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BOOK REVIEWS

RECOVERY FOR WRONGFUL DEATH. By Stuart M. Speiser. Rochester, N.Y.: The Lawyers Co-operative Publishing Co. 1966. Pp. xx, 1094, \$28.50.

Stuart M. Speiser, a nationally known trial lawyer and legal author,¹ has just published a very comprehensive, highly informative, and exceedingly readable book entitled *Recovery for Wrongful Death*.² This volume is a "must" for the library of any law firm engaged in the practice of trial and tort law.

The reasons for writing the treatise, which the author tells us was six years in the making,³ were twofold.⁴ First, although the transcript of a very fine seminar on wrongful death has been published⁵ and there are many detailed annotations⁶ and law review articles available,⁷ the last published book on wrongful death ap-

¹ Mr. Speiser, a former military and commercial airplane pilot, has specialized in aviation law for more than sixteen years. He has served as consulting counsel in most of the nation's major air disasters during this period, and as a result he has had to deal in actual litigation with the wrongful death statutes of most of the fifty states. Mr. Speiser is a member of the New York and Connecticut Bars and a Fellow of the International Academy of Law and Science and of the International Society of Barristers. He has lectured extensively at law schools and bar associations in all parts of the country and is the author of numerous books and articles.

² SPEISER, *RECOVERY FOR WRONGFUL DEATH* (1966).

³ Speiser, *Preface to id.* at V.

⁴ Conference with Alfred Gans, formerly of Lawyers Co-operative Publishing Company and now a member of the author's firm, in New York, New York, Nov. 7, 1966.

⁵ *WRONGFUL DEATH AND SURVIVORSHIP* (Beall ed. 1958).

⁶ *Admissibility in Wrongful Death Action of Photograph of Decedent Made in His Lifetime*, 74 A.L.R.2d 928 (1960); *Admissibility in Wrongful Death Action of Testimony of Actuary or Mathematician for Purpose of Establishing Present Worth of Pecuniary Loss*, 79 A.L.R.2d 259 (1961); *Conflict of Laws as to Survival or Revival of Wrongful Death Actions Against Estate or Personal Representative of Wrongdoer*, 17 A.L.R.2d 690 (1951); *Damages for Wrongful Death of Husband or Father as Affected by Receipt of Social Security Benefits*, 84 A.L.R.2d 764 (1962); *Effect of Death of Beneficiary Upon Right of Action Under Death Statute*, 43 A.L.R.2d 1291 (1955); *Pension, Retirement Income, Social Security Payments, and the Like, of Deceased, as Affecting Recovery in Wrongful Death Action*, 81 A.L.R.2d 949 (1962); *Power of Court, in Action Under Foreign Wrongful Death Statute, To Decline Jurisdiction on Ground of Inconvenience of Forum*, 48 A.L.R.2d 850 (1956); *Right of Recovery, Under Wrongful Death Statute, for Benefit of Illegitimate Child or Children of Decedent*, 72 A.L.R.2d 1235 (1960); *Recovery of Nominal Damages in a Wrongful Death Action*, 69 A.L.R.2d 678 (1960); *Remarriage of Surviving Spouse, or Possibility Thereof, as Affecting Action of Wrongful Death of Deceased Spouse*, 87 A.L.R.2d 252 (1963); *Retroactive Effect of a Statute Changing Manner and Method of Distribution of Recovery or Settlement for Wrongful Death*, 66 A.L.R.2d 1444 (1959).

