

## One Last Question

By James C. Herrinton

It was 8:10 a.m. on a sunny, brisk, autumn Sunday, October 6, 1935. A solitary black cloud enhanced the intensity of the blue sky. After attending Mass at church in town, Lucille Border headed home behind the wheel of her black 1931 Model A Fordor. As Lucille eased her auto over the washboard dirt road, dust pirouetted in the car's wake.

That dirt road led directly from the church to Lucille's farm home about three miles from town.

A widow with no family, Lucille leased her acreage on shares and leased what used to be the hired man's house to another widow, 28-year-old Mary Grace Lamb, and her three-year-old daughter, Peg.

Lucille's intent was to visit with Mary Grace and Peg on her way home from church. Sometimes Lucille took care of Peg. Peg called her "Gramma Border."

Except for the opening for the gravel driveway, the curtilage of the tenant house where Mary Grace and Peg lived was surrounded by high lilac bushes that obstructed the view of the back yard. A large, gnarled Macintosh apple tree rose above the dandelions that dominated the back yard.

When Lucille steered her Fordor onto Mary Grace's driveway and on into the back yard, she saw to her right Mary Grace's body hanging by a rope from a branch of the apple tree. The tree's leaves had fallen, but ripe apples hung from its branches.

Lucille ran from her car to the tree and looked up at the body. Mary Grace's neck was both bruised and stretched. Her wrists were rope-tied behind her back, and her ankles were rope-tied too. Her opened eyes looked upward with a look of pleading anticipation, and her mouth was opened wide.

Neither Mary Grace nor Lucille had a telephone. Lucille ran to the front door of the tenant house, moved quickly past the door, flew up the stairs as fast as she could, and opened the door to Peg's bedroom. She was still sleeping. Peg's bed was next to a window through which the hanging body was in full view.

Swiftly and gently, Lucille lifted Peg from her bed and turned Peg's face away from the window. She carried Peg downstairs and, before she opened the front door, cradled Peg's face away from the apple tree's horrible scene.

With Peg lying on her lap, Lucille drove straight to the sheriff's office in town.

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Six days later, Sheriff Fred Weber and the county's prosecuting attorney, Jeb White, met in Jeb's office on the second floor of the county courthouse. A wide stairway led to the second floor, but only half of the stairway was passable because the other half of each step's tread was used as shelving for part of the county's law library.

On the second floor were the circuit courtroom, the circuit judge's office, a jury room, and a one-room office for the prosecuting attorney.

"Fred, the reason I want to talk with you is because this morning I received a call from the state pathologist, Dr. Block," said Jeb, who was 26 years old and an inch over six feet tall. "After Dr. Block examined the Lamb body, he reported that she was not killed before she was strung up. Dr. Block says that Mary Grace Lamb fought hard before she died at the end of that rope."

"Well, Jeb, whoever killed Mary Grace did it with aforethought," said Weber. "The rope around Mary Grace's neck was not a simple loop through a granny knot. I think the noose was prepared before the murderer ever arrived at Mary Grace's house. The noose was made up of six coiled loops. It was a hangman's noose. The knot of the rope was placed just behind Mary Grace's left ear, which is done frequently in cases of official executions."

“And I do have something new to report to you, Jeb. I found a shoe print in the earth beneath the hanging body. I think I know who the murderer is.”

“How’s that, Fred?” Jeb asked.

“I think that the killer is William Clipper, the president of his father’s bank, the Clipper State Bank. Clipper has never married, but he likes the ladies. Mary Grace Lamb bought a used car in 1934, and she had to borrow the money from Clipper’s bank.

“Soon after, William Clipper began to direct his personal attention to Mary Grace. Clipper was a spoiled bully growing up and nothing has changed over the 35 years since he was born. He has been known to become physically abusive. When his pushing people around gets him in trouble, his mother and father are always there to bail him out.

“And people tell me that when Clipper fibs, his face turns pink, and as his fib intensifies, the shade of that pink goes from light pink to almost traffic-light red.

“I’ve talked with people around town. Apparently the Clipper Bank’s holding Mary Grace’s auto mortgage resulted in his securing a few dates with Mary Grace. But Mary Grace told her family that she didn’t want to continue her relationship with him. He came on too strong, too physically strong.

“As for that shoe print, it’s a man’s left shoe print. Either it was a new heel or a new shoe that made the print, because the words ‘St. Louis Walker’ can be made out in the print. We made a plaster cast of that print.

“Two days ago, I went into the bank to deposit my paycheck. Bill Clipper came out from his office, glad handed me, and invited me into his office to ‘sit for a spell,’ as he put it. I did just that. I didn’t say much beyond talkin’ about the weather, and just waited to hear what was on his mind. He leaned back in his fancy leather chair, crossed his feet on top of his desk, made a church and steeple with his hands and forefingers, and asked me what was goin’ on about the Lamb hanging. I’ve

worked on quite a few homicides during my time in office, Jeb, and I've made lots of trips past William Clipper's private office on my way to make deposits and withdrawals and loan repayments, but this is the first time Clipper ever invited me into his inner sanctum. "I asked Clipper if he knew Mary Grace Lamb. And he said he and she had dated some time back, but that was all. And sure enough, Jeb, the more he talked, the more his face reddened.

