibit Number 1 and ask you whether or not you can identify it."

"Yes, it's an issue of the *National Interrogator* dated October 17, 1995."

"Would you please look through it and see if it contains anything you wrote."

"I'm sure it does. I'm in there every week." She thumbed through and stopped at page 28.

"You've found a story, have you?"

Monte stood up. "Your Honor, if she's going to examine the witness as to the exhibit I'd like to examine it first."

"She's still in the identification stage, Mr. Monte. However, since you have interrupted, perhaps Miss Purley could show it to you now and save the court some time." He said this with his eyes fixed on the courtroom clock.

Ruth dutifully retrieved the paper from the witness and took it to Monte's table. She waited, feeling a little sorry for him. His actions told her he hadn't seen it before, and mindful of the fact that the judge had him in the doghouse over the time, he could only skim it now. The big bold caption said "Child Daredevils Defy Death Daily."

In a minute or two he handed it back. Ruth glanced at his ears before turning back to the witness. "Read the story title to the jury, Miss Hundin."

The witness did so with some hesitation.

"Now, Miss Hundin, in spite of the net, it's still dangerous to work a trapeze at that height, isn't it?"

"Well, apparently not. They do it."

"You could fall and hit the net wrong, couldn't you? Or miss it altogether. "

"Objection, Your Honor; calls for speculation."

"Sustained. Move along, Miss Purley."

"Miss Hundin, I refer you to the fourth paragraph down; first column; do you see it?"

"Yes."

"Please read that paragraph to the jury."

" 'Although the law requires nets to be used in Illinois and a majority of the states in this country, Mr. Bongiovanni says he has no great faith in them as safety devices and commonly dispenses with them when working overseas.' "

Ruth looked over at Monte, who sat stone-faced, with his chin resting on his hand. The jurors were no more demonstrative. But wait until the next question, thought Ruth.

"Naturally, Miss Hundin, you reported the abuse of the Bongiovanni children to the proper authority?"

"I don't know what you mean by that question," the witness protested.

"I mean, Miss Hundin, since the lives of these children were in danger, it was your duty to do something about it, wasn't it? Just as you did in Adam's case?"

"My duty? Why, no. Besides, I didn't consider their lives to be in danger."

"Then why did you say so in your article? Here it is in bold print."

"I don't write the captions; just the story."

"Take a look at paragraph two, first column. Then tell the jury who wrote that."

The witness looked. "I guess I did."

"And it's the same as the caption, isn't it?"

"Yes."

"Identical wording?"

"Yes."

"But you don't consider those children to have been in danger?"

"Well, maybe there is some risk, but they're trained; their parents ..."
she never finished.

Ruth ignored the fact.

"Were these children in more or less danger than Adam was?"

"I don't know."

"But that was one of your complaints in the stories you wrote about Dr. Schoonover, wasn't it?"

"Yes." The witness obviously suspected Ruth would have them all tucked away someplace in her file.

"As a matter of fact, in your articles you compared Dr. Schoonover with Dr. Frankenstein, didn't you?"

"As I recall, the term was used."

"And you said he'd created himself a slave, didn't you?"

"No, I didn't say that. That must have been some other paper."

"You never said Dr. Schoonover solved his labor problems with a test tube?"

"I could have said that. I don't remember. "

"How much were the Bongiovanni children paid for what they did?"

"I don't know; we didn't go into that."

"You don't know if, in fact, they were paid at all, do you?"

"No, but—"

"No, but what?"

"They were a family. If the family earned money they'd benefit."

"You mean, their work contributed to family finances and support."

"Yes, that's what I mean."

"How does Adam's relationship with Dr. Schoonover differ from that of the Bongiovanni family?"

"The Bongiovannis are related. Dr. Schoonover owns Adam. That makes the difference, if it's family."

"Did Dr. Schoonover say he owned Adam?"

"No."

"Dr. Blatchley? Or Adam?"

"No."

"Then how do you know?"

"He owned Adam's parents."

"You know this to be a fact, of your own personal knowledge?"