⁷ Traci, *Law and Logic: Conflict in Ohio's Wrongful Death Statute*, 4 CLEV.-MAR. L. REV. 38 (1955); Comment, *Action Brought by Administratrix To Recovery for Wrongful Death of Prenatally Injured Child*, 38 B.U.L. REV. 166 (1958); Comment,

peared some fifty-four years ago.⁸ The pressing need for a modern work on the subject can be appreciated when it is realized that accidents are the fourth leading cause of death in the United States, exceeded only by heart disease, cancer, and vascular lesions. For the population group between the ages of one and thirty-seven, accidents rank not fourth but first as the greatest cause of death. We have now reached a point where fifty thousand persons a year lose their lives in automobile accidents alone, and well over 100,000 a year die from accidents of all kinds.⁹

Thus, in a ten-year period, over one million Americans either have or will lose their lives through accidental injuries. Every conceivable type of factual situation and conduct is involved, and no age group or class of persons is immune.¹⁰ For example, on October 14, between the hours of 9 a.m. and 10 a.m., a man in New York was pinned under the wreckage of his car after a head-on collision. Attempts to free him proved futile. In California a young housewife, during that same hour, lit a cigarette near a defective gas regulator which had been installed by a public utility company the day before. There was an explosion that resulted in her death. In a small Texas town, a tractor-trailer jumped the light and killed a twenty-five year-old electrician who was a pedestrian. In Michigan before 10:00 that morning a small boy was fatally shot by an eager hunter. During that hour, in Florida a student pilot attempting to solo lost control of his plane and crashed. Seven other people perished in accidents between 9 a.m. and 10 a.m. on this date, an average that has been repeated every hour of every day in the United States.¹¹

Experience has shown that the vast majority of these public as well as private tragedies result in claims or litigation for wrongful death. As the publisher of Mr. Speiser's book states: "Life is uncertain, but death when it is wrongful, is now certain to be sued."¹²

Wrongful Death Actions: Limitations on Amount Recoverable, 46 CORNELL L.Q. 637 (1961); Comment, *New Measure of Recovery for Wrongful Death of Minor*, 22 OHIO ST. L.J. 422 (1961); Comment, *Lex Fori vs. Lex Fori Delict — Misuse of Substance-Procedure and Public Policy Concepts*, 15 RUTGERS L. REV. 620 (1961); Comment, *Measure of Damages for Wrongful Death of a Minor Child*, WASH. & LEE L. REV. 277 (1961); Note, *Injuries to the Unborn — A Legal-Medical Problem*, 9 W. RES. L. REV. 499 (1958).

⁸ TIFFANY, DEATH BY WRONGFUL ACT (2d ed. 1913).

⁹ AMERICANA 1966 ANNUAL *Accidents* 22 (1966).

¹⁰ 1 ENCYC. AMERICANA *Accidents* 72 (1965).

¹¹ Paul G. White, Director, Special Services, The Lawyers Co-operative Publishing Company, Rochester, New York.

¹² News Release, Aug. 1, 1966.

With this in mind, as stated before, the practicing attorney's need for a first-class treatise in this area of the law becomes readily apparent. It was in part to answer this need that Mr. Speiser entered upon a "labor of love."¹³

The second and equally compelling reason for writing *Recovery for Wrongful Death* was the feeling of the author, gleaned through his vast experience with air-crash cases throughout the United States, not only that the law on wrongful death ought to be gathered in one volume but also that the injustice and inequities in this area of the law should be pointed up in the hope that judges, lawyers, and legislators might do something to remedy these wrongs.¹⁴

The reasons for these inequities and injustices are historical and were spawned by the common law. It should be remembered that at common law there was no right of recovery for the death of a human being who had been killed by the negligence or wrongful act of another. As one writer has expressed it, "Compressed into one sentence, at common law death did not create liability: rather, death extinguished liability."¹⁵ Furthermore, under the common law, tort actions involving injury but not death likewise failed to survive the subsequent but unrelated death of either the plaintiff or the defendant.¹⁶

The shocking rule that the infliction of death was not a tort against the deceased or his bereaved dependents was first laid down in 1808 by Lord Ellenborough in *Baker v. Bolton*,¹⁷ a nisi prius ruling without a single supporting authority.¹⁸ The net result was that it was cheaper to kill a man than to maim, scratch, or bruise him.¹⁹ Like other elements of the common law, *Baker v. Bolton* was imported into and embraced by the American courts.