"While Clipper was talking to me, I had a hard time not staring at the bottom of his left shoe. On the heel it said, 'St. Louis Walker.'"

Jeb asked, "Fred, have you talked with Mary Grace's daughter, Peg?"

"Peg is a mystery, Jeb. Lucille Border told me that Peg was just sleeping when she entered Peg's bedroom, and that she doesn't think that Peg saw her mother hanging from the tree. Lucille Border said that Peg is a very smart and congenial child and is very talkative; that she seems blessed with the gift of speech even. But this is the puzzler, Jeb—from the time that Lucille lifted Peg from her bed that Sunday morning to this very day, Peg has not spoken to anyone ... not to Lucille and not to any of Mary Grace's family caring for Peg now. Peg simply has shut down. She's just not talkin' with anyone."

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Jeb White filed an information against William Clipper for first-degree murder. He named in the information as res gestae witnesses Lucille Border; the pathologist, Dr. Block; Sheriff Weber, the county coroner; and, even though she remained silent, Peg.

On the day of his arrest, William Clipper's attorney stood beside his client before the justice of the peace and demanded a preliminary examination. The attorney was Ernest Muchmore, a well-known and much-respected member of the state's trial bar. His office was many miles distant from Jeb White's. Muchmore was almost six feet tall, just a few pounds overweight, and stood and walked

erect in a tailored suit. His was a concise baritone voice. The justice of the peace released William Clipper on a cash bond.

At Muchmore's request, the justice of the peace conducted a preliminary examination two weeks later. At the preliminary exam, the case of *People v William Clipper* survived, just barely, defendant's motion to dismiss.

After the justice of the peace issued his ruling, Jeb approached Muchmore. "Mr. Muchmore, I would like to show you the circuit courtroom in our courthouse, as well as our county law library."

"Thank you for your invitation, Mr. White," Muchmore responded, "and please, lead the way!"

As Jeb and Muchmore proceeded to ascend the stairs to the second floor of the county building, Jeb explained, "Please watch your step on these stairs, Mr. Muchmore. Our county has an excellent law library, but there is limited space for it. Our law books use all of the shelf space in the library room and overflow into our circuit courtroom and on to the treads of the stairs leading to the second floor. Before you leave today, I will make sure that you receive keys to the front door of the courthouse, the courtroom, and the law library room so that you'll be able to use the library while you are here."

When they reached the second floor, Jeb and Muchmore entered the vacant courtroom.

"Hmm, your courtroom is eclectic, is it not, Mr. White?" said Muchmore.

Jeb grinned, and explained. "Years ago, the then chairman of the board of supervisors took a trip to Greece and the Greek architecture inspired him to try to duplicate it in this courtroom."

"That explains the gray, marble-patterned wallpaper on the ceiling and around the floor-to-ceiling columns, Mr. White."

"Yes," Jeb smiled. "And a few years later another board chairman signed on to the knotty-pine school of judicial milieu, which resulted in the replacement of the original oak bench with this

yellowed knotty-pine bench, upon which Judge Plant sits with less than complete absolute approbation. As you can see, the witness box is knotty pine as well.”

“And let me guess, Mr. White, that there followed in succession a third board of supervisors chairman who had become enamored of wrought iron and who convinced a majority of the board that an architect’s fee could be avoided for yet a third time, resulting in the installation of the wrought-iron railing. Did that wrought-iron railing replace a fine old oaken bar, Mr. White?”

Jeb’s grin continued. “You’re right on the mark, Mr. Muchmore. The wrought-iron ambience infliction, as I call it, occurred last year. And neither Judge Plant nor any officer of the court dares voice any criticism of the architectural talents of present and past board members, lest a price be paid in one’s budget during these trying economic times. This old county building lacks space and style, but it does not lack an extraordinary judge, a superb law library, and county officers who are honest to the core. Our county board does not sit at the feet of Frank Lloyd Wright, but their honest labors bear lovely faces, as Thomas Dekker would say.”

Jeb’s grin then left his face and he looked at directly at Ernest Muchmore and asked, “So, Mr. Muchmore, can I answer any questions for you?”

Muchmore answered, “The editor of the local newspaper tells me that he has been trying to talk with you, but you refuse. Why?”

Jeb answered, “My personal opinion is that your client is guilty, but the law requires much more than that for a conviction. I believe that every defendant who walks into our faux marble, knotty-pined bench, and wrought-iron railing courtroom down the hall deserves to do so with a presumption of innocence. If I were to air my thoughts publicly about any case prior to trial, I would not be serving justice.”