"Dr. Schoonover's papers say this. I remember reading it. He told how Adam's mother treated him; how she was implanted with an egg fertilized by a male chimpanzee."

"Aren't you assuming that Adam's status would naturally follow that of his parents?"

"Yes. Doesn't it?"

"Your Honor, I'll move to strike the last remark as unresponsive."

"So ordered. The jury will disregard it."

"Miss Hundin, how did you get here today?"

The witness looked puzzled. "Why, I caught a plane this morning and the FBI picked me up at the airport."

"I'm sorry, Miss Hundin; what I meant to ask is whether or not you came because you were subpoenaed or whether you came voluntarily."

"Oh, I see. Well, Mr. Monte called me on the phone and asked me to be here."

Now for the kicker. Ruth always enjoyed this and always did it, even though she knew Monte would re-direct and clear it up. "Miss Hundin, prior to the time you took the witness chair did you discuss with anyone else what testimony you would give when you got here?" She settled back to enjoy the look of pure panic, and it came.

"Why, no."

"Absolutely no one?"

"No one at all. And," she added, "no one told me what to say."

"You're absolutely positive of this?"

"Yes."

"Did you talk to Mr. Monte this morning?"

"Yes."

"You've talked to Mr. Monte on other occasions about this case, haven't you?"

Monte rose. "Your Honor, if the court please, I'll object at this point. We all know what she's going to say next. And it'll be in the charge, as the court well knows, that a witness has the right to discuss the case with counsel. There's no harm in it, and my opponent's certainly not going to suggest that I told her what to say."

Oh, well, thought Ruth, *sometimes it backfires.* She said, "I don't mean

to limit my questions to her conversations, if any, with counsel, Your Honor. But I'm entitled to know if the testimony we heard is the witness's own."

"She's already answered that, Your Honor."

"Yes, Mr. Monte. And I'm going to sustain the objection. Miss Purley, do you anticipate being much longer with this witness?"

"I was about finished when Mr. Monte objected, Your Honor. I don't believe I'll have anything further at this time."

"Any re-direct, Mr. Monte?" The judge had his eyes on the clock again.

"No," said Monte prudently. Having apparently gotten out of the doghouse by putting Ruth in, he wasn't about to try for a second term.

"Very well. We'll stand adjourned until nine o'clock tomorrow morning."

As the court departed, Monte motioned to Ruth. She left Schoonover at the table and went to see what he wanted.

"It's not going well for you, Ruth, and I'm not through yet. Why don't you take my offer and plead him? It's not like I'm asking for hard time."

"He's not guilty, Bob. There's no reason to plead."

"Three years, probated. No fine. Fairer than that I couldn't be. What are you gonna say? That the kid's not human? The jury's never going to buy that. One look is all they'll need; in fact, I could do it with the pictures alone, without putting the kid on the stand."

"He's not going to testify, Bob."

"That's up to the judge, and I don't think he'll dare say no."

"We'll see. Bob. Is that all you want?"

"Yes, Ruth, but you know I'll try for the maximum if I have to ride you down. He can get five and/or five."

"You want your picture on the front page, huh? Well, so do I." She stomped off.

"What was that all about, Ruth?" asked Schoonover.

"I just had my arm twisted. But don't worry, I didn't sell you out. Monte wanted me to plead you and take three years' probation."

"I'm not so sure it wouldn't be smart to take it."

"No, Delmar, it wouldn't. You won't do any worse even if I get creamed. In fact, I think you'd be a cinch for a pardon. Don't fall for it. Besides, we're not going to lose."

"You keep saying that. I wish you'd tell me why you think so."

"Come on, let's go. The crowd's gone. Let's go to my place. I'll cook dinner for you."

Schoonover wasn't what you'd call worldly, but since he'd met Ruth he'd gotten used to her forward ways. Still, accompanying her anywhere where there might be a bed was risky, and he wanted to think. "Maybe I'd better just go home," he told her.

"Aw, come now, Delmar. You'd just sit around and worry. And the road's clogged with reporters. My place'll be quiet and comfortable."

"What's what I'm afraid of."

