

Mr. Claro -- Modern Nonfiction

Reading Selection by Scott Russell Sanders

Doing Time in the Thirteenth Chair

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In a note that he wrote for Contemporary Authors, Sanders spoke of the division, in his life and work, between the sciences and the arts. Clearly his science fiction is one result; he has written a book about Audubon and plans to write another. "In all of my work, regardless of period or style, I am concerned with the ways in which human beings come to terms with the practical problems of living on a small planet, in nature and in communities."

The courtroom is filled with the ticking of a clock and the smell of mold. Listening to the minutes click away, I imagine bombs or mechanical hearts sealed behind the limestone walls. Forty of us have been yanked out of our usual orbits and called to appear for jury duty in this ominous room, beneath the stained-glass dome of the county courthouse. We sit in rows like strangers in a theater, coats rumped in our laps, crossing and uncrossing our legs, waiting for the show to start.

I feel sulky and rebellious, the way I used to feel when a grade-school teacher made me stay inside during recess. This was supposed to have been the first day of my Christmas vacation, and the plain, uncitizenly fact is that I don't want to be here. I want to be home hammering together some bookshelves for my wife. I want to be out tromping the shores of Lake Monroe with my eye cocked skyward for bald eagles and sharp-shinned hawks.

But the computer-printed letter said to report today for jury duty, and so here I sit. The judge beams down at us from his bench. Tortoise-shell glasses, twenty-dollar haircut, square boyish face: Although probably in his early forties, he could pass for a student-body president. He reminds me of an owlish television know-it-all named Mr. Wizard who used to conduct scientific experiments (Magnetism! Litmus tests! Sulphur dioxide!) on a kids' show in the 1950s. Like Mr. Wizard, he lectures us in slow, pedantic speech: trial by one's peers, tradition stretching back centuries to England, defendant innocent until proven guilty beyond a reasonable doubt, and so abundantly on. I spy around for the clock. It must be overhead, I figure, up in the cupola above the dome, raining its ticktocks down on us.

When the lecture is finished, the judge orders us to rise, lift our hands, and swear to uphold the truth. There is a cracking of winter-stiff knees as we stand and again as we sit down. Then he introduces the principal actors: the sleek young prosecutor, who peacocks around like a politician on the hustings; the married pair of brooding, elegantly dressed defense lawyers; and the defendant. I don't want to look at this man who is charged with crimes against the "peace and dignity" of the State of Indiana. I don't want anything to do with his troubles. But I grab an image anyway, of a squat, slit-eyed man about my age, mid-thirties, stringy black hair parted in the middle and dangling like curtains across his face, sparse black beard. The chin whiskers and squinted-up eyes make him look faintly Chinese, and faintly grimacing.

Next the judge reads a list of twelve names, none of them mine, and twelve sworn citizens shuffle into the jury box. The lawyers have at them, darting questions. How do you feel about drugs? Would you say the defendant there looks guilty because he has a beard? Are you related to any police officers? Are you pregnant? When these twelve have finished answering, the attorneys scribble names on sheets of paper which they hand to the judge, and eight of the first bunch are sent packing. The judge reads eight more names, the jury box fills up with fresh bodies, the questioning resumes. Six of these get the heave-ho. And so the lawyers cull through the potential jurors, testing and chucking them like two men picking over apples in the supermarket. At length they agree on a dozen, and still my name has not been called. Hooray, I think. I can build those bookshelves after all, can watch those hawks.

Before setting the rest of us free, however, the judge consults his list. "I am calling alternate juror number one," he says, and then he pronounces my name.

Groans echo down my inmost corridors. For the first time I notice a thirteenth chair beside the jury box, and that is where the judge orders me to go.

"Yours is the most frustrating job," the judge advises me soothingly. "Unless someone else falls ill or gets called away, you will have to listen to all the proceedings without taking part in the jury's final

deliberations or decisions."