¹³ See Conference with Alfred Gans, *supra* note 4.

¹⁴ *Ibid.*

¹⁵ Lambert, *History and Future*, in *WRONGFUL DEATH AND SURVIVORSHIP* 3 (Beall ed. 1958).

¹⁶ Death no longer extinguishes liability or claims in tort, as nearly all jurisdictions in the United States have enacted statutes called survival acts. These statutes are dealt with by the author in chapter 14.

¹⁷ *Baker v. Bolton*, Camp. 493, 170 Eng. Rep. 1033 (1808).

¹⁸ This same Lord Ellenborough a year later in *Butterfield v. Forrester* (1809) enunciated the rule of contributory negligence, one of the most influential doctrines in the entire field of law and one of the harshest in its application. The slightest lapse from ordinary care on the part of the plaintiff will completely bar recovery for his injuries no matter how flagrant the negligence of the defendant may be. *THE TRIAL OF THE FUTURE* (1965).

¹⁹ As Dean Prosser, tongue in cheek, tells us, "most lawyers are familiar with the legend, quite unfounded, that this was the original reason that passengers in Pullman car berths rode with their heads to the front. Also that fire axes in railroad coaches were

However, as the industrial revolution gained momentum, the intolerable result of *Baker v. Bolton* became the object of legislative reform both in England and the United States. In 1846 the old common law rule was abrogated in England by the Fatal Accidents Act,²⁰ commonly known as Lord Campbell's Act. A year later in 1847 the first statute of this kind was passed in the United States,²¹ and, today, every American state has a remedy for wrongful death. Although there is not complete uniformity, most of the acts are patterned after Lord Campbell's Act and create a new cause of action in favor of the decedent's personal representative for the benefit of certain specified persons. All of these acts are collected both in detail and in summary form in Speiser's book.²² In this day and age of an extremely mobile population throughout the several states this compilation itself is worth the price of the book. This section of the treatise has been aptly described as a "small portable library,"²³ and indeed it is.

Insofar as the inequities and injustices remain in the law of wrongful death, it has been aptly stated that the "cold hand of that transcendent Tory Lord Ellenborough, will remain raised in partial victory."²⁴ As noted before, spotlighting these areas was the second compelling reason for this book, that is, "to also state the law as it ought to be and not only as it is."²⁵ More specifically, the problems discussed in full by Mr. Speiser are: (1) the archaic limitation of death awards established either by state statutes, constitutional prohibitions, or treaties of the federal government; (2) the grossly inadequate awards for the death of minor children, housewives, or children yet unborn; (3) the injustice to the next of kin when damages of the deceased husband or father are limited to his pecuniary contribution to his family, while accumulations to his estate through thrift or wise investments are excluded as an element of damage.

Recovery for Wrongful Death, however, is also a practical "how to do it" book.²⁶ This practical knowledge arose from the author's

provided to enable the conductor to deal efficiently with those who were merely injured." PROSSER, TORTS § 121, at 924 n.42 (3d ed. 1964).

²⁰ 9 & 10 Vict. c. 93.

²¹ SPEISER, *op. cit. supra* note 2, at 13.

²² *Id.* at apps. A & B.

²³ See Conference with Alfred Gans, *supra* note 4.

²⁴ Spangenberg, *Proof of Damages for Wrongful Death*, in WRONGFUL DEATH AND SURVIVORSHIP 63, 65 (Beall ed. 1958).

²⁵ See Conference with Alfred Gans, *supra* note 4.