"I promise I won't bother you, unless you want me to."

"O.K."

She was as good as her word—for a while. Until after dinner, which he rated as uncommonly good for an improvisation. But when the clock struck ten he remembered the news came on. "Where's your TV?"

"In here," she yelled from the bedroom.

He started in the door.

"Get out of those duds and let's watch the news we made," she said.

The next morning on the way down, haggard from a sleepless night, Schoonover didn't have much to say. Ruth, however, was alert and cheerful.

"It's going a lot faster than I thought. Monte's overconfident, and it's made him lazy. He thinks it's greased. I was afraid he'd march in a squad of psychiatrists, but evidently he's not concerned with the human question. I'm worried about one thing, though.

"Rule 601. The competency rule. I know he's going to try to call Adam, and he's got the presumption with him."

"What presumption?"

"The one that puts the burden on us to show Adam's not competent to testify."

"It'd scare him to death. Just being here is bad enough. I'm sure he feels responsible for all that's happened."

"Monte's counting on it for shock value, just like I'm counting on your testimony."

"But you said I wouldn't be taking the stand."

"I know. But I changed my mind after I was sure my grand strategy was working. It doesn't matter now what Adam's status is. It's yours that really counts."

She wouldn't tell him why she said that, and once in the courtroom and back at the trial table he sat there mutely, trying to figure it out. Despite the conversation they'd had in the park the day before, to him law still reeked of sorcery.

Monte was seated at his table, talking to the AIC and looking confident. Everybody but Schoonover seemed happy and carefree. It didn't seem fair. To them, it was either entertainment or routine work they did every day. One was stimulated by the novelty; the other was soporified by routine. Schoonover almost wished he would lose. Then they'd throw him in jail and maybe the world would leave him alone. He wanted to get back to his work and back to normal. But normal meant back to Adam, and win or lose Ruth had warned him that might not happen, ever. There could be a long fight in the State Court no matter what they decided Adam was in this trial, unless she had a miracle ready to work.

Ruth batted his elbow. She was already standing. So were the rest of the people. He felt like a fool, rising just as everybody else was preparing to sit down again.

"Bring the jury in, Mr. McGill," said Cook.

Moments later in they trooped, behaving like bored veterans after one day on the job.

"Call your next witness, Mr. Monte." Out went the AIC. There'd been no identification made to the court this time. Schoonover was sure that meant something. It did. In a little while the door opened and several hundred necks craned. Eyes popped and fingers flew across sketch pads. As far as the press was concerned, this was the climax.

Adam, still in the blue suit and white shoes, his hand in the AIC's, walked stoically toward the bench, smiling weakly when he spotted Schoonover. They stopped in front of the reporter. Ruth recovered from her surprise. She had expected the DA to try this, but not so soon. She knew from checking his subpoena list that he'd called a lot more witnesses

than he'd put on so far. It wasn't unusual for one side or the other to use such a smoke screen, but she wasn't so sure that was his idea now, although it might once have been. More likely she was right; he'd taken the bait and believed he could end it in one fell swoop. Well, not without a fight he wouldn't. "Your Honor," she said, "may counsel approach the bench?"

"Come forward," said the judge.

Adam looked over at Schoonover, as though hoping the AIC would let go his hand so that he could go to him.

"Your Honor, the defense has a motion to make."

"Well, let's see it, counsel."

"It's oral, Your Honor. It concerns the competency of this witness."

"Counsel, you know the rules require all motions to be in writing whenever possible."

"It's a trial motion, Your Honor."

"Well, that's different. Do we need to send the jury out?"

"Yes, Your Honor," said Monte. "If it's what I think it is, we'll need to *voir dire* the witness."

"I don't agree with that part of it, Your Honor, but I'd like to be heard on the motion and we don't need the jury for that."

"O.K., Mr. McGill, take the jury out. I'll want them back here by ten o'clock."

Ruth stood next to the trial table while she addressed the court. She looked so small, thought Schoonover. Certainly the voice that boomed out was out of place in that body.