Jeb added, “Justice Sutherland’s opinion in the *Berger v U. S.* decision on page 78 in the 295 U.S. Reports advance sheet is concise on this.”

“I am pleased to appear with you in court in this case, Mr. White,” replied Muchmore. “I also declined the local newspaper editor’s request for an interview. I look forward to watching your law career mature and flourish in the years to come. Now comes a comment. The case against my client does not appear to be a strong one.”

“That’s true,” Jeb answered. “Unless something more turns up, we have a death by hanging and a shoeprint that matches your client’s shoe. Your client can testify that he visited at Mary Grace’s home in the past, played outdoor games with Peg, and that the shoe print, if indeed it is his, was planted in the soil days before the hanging occurred.”

Muchmore looked evenly at Jeb. “At the close of the People’s proofs in this case, Jeb, I intend to move for an order directing the jury to return a verdict of not guilty.”

“I expect you to make that motion, Mr. Muchmore. I think that Judge Plant will delay ruling on your motion until after the defense rests and before he instructs the jury. And I think that is going to present a problem for your client.”

“How’s that?” asked Muchmore.

“One of the defendant’s problems, according to what I’ve been told, is that Mr. Clipper is a poor liar, and that manifests itself, much like Pinocchio’s nose, in shades of red ranging from claret pink for a small fib to fire-engine red for whoppers. So, both the People and Mr. Clipper face challenges in this case, don’t you agree?”

Muchmore smiled reflectively and answered, “Yes, Mr. White, I agree, and I look forward to the start of trial in this case.” Muchmore rose and started toward the door.

“I think the trial in this case started some time ago, Mr. Muchmore.”

Muchmore turned around, looked at Jeb, and smiled.

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During two days of trial, all of the witnesses named in the information, except for Peg, testified. Peg was in the courthouse, but her aunt, Ruth, cared for her in the probate court on the first floor while the trial proceeded above them.

As the trial neared its end, Jeb knew he was presenting a weak case to the jury.

“Do you have any further witnesses to offer before the People rest, Mr. White?” asked Judge Plant.

“Peg Lamb is named in the information. She is the victim’s child, your Honor. She is downstairs with one of her aunts.”

Judge Plant directed his attention to defense counsel, “Would you wish to have the child appear, counsel?”

Ernest Muchmore responded, “I should at least like to see her, your Honor. And before this matter goes to the jury, I do have a matter of law I would like to present to the court.”

Here comes the motion for a directed verdict, Jeb thought to himself.

Judge Plant replied, “The court will address your matter of law before it entertains proposed instructions, Mr. Muchmore. Bailiff, would you kindly bring Peg Lamb and her aunt into the courtroom?”

The judge, the jurors, Jeb, Muchmore, William Clipper, and the spectators in the courtroom waited quietly. After a few minutes, the doors in the back of the courtroom parted and in walked the bailiff, followed by Mary Grace’s sister, Ruth, holding Peg’s hand. Peg wore a pink dress, white stockings, and white shoes. As the three of them approached the wrought-iron railing, Clipper turned his head to look directly at Peg. Peg stopped for a moment and she and William Clipper locked eyes. She clutched her aunt’s hand tightly, but her eyes never left William Clipper’s.

“Unca Bill! Unca Bill, I luv yew!” Peg shouted.

Peg’s aunt and Peg proceeded through the gate to sit immediately behind Jeb.

Jeb rose and said, “Your Honor, I am not going to call Peg for any questions. Of course, she is here should either the court or Mr. Muchmore wish to question her.”

Judge Plant replied, “I have no questions. Mr. Muchmore?”

Muchmore said, “Your Honor, I would like to have Peg’s expression of her love for Mr. Clipper placed on the record. Would the court kindly explain to Peg the importance of telling the truth?”

The jurors leaned forward, and some even caught defense counsel’s confident countenance and smiled in understanding.

“Peg,” Judge Plant said quietly, “would you please sit in that chair so that we can hear what you have to say?”

“I want to sit in my Aunt Ruth’s lap,” Peg said.

“Of course, Peg. My name is Ernest,” said Muchmore. “Do you love your Uncle Bill Clipper, who is sitting next to me?”

“Yes, I do,” answered Peg.

“I believe that is all, judge, er ... perhaps I could ask just one last question: Peg, do you remember the last time you saw Uncle Bill?”

He wants to establish that Clipper was at the Lamb place before the day of the murder, Jeb thought, and that would explain the shoe print.

“Yes,” Peg said, “I was takin’ a nap in m’ bed, and Unca Bill and m’ Mommy were making some noise outdoors. I look’d and saw Unca Bill and Mommy pickin’ apples. Unca Bill tied Mommy up wid a rope and pulled her up in the tree so she could git sum apples. Then Unca Bill came into the house an’ came to my bed. I played like I was sleeping ‘cus I didn’t wanna pick apples on Unca Bill’s rope. Where’s Mommy now, Unca Bill?”