²⁶ Examples of testimony appear throughout the book as well as examples of special instructions, use of tables and diagrams, and examples of suggested solutions to specific problems.

long association and active participation in the "how-to-do-it seminars" and conventions of the American Trial Lawyers Association.²⁷ It was also acquired from his vast experience in air-crash cases wherein the victims are invariably killed and the loss to their heirs and next of kin is very substantial due to the fact that a great majority of the air travelers are either business executives or professional men. While Speiser's book covers all relevant²⁸ subjects, the primary emphasis is on damages and how to prove them in specific factual situations.²⁹ The text material is buttressed with exhaustive citations to decisions from the several states and the federal courts, as well as with numerous key references to *American Jurisprudence 2d* "Proof of Facts"; *American Jurisprudence 2d* "Trial"; *American Jurisprudence Pleading and Proof* "Forms"; and annotations in *American Law Reports 2d*. The leading cases in the field of wrongful death, such as *Pearson v. Northeast Airlines, Inc.*,³⁰ *Long v. Pan Am. World Airways*,³¹ and *Wycko v. Knotke*,³² as well as lost inheritance cases and the housewife cases are all fully discussed by the author.

The inside back cover of *Recovery for Wrongful Death* is equipped to receive a pocket part in the future,³³ and materials are already being assembled by the author for that purpose.³⁴ This reviewer suggests that the pocket part make three additions to the basic text. One would be a list of names and addresses of persons who qualify as experts in the several states to testify on the various elements necessary to prove damages, as outlined in chapters 3 and 4. Second, would be samples or examples of effective final arguments in actual cases, also in connection with chapters 3 and 4. Third, would be additional discussion and material concerning the practical reasons for choosing the forum in which to bring the initial

²⁷ Mr. Speiser has been the National Chairman of the American Trial Lawyers Association's Aviation Law Committee (1955-58) and is currently an Associate Editor in Aviation Law for the *American Trial Lawyers Association Law Journal*.

²⁸ The text covers basis of liability, defense, pleading and practice, evidence, statutes, and decisions.

²⁹ Chapters 3 and 4, entitled "Damages" and "Specific Situations," respectively, encompass 355 pages, which is approximately one half the number of pages devoted to textual material.

³⁰ 309 F.2d 553 (1962).

³¹ 17 N.Y.2d 337, 213 N.E.2d 796, 266 N.Y.S.2d 513 (1965).

³² 361 Mich. 331, 105 N.W.2d 118 (1960).

³³ The publisher, in its news release on the date of publication, August 1, 1966, stated its intention to keep the basic text current through periodical supplementation.

³⁴ Conference with Alfred Gans, *supra* note 4.

law suit. Should the action be brought in a federal or state court? And, if in a state court, which one?

This reviewer's conclusion, however, has already been stated at the outset of the review — *Recovery for Wrongful Death* is a "must" volume for the library of any law firm engaged in the practice of trial and tort law.

NORMAN W. SHIBLEY*

SOUTHERN JUSTICE. Edited by Leon Friedman. New York: Pantheon Books. 1965. Pp. ix, 306. \$5.95.

Anyone who has served time as a volunteer attorney in the South must expect to leave permanently touched by his experiences there. The authors of sixteen of the seventeen essays in this volume were volunteers in various places in the South at various times in 1964 and before. Their experiences moved them deeply — or so it would appear from the style and content of these articles.

With the notable exception of the concluding article by Professor Lusky, which is the book's only reprint, all of the articles are existential in form; they relate the actual experiences of the authors in the courts and cities of the South. They speak from an "observation-post" acquaintance with the system of southern justice in its day-to-day operation from the policeman on the street to the judge in the trial and appellate courts, both state and federal. Although the authors' experiences might have been few or short-lived in view of the limited duration of their exposure to southern justice, they were consistently telling and fully deserved retelling.