"The motion, Your Honor, is directed to the competency of the proposed witness, Adam. I would invite the Court's attention to the wording of Rule 601, which says, 'Every person is competent to be a witness except as otherwise established by these rules.'"

"In that respect the language is identical to that of the 18 U.S.C. 1583. Both use the word 'person.'"

"And that, Your Honor, is one of the ultimate facts to be decided by the jury in this case: whether or not Adam is a person within the meaning of either the rule or the statute. Since it is a factual issue and this is a jury trial, it follows that only the jury can resolve it. Until they do, Your Honor has no alternative but to rule Adam incompetent to testify. And that's not

the only ground. If they decided he was there would still remain the questions of whether or not he would understand the oath, had sufficient intelligence to distinguish truth from falsehood, and whether his overall knowledge would permit him to comprehend the nature of these proceedings. These are all subsidiary issues. It is my contention, Your Honor, that for the court even to examine Adam at this point would be an error."

"Mr. Monte, have you any response?"

"Most assuredly, Your Honor." Monte stood, face flushed, ears crimson.

"In the first place, Your Honor, the Court has, in effect, already ruled on the motion by refusing to dismiss the indictment. The defense relied on the same grounds: the inhumanity of the victim. She has attempted throughout this trial to establish that Adam isn't human, but as the court pointed out early in this hearing, that isn't the issue. We've heard nothing cited to the Court which holds a person has to be human ..."

"Mr. Monte," the judge broke in. "If you have a point to make, then make it. All you're doing, it seems to me, is repeating what she said."

Monte's ears got redder. His face took on a helpless look. "I reiterate, Your Ho—"

"And so do I, Mr. Monte. I'm ready to rule on the motion unless you can supply me with a reason not to."

Monte sat down. The game wasn't up without Adam's testimony, but it would ruin his finale.

The judge continued. "The court will rule with the defendant, declaring Adam to be incompetent as a witness at this stage of the proceedings. However, since the ruling is based on the questionable status of the witness as a person, in its constitutional meaning, the court will reserve its ruling on any testimony proposed to be given after the jury has resolved it—that is, in the punishment phase, should the defendant be found guilty, or in any ancillary proceedings. In addition, the ruling is without prejudice to the defendant to raise any other objections he may have which are within the contemplation of Rule 601. Mr. Marshal, bring the jury back."

Throughout it all Adam had stood there, his hand firmly held by the AIC. The jury was getting seated.

"Why is he still here, Ruth? It sounded to me like we won that round."

"We did, but just because he can't testify doesn't mean he has to leave the courtroom. The DA obviously wants the jury to get a long look at him.

It would surprise me if he tried it, but he could have Adam marked as an exhibit and admitted in evidence."

"He could do that?"

"Theoretically. It's been done in West Texas with cattle and horses, although naturally, in that case, the court has to adjourn to wherever they are. I can't see the judge allowing that in this case if he can help it, and I don't think Monte'd try. I expect something sneakier than that."

"Mr. Monte," the judge asked, "are you ready to proceed?"

Before the DA could answer, the AIC let go of Adam's hand. Free, Adam ran across the courtroom, scurrying under the table and up into Schoonover's chair, throwing his arms around the startled man's neck. "Daddy!" he called, and began to sob.

The audience rumbled, drowning the Court's protests. Over the roar rose the sound of the clerk's pounding gavel. The AIC came over at once to get Adam, who clung desperately to Schoonover's lapels. "Go with him, Adam, please. Daddy wants you to." The AIC picked Adam up and carried him, still bawling, out of the courtroom, and as he did so Monte rose. "Your Honor," he said, "the prosecution rests."

"And the defendant moves for a mistrial, Your Honor."

"On what grounds. Miss Purley?"

"That the prosecution provoked the incident the court just witnessed, for the purpose of arousing the sympathy of the jury to the prosecution's position."

"Mr. Monte, do you have anything to say to that?"

"Your Honor, certainly we regret it, but we didn't plan it or do anything to promote its occurrence. It just happened."

"Take the jury back out, Mr. McGill. I'll see both counsel in chambers."

When the courtroom was clear of jurors, they went back to Judge Cook's chambers. These were austere, but impressive, filled with mementos of Cook's long practice. He left the robe on, but sat behind his great desk and began stuffing a pipe. Ruth and Monte sat in armchairs in front of it.

"I called you both back here because I didn't feel a courtroom full of reporters was the place to say this. You're both probably entitled to mistrials—Miss Purley for the rather unprofessional episode she complained of, and Mr. Monte because defense counsel had implanted the idea of prosecution trickery in the jurors' minds. Motions like that should

never be made within the hearing of a jury, Miss Purley.

"So if either or both of you want me to do so, I will, and we'll start all over again this afternoon picking a new jury. If that's not your pleasure I'll give the jury an instruction to disregard both incidents and hope they do." He scratched a sulphurous match alight and puffed his Pipe.

Ruth, realizing that a mistrial at this point could have no other effect than to present her with an educated opponent, who'd know every facet of her case and who might not repeat previous blunders, reconsidered. The motion had been a knee jerk reaction anyhow. It was something you did for the record, instinctively, for the benefit of the appellate courts; normally good strategy, because if the trial court refused to grant it and the appellate court disagreed, you got a new trial. Unless you lost below it was moot, because in the federal system only the defendant can appeal. Under present circumstances it would be a mistake. A grave one.

She didn't feel the incident had hurt her. She intended to bring all of it out in her case anyway. Monte still had displayed no inkling he knew her real objective, but in time he'd get wise. "I'll withdraw my motion. Your Honor."

"Very well. Miss Purley. What's your pleasure. Mr. Monte?"

"The prosecution will go ahead, Your Honor. I can't see any advantage to the taxpayers to go through this again."

"O.K.," said the judge, examining his pipe, as though he'd like to smoke it a little longer. "Are there going to be any motions at this time?"

"None for the prosecution, Your Honor."

Ruth had considered a motion for a directed verdict. She had one prepared and ready for presentation. But she knew from experience that there was slim chance the court would take the case from the jury at this point. There was no way the judge could be persuaded that Monte hadn't made a *prima facie* case and produced enough evidence to require her to put on a defense. Anyway, she'd still have that option at the close of all the evidence.

"None for the defendant, Your Honor."

"O.K. You're both excused. We'll be in recess another fifteen minutes."

Schoonover sat down in the witness chair, crossed his legs and folded his hands, assuming the posture he and Ruth had so painstakingly practiced. Ruth began the questions. "What is your full name?"

"Delmar E. Schoonover."

"What is your occupation?"

"I'm a doctor of medicine currently employed at the Blatchley Institute of Genetic Research."

"Are you acquainted with Adam Schoonover?"

"Objection, Your Honor." Monte stood there sputtering.

"I'll hear the basis for your objection if you've got one, Mr. Monte. Otherwise sit down."

Monte sat down.

"Objection overruled," said the Court.

"Who is Adam Schoonover, Dr. Schoonover?" Ruth continued.

"Adam Schoonover is my son."

"Pass the witness, Your Honor." The audience froze.

To herself, Ruth thought, *Now you know, turkey. I just dumped your whole case.* She looked at the prosecutor, whose ears blazed fire. Yes, it had worked. The jurors behind him were animated too, and appeared to be shocked at the brevity of the direct examination. Among the spectators no fingers sketched or scribbled notes; no eye was anywhere but on the witness.

The DA, veteran of a thousand or more bouts with the area's best defense people, took some time to regain composure, to reorient his thinking, to bring it around 180° from where it had been, when he'd been struggling to prove Adam's humanity. He had an agile and orderly mind, trained to adapt, and he'd have to do that now. He used harmless questions to stall, to get time to think. He stretched them out with long pauses.

"Where did you go to school, Dr. Schoonover?"

"My undergraduate work was done at the University of Maryland, College Park. I took my M.D. at the University of Bern, in Switzerland."

"Where did you intern, Dr. Schoonover?"

"Reading Hospital, Reading, Pennsylvania."

"Did you do a residency in any special branch of medicine?"

"No, I went right into research."