This book is troubling for the same reasons that the grim reminders recounted in it are startling. It raises more questions, some of them quite fundamental, than it answers. It asks us to believe that a sponsored, organized sociological field trip to Alabama by a group of college students accompanied by their professor can become a nightmare of prisons and appeals, all because the group had the audacity to chat, in an unobtrusive way, with Negroes in a Negro-owned restaurant in a Negro area.¹ It asks us to believe that the traffic laws and the authority of the police were perverted in order to prevent a white civil rights volunteer from an Iowa college from transporting books to rural freedom schools.² It asks us to believe

* Member of the Ohio Bar.

that a volunteer civil rights attorney representing a Negro civil rights worker who had been arrested on a spurious charge of vagrancy and convicted without benefit of counsel would find all fourteen lawyers in Sunflower County, Mississippi, unavailable, afraid, or unwilling to assist him in the mundane task of obtaining visitation privileges at the county farm where his client was confined.³

Incredible as these individual tales are to those unfamiliar with the southern way of doing justice, the book proffers them as merely illustrative of a much wider problem and as the vaguest preliminary for a sweeping generalization which taxes credulity to the utmost. The reader is asked to believe, for example, that the reluctance of the Sunflower County Bar to assist one civil rights attorney signals and proves "The Abdication of the Southern Bar"⁴ from its responsibility to represent persons charged with unpopular offenses. Charles Morgan, Jr., formerly a prominent member of the Birmingham, Alabama Bar and author of one of the more thoughtful essays in this volume,⁵ and, more recently, Paul Johnston, also a prominent member of the Birmingham Bar who undertook to represent the FBI informant who witnessed the killing of Mrs. Viola Liuzzo, are living witnesses to the personal and professional disaster that any southern attorney courts when he undertakes to defend the defenseless civil rights worker. The notoriety given the professional martyrdom of Charles Morgan, Jr. and Paul Johnston exemplifies both the dangers inherent in any interference by southern lawyers with the southern brand of justice and the rarity of such interference.

Yet, the southern bar has had its defenders and, along the route, the generalizations of this book have their opponents. The Chief Justice of the Mississippi Supreme Court has recently written that "although there may have been instances where individual members of the Mississippi Bar declined representation in unpopular causes, in my opinion these have been *the exception not the rule*."⁶ Chief Justice Ethridge's view is supported by Semmes Luckett,⁷ a Clarksdale, Mississippi, lawyer whose attitudes are well known to most

¹ Durr, *Sociology and the Law: A Field Trip to Montgomery, Alabama*, in *SOUTHERN JUSTICE* 43-56 (Friedman ed. 1965).

² Braiterman, *Harold and the Highwaymen*, in *id.* at 88-102.

³ Oppenheim, *The Abdication of the Southern Bar*, in *id.* at 127-35.

⁴ *Id.* at 135.

⁵ Morgan, *Segregated Justice*, in *id.* at 155-64.

⁶ Ethridge, *Passion and Prejudice*, 37 *MISS. L.J.* 397, 398 (1966). (Emphasis added.)

⁷ Luckett, *Clarksdale Customs*, 37 *MISS. L.J.* 419, 422 (1966).

civil rights attorneys. Mr. Lockett has unearthed a list of cases in which Mississippi lawyers willingly defended Negroes charged with various heinous felonies in the state courts of Mississippi. From this compilation, he draws the remarkably illogical conclusion that if Mississippi lawyers will accept court appointments (as if they had any choice in the matter) to represent Negroes charged with felonies, they must certainly be willing to accept the "piddling," "contemptable" [*sic*]⁸ case of a civil rights worker (where they have all the freedom of choice imaginable).

Others have expressed a more reasoned and fully documented case regarding "The Abdication of the Southern Bar" than that expressed by Chief Justice Ethridge and Mr. Lockett.⁹ But the best support for the generalization that the southern bar has willfully defaulted in its professional responsibilities to the unpopular defendant is the long and lengthening list of those attorneys who have volunteered their time and abilities to fill the void left by the southern bar. As St. Paul went into Macedonia, so these volunteer lawyers have heeded the cry of the southern Negro for assistance. If there were no need for them, they would not be there. And the need stems not from the multiplicity of cases but from the reluctance of the southern bar to act in them.