"You've never practiced medicine, then?"

"Not in the usual sense of the word, no."

"Are you licensed to practice by the State of Texas?"

"Yes."

"What kind of research do you do?"

"I call it preventive genetics."

"I see. Now, you've done some papers with respect to this research which have been published in the *Journal of the American Society of Genetic Engineering*, haven't you?"

"Yes, four of them."

"You're referring to the articles contained in Government's Exhibits 12, 13, 14, and 15? You know what those are?"

"Yes, to both questions."

"Doctor, you said that Adam was your son?"

"Yes."

"You're speaking figuratively, aren't you, not in the biological sense?"

"No."

"May I approach the witness, Your Honor?"

"Go ahead, Mr. Monte."

"Thank you, Your Honor. Now, Dr. Schoonover, I'm going to refer you to Government Exhibit 12, and ask you to note the title of your article."

Schoonover took the *Journal*, flipped it to the beginning page, and perused it.

"What is the title of the article, Dr. Schoonover?"

" 'Genetic Augmentation of Primate Intelligence.' "

"That title would seem to suggest that elevation of intellect was your primary purpose, Doctor. Is that true?"

"No, it wasn't."

"Then why do it?"

"To determine which areas of the genetic code produce the increased intelligence in the first place. Then we'd know where to look for trouble."

"In pursuit of this goal you used chimpanzees, is that right?"

"Yes."

"How many did you use in Adam's case?"

"Two."

"One of these was a female?"

"Yes."

"Was the other a male?"

"Yes."

"Now, Dr. Schoonover, Adam was born of the female in the usual way after the normal period of gestation, wasn't he?"

"Yes."

"So there's a biological relationship and connection between the female ape and the child Adam?"

"Definitely."

"By the same token, an ovum was removed from her body, and this ovum was then fertilized with sperm from a male chimp and reimplanted?"

"Yes, that was done."

"So that it is correct to say that Adam is the child of these two apes; they are his parents."

"Yes."

"Yet you have just told the court Adam is your son?"

"Yes."

"You claim to be Adam's father?"

"Not exactly. You see, I'm his mother, too."

"No child can have more than two parents. Dr. Schoonover. It's biologically impossible."

"No, it isn't, Mr. Monte. I just told you that. Adam was the product of three parents. That's a documented, scientific fact."

Monte wished he could stop, crawl under something, and die. But if he cut off his cross now Ruth would simply go on with re-direct. And certainly he'd opened up a very large can of worms with his last few questions. Yet he still didn't know where Schoonover expected to go with the story. Whatever it was, whatever dangers lurked ahead, the prosecution's duty was clear: ask the next obvious question. He did.

"What is the basis for your statement that you are one of Adam's

parents?"

"Simple, Mr. Monte." Schoonover's demeanor suddenly became patronizing. "The determinative biological factor in whether or not a parent-child relationship exists is the contribution, by an individual, of genetic material to the child. In Adam's case, to accomplish the result I wanted, I couldn't simply use the material in either the chimp ovum or the chimp sperm. It wasn't there. So I added human DNA to both. There's no sexual difference at that level, and naturally there was only one really convenient place to get it. I used my own. Therefore, it logically follows that I am Adam's parent, and it's only out of deference to my sex that he calls me 'Daddy'; 'Mommy' would be equally appropriate. And, since I am his only human parent, I thought it was appropriate that I should be the one to raise him. By the way, I consider Adam to be as human as I am."

Now, at last, Monte got the point. He was through. He could not go on. He had won every battle but this one, and this one cost him the war. "Pass the witness," he said.

Ruth stood. "I have no more witnesses, Your Honor. I do have a motion for directed verdict, however, after which I shall rest."

"Mr. McGill, take the jury out. Dr. Schoonover, you may step down. You're excused."

By now the jury was so good at the routine they didn't even wait for Ralph. He stood at the back of the courtroom and opened the door.

Ruth walked over to the prosecution table and handed Monte a copy of her motion. He took it without enthusiasm, and she continued on to where the clerk sat. The clerk file-stamped it, initialed it, and handed it up to the judge, who read it and signalled her to begin.