In a sense this reluctance is understandable, in view of what is demanded of a lawyer by his civil rights clients. It is not unusual for the lawyer to be asked to address a civil rights rally prior to a civil rights demonstration. The lawyer is expected to detail the legal requirements for a peaceable and lawful demonstration, or the lawyer may be asked to be on the scene with advice and protection for a group of picketers. This is not the office or courtroom lawyer's usual fare. Nor is it a role reasonably calculated to avoid the public stigma of affiliation with and support of the client's cause. It is therefore understandable, albeit inexcusable, for the southern bar to cower before its obvious professional obligations.

Thus far the questions posed by this book have been of the garden variety. We are asked to believe that generalizations concerning the present state of southern justice can reasonably be deduced from specific instances of injustice. And if our credibility falters in this enterprise, we are asked: Would you believe, at least, that the tales we tell did in fact happen as we tell them? And, regarding

⁸ *Id.* at 423.

⁹ Griswold, *The Report of the United States Commission on Civil Rights*, in LAW ENFORCEMENT 182 (1965).

that question, there is little dispute or, for that matter, little need for it. Even Chief Justice Ethridge is willing to give his assent to the existence of injustice in Mississippi — as the exception.¹⁰

However, these essays *qua* narratives hew too closely to the theme of injustice in the South and, in doing so, fail completely to mention another ingredient of southern justice, which may rightly be considered a by-product of it and which may wrongly be construed as good cause for commending it. I refer to the strength of purpose and courage of character which southern injustice, like injustice anywhere, has aroused and revealed in the hearts and conduct of its victims. This book memorializes the wrongs of the oppressors rather than the will of the oppressed to resist and overcome these wrongs. The emphasis is unfortunate.

I remember three occasions upon which this will to resist was manifested with such poignancy as to make the onlooker's heart sing. One involved a fifteen-year-old boy; another, an aged and ailing Negro mother, and the third, a group, a song, and a promise.

One day in June of 1965 Eugene Young stood in the makeshift courtroom of Hinds County Juvenile Court before Judge Carl E. Guernsey; the defendant was charged with an act of delinquency, to wit, parading without a permit in the streets of Jackson, Mississippi. Gene was, at fifteen, a professional civil rights activist. He had been the first to integrate the barber shops of Kansas City. For that he received a shave instead of a haircut and a front page picture in a leading national weekly portraying his cheerful humiliation. Gene's experiences had given him the courage and ability to resist Judge Guernsey's vigorous cross-examination. His youth gave him the wit to conquer it.

As I recall it, the examination proceeded as follows:

"We know each other, don't we Gene?" began Judge Guernsey.

"Yes, Judge" was Gene's barely audible reply.

Emboldened by Gene's evident docility, the Judge became more direct.

"You were before me once before for attempting to integrate a park, isn't that so?"

"No, Judge," said Gene, lifting his head ever so slightly.

"You mean to say you've never been in this court before?" said the puzzled judge.

"Yes, I've been here before, Judge."

¹⁰ Ethridge, *supra* note 6, at 398.

"Well, that's settled then. And wasn't your previous appearance here for attempting to integrate a park?"

"No, Judge."

"You mean to say you never entered that park?" the Judge, now worried, replied.

"Oh, yes Judge, I did," Gene said, his self-confidence showing.

"Well, you went there to integrate it, didn't you?" said the Judge.

"No."

"Why, then did you go there?" said the Judge, at last exasperated.

Gene hesitated, undoubtedly for effect more than for courage, looked about him, smiled ever so slightly and respectfully and said, "I went there *to play*, Judge."

In this brief encounter, a fifteen-year-old had summed up the essential difference between riot and right, between provocation and freedom and all in a few well-chosen, dramatically timed, and nicely disguised words of whimsy. Although fifteen years old, Gene Young was no boy. Nor was he only a man. He was more. He was, as the Eskimos say of those they revere, an Inuk — a man, pre-eminently.