"Your Honor, the Court has now heard all the evidence in this case, and both sides have rested. The defendant would show the Court that the Government has utterly failed in its burden of proof, and in its obligation to demonstrate that a crime has been committed in the first place, much less that the defendant committed it.

"They have, of course, introduced testimony which tends to show that Adam is a person, and in that respect the defense entirely agrees. However, not all persons are constitutionally protected in their liberty. The amendment itself provides several exceptions to its effect—persons serving sentences for crimes, as a specific instance. There is another, so basic and so incontrovertible that it didn't need mention or explanation;

namely, the relationship between parent and minor child. A parent unquestionably has the right to restrain a child's liberty and utilize his services free. That's been the law since the dawn of history.

"The evidence is uncontradicted. Dr. Schoonover is a parent, or at least a co-parent, of Adam. While it may be the first time the Earth has ever witnessed such an event, it is a biologic, scientific, and more importantly, a *legal* fact that they are mother-father and minor son. As Mr. Monte put it, Adam is literally Dr. Schoonover's Brain Child.

"Because that relationship exists, neither the relationship of master and slave, peon and padrone, or any other similar relationship can co-exist with it. If these forbidden relationships cannot and do not exist, then the crime charged cannot exist. All other arguments are moot, just as all other facts are irrelevant. There is nothing for the jury to decide, therefore the verdict must be the Court's, and since an essential element of the crime is missing the only verdict can be acquittal." Ruth sat down.

"Mr. Monte, you may respond." Monte didn't rise. He shook his head *no*.

"The court will direct the jury to find for the defendant. Bring them back again, Marshal."

With that there was a rush for the doors. The crowd of reporters half killed each other to get out of the building and get the news on the air.

"Love your bedroom, Delmar. I'll bet you do your own decorating." Ruth propped herself up on one elbow, punching the pillow up with her other arm. "Tell me, how do you feel about your lawyer now?"

"Well, satisfied, and well satisfied. But how come we spend all our time in bed?"

"It's good for you. Don't you like me?"

"Sure, I do. And I want you to know I'm grateful, too. You sure got the job done. I'm off the hook; I can get back to work. Adam's asleep in his own bunk for the first time in three months, and the whole world's gotten interested in genetic engineering."

"See, now you can spare a little time for me. That was my plan all along."

"I guess I'm just dense, Ruth. Your plan wasn't all that obvious to me. It looked like things were just happening, and I still don't see how you did it."

"Do you understand the law of gravity?"

"No. Nobody does. But I can understand its effect."

"There's nothing magical about what I did, Delmar. It was a simple matter of picking the right thread, following it through the maze, and getting to the door I wanted. I knew what the rule was."

"Huh?"

"The Constitution says that to be tried for a major federal crime, you have to be indicted by a Grand Jury. The indictment has to follow the statutory language that makes the conduct a crime. It has to allege you engaged in that conduct, and that when you did it you had the requisite criminal intent.

"The elements of slavery are: first, the restraint of a person; second, the involuntariness of the restraint; third, the presence of the intent to obtain that individual's services in violation of the law; and fourth, the absence of any legal justification. We call this the *corpus delicti*; the body of the crime.

"Knowing both the law and facts, I could start eliminating possibilities. There wasn't any sense in denying the restraint, or even the involuntary nature of the restraint. It would have been useless. Criminal intent was a possibility, but it probably wouldn't have gotten past the court's charge to the jury. They'd have been instructed to infer it from your acts.

"That left two possible escape routes. Remember, the prosecution had the burden of proof. Their case had to stand on its own merits proof wise. Every reasonable doubt as to guilt had to be resolved in your favor. Every essential element of the crime charged had to be proven under the same test. It's like the reaction the astronauts gave when asked how much organic material had to be removed from the holding tanks to produce potable water. Do you remember their answer?"

"Yes," Schoonover replied. "They said, all of it."

"Now you've got it. The DA, of course, was acutely aware I thought I'd found a defense, and he certainly didn't have any trouble deciding what it was. Any fool could see it; your only way out was to dehumanize the victim.