And then there was an old — or she might have been middle-aged or even young for all that the ravages of a southern Negro's way of life pander to appearances — woman whose name is now beyond recall but whose memory is unforgettable.

We met one evening, again in June of 1965, at the fairgrounds in Jackson, Mississippi. At the time, I was performing the then daily task of completing retainer forms for those demonstrators who were newly arrived at the fairgrounds detention center. The information she gave me was characteristic of that given by so many before her — an unemployed cotton picker with no savings and no prior involvement in demonstrations but with a large and fatherless family to support.

After completing the form, I inquired whether she had any illnesses which might require attention during her confinement or which might, if grave enough, enable us to secure her immediate release without bail. As she spoke, informing me unemotionally that she was an insulin diabetic who had recently undergone major surgery, I realized that we had met before. During the remainder of the interview, I was struck by her unusual reluctance to claim her

illnesses as an excuse from confinement, and I was perplexed by the vague familiarity of her face.

Finally, I asked if we had met before. "Yes," she said. And, suddenly, I remembered. We had met the day before, when she had come to the fairgrounds in order to secure the release of her two teen-age children, had appeared before Judge Guernsey, and had promised that her children would not demonstrate in the future.

"But, where are your children?" I asked.

"At home," she replied.

"And how is it that you were out parading?" I inquired.

"Someones of us has gots to show which side we'se on," she said, in a voice as reverent as if she were invoking a blessing before meals.

And with that comment I grasped the key to her dedication. Her commitment was religious in its sincerity and oath-like in its solemnity, for she had paraded in order to call upon man to witness the truth of what she did.

My third remembrance of Negro courage in action relates to an occurrence shortly after the interview with this Negro woman. The interviews with the new arrivals had been completed. Other detainees, who had expressed a desire to do so, were then permitted to speak with us. Many of them admitted their not-insubstantial fear of police brutality if they were left to fare for themselves at the fairgrounds during the night. We appreciated their problem but were powerless to demand the right to remain in order to safeguard them. One possible solace we could offer but which, in charity, we did not put forward was the thought of suicide which, according to Nietzsche, "is a great consolation; with the help of it, one has got through many a bad night."¹¹

All interviews completed, I collected my papers and, in company with Professor John Honnold of the University of Pennsylvania Law School, made ready to leave. The sun was collapsing behind the nearest half of the detention huts. The detainees had been fed their usual meatless meal. The police guard was changing and, with the change, came the swagger, the stick, and the tape-covered badge. Voices could be heard softly chanting the civil rights anthem, "We Shall Overcome." As if restrained by an unseen hand, John and I stopped and gazed into the detention quarters. Through the doorway, I imagined that I saw the sun's dying rays stop lengthening, the menacing police cease menacing, and the

¹¹ NIETZSCHE, *BEYOND GOOD AND EVIL* 88 (Great Books Foundation 1947).

whirling world at rest. If ever taps was sounded, it never was more stirring than this rendition of "We Shall Overcome" at that moment. There, in that quiet place, there, in that fearful place, courage, sufficient unto the night, had spoken. And Nietzsche was proved to be wrong, for courage, not fear, will out.

In these three recollections of the courage of the young, the old, and the many, we can perceive the answer to the most agonizing problem raised by the essays in this book, namely, is there any hope for change in the system of southern justice portrayed here? How says the Delphic Oracle?

Although the Fifth Circuit has stood firm in its support for Negro rights and although the maximum resources of the federal government are still untapped, due largely to self-imposed restraints, the answer to the Negro's quest for equality lies neither in the Fifth Circuit nor in the federal government. They are only supportive. The ultimate resolution lies in the spunk of a fifteen-year-old boy, the dedication of an ailing but determined woman, and the song of the suppressed masses. This prediction, unlike the reply of the Delphic Oracle to Croesus, unambiguously affirms the strength of unblanched courage to overcome adversity and even oppression. It is disappointing that the essayists in *Southern Justice* did not do the same.

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