"Here I was with a situation absolutely brand new, factually. Nothing like it had ever happened in human history; here was a court being asked to decide if a human being could be guilty of enslaving a being who was absolutely unique to our age, and who might or might not be a person. Notice I said *person*, not *human*. The word 'person' can be defined; the

word 'human' can't. Some pretty shrewd individuals have tried, including a guy name John W. Campbell, who used to edit a magazine call *Astounding*. In fact, I used his editorial in the September '59 issue to plan my cross of Mona Aikenhead.

"Anyway. Monte would expect me to deny Adam was a person; reasoning that way was natural. In fact, most lawyers would have considered that to be the only possible defense and stopped there. After all, it worked on blacks and Indians for several hundred years in cases where only the most bigoted jury could have denied their humanity.

"But I read the whole amendment, plus the statutes, plus the indictment, just like I'd never seen it before, and it occurred to me that there was something there that Monte hadn't seen because he didn't look. I almost told him about it then."

"What! Why would you have wanted to do that?"

"Because there might have been a dismissal of the indictment against you. You might not have had to stand trial."

"I see. You mean, I went through all this for nothing?"

"Of course not. And my reason was a good one. If he didn't buy it, Monte could still have gone ahead, and our defense would have been revealed. He'd have marched in a dozen experts to attack your status as a parent. I couldn't be 100% sure it would stand up.

"So I played his game—let him think he was right about our position. And he did what I expected. He put in the pictures, your articles, the testimony of Mona Aikenhead and Madelyn Hundin. Then there was his little trick with Adam. He knew as well as I did Cook probably wouldn't let Adam take the stand, but he wanted the jury to see him in an upset emotional state. All his strategy was designed to fortify the normal human tendency to humanize the rest of the Earth's animal life. People are used to teddy bears and such. The most widely recognized face on Earth belongs to Mickey Mouse.

"You asked me if Monte would have Adam marked as an exhibit. I knew he wouldn't do that. That'd help us dehumanize Adam and that wasn't in his plans. I planted the scent on the rabbit trail and Monte just sniffed along until he bumped his head on reality. It was a *ruse de guerre*. You see, Delmar, in law it's facts that count. Words are just used to pump adrenalin."

"How come he never caught on?"

"His ego wouldn't let him. All through the trial I was scared to death he

would. But he's a prosecutor and he thinks like one. The prosecution's used to having a pat hand. They control who gets indicted, picking only cases they have a good chance of winning, and knowing they can deal most of these out on pleas. In your case, Monte probably figured I'd feel obliged to put on a show in order to justify what you're paying us; that I'd do that in any case to reap the publicity benefits for myself. It's not uncommon; we call it playing out the string. I'm sure Monte read me that way. Otherwise he'd have toughened up his proof—put on more witnesses—and the case would have lasted a couple of weeks like the papers were saying. He got the wrong answer because he asked himself the wrong question.

"I played along, restricting my examination to questions in areas which would fortify his theory. I didn't actually care what anybody said; except you, that is. I would have been happy to stipulate to his entire case and agree in advance what everybody would say.

"And I could always tell when he was in trouble. The ears never lie, they're like big, red warning lights. That's why we girls go to court with our hair down and why black lawyers are extra dangerous opponents.

"It was all like Stalin's preliminary skirmishes around Rostov during the Russian Civil War. These didn't accomplish a thing except to convince the Whites he was on the ropes, so he could suck them into the trap at the Don bend. You know what happened after that, don't you?"

"No, but I can guess. Anyhow, what does it matter whether I know, as long as you do?"

"Sounds like you might be planning to keep me around, Delmar. I'm flattered."

"I've been thinking, Ruth. There's no reason why Adam should be an only child, is there? Or grow up without a real mother."

"Why Delmar, what a clever way to get at my DNA. The answer's yes; I mean no, there isn't. That was a proposal, wasn't it?"

"Uh-huh. This world is going to be rough on Adam; on me too. And a boy's best friend ..."

"Is his lawyer. Delmar, I think you're catching on."