I feel as though I have been invited to watch the first four acts of a five-act play. Never mind, I console myself: The lawyers will throw me out. I'm the only one in the courtroom besides the defendant who sports a beard or long hair. A backpack decorated with NO NUKES and PEACE NOW and SAVE THE WHALES buttons leans against my boots. How can they expect me, a fiction writer, to confine myself to facts? I am unreliable, a confessed fabulist, a marginal Quaker and Wobbly socialist, a man so out of phase with my community that I am thrown into fits of rage by the local newspaper. The lawyers will take a good look at me and race one another to the bench for the privilege of having the judge boot me out.

But neither Mr. Defense nor Mr. Prosecution quite brings himself to focus 10 on my shady features. Each asks me a perfunctory question, the way vacationers will press a casual thumb against the spare tire before hopping into the car for a trip. If there's air in the tire, you don't bother about blemishes. And that is all I am, a spare juror stashed away in the trunk of the court, in case one of the twelve originals gives out during the trial.

Ticktock. The judge assures us that we should be finished in five days, just in time for Christmas. The real jurors exchange forlorn glances. Here I sit, number thirteen, and nobody looks my way. Knowing I am stuck here for the duration, I perk up, blink my eyes. Like the bear going over the mountain, I might as well see what I can see.

What I see is a parade of mangled souls. Some of them sit on the witness stand and reveal their wounds; some of them remain offstage, summoned up only by the words of those who testify. The case has to do with the alleged sale, earlier this year, of hashish and cocaine to a confidential informer. First the prosecutor stands at a podium in front of the jury and tells us how it all happened, detail by criminal detail, and promises to prove every fact to our utter satisfaction. Next, one of the defense attorneys has a fling at us. It is the husband of the Mr.-and-Mrs. team, a melancholy-looking man with bald pate and mutton-chop sideburns, deep creases in the chocolate skin of his forehead. Leaning on the podium, he vows that he will raise a flock of doubts in our minds - grave doubts, reasonable doubts - particularly regarding the seedy character of the confidential informer. They both speak well, without hemming and hawing, without stumbling over syntactic cliffs, better than senators at a press conference. Thus, like rival suitors, they begin to woo the jury.

At midmorning, before hearing from the first witness, we take a recess. (It sounds more and more like school.) Thirteen of us with peel-away JUROR tags stuck to our shirts and sweaters retreat to the jury room. We drink coffee and make polite chat. Since the only thing we have in common is this trial, and since the judge has just forbidden us to talk about that, we grind our gears trying to get a conversation started. I find out what everybody does in the way of work: a bar waitress, a TV repairman (losing customers while he sits here), a department store security guard, a dentist's assistant, an accountant, a

nursing home nurse, a cleaning woman, a caterer, a mason, a boisterous old lady retired from rearing children (and married, she tells us, to a school-crossing guard), a meek college student with the demeanor of a groundhog, a teacher. Three of them right now are unemployed. Six men, six women, with ages ranging from twenty-one to somewhere above seventy. Chaucer could gather this bunch together for a literary pilgrimage, and he would not have a bad sampling of small-town America.

Presently the bailiff looks in to see what we're up to. She is a jowly woman, fiftyish, with short hair the color and texture of buffed aluminum. She wears silvery half-glasses of the sort favored by librarians; in the courtroom she peers at us above the frames with a librarian's skeptical glance, as if to make sure we are awake. To each of us she now gives a small yellow pad and a ballpoint pen. We are to write our names on the back, take notes on them during the trial, and surrender them to her whenever we leave the courtroom. (School again.) Without saying so directly, she lets us know that we are her flock and she is our shepherd. Anything we need, any yen we get for traveling, we should let her know.

I ask her whether I can go downstairs for a breath of air, and the bailiff answers "sure." On the stairway I pass a teenage boy who is listlessly polishing with a rag the wrought-iron filigree that supports the banister. Old men sheltering from December slouch on benches just inside the groundfloor entrance of the courthouse. Their faces have been caved in by disappointment and the loss of teeth. Two-dollar cotton work gloves, the cheapest winter hand-covers, stick out of their back pockets. They are veterans of this place; so when they see me coming with the blue JUROR label pasted on my chest, they look away. Don't tamper with jurors, especially under the very nose of the law. I want to tell them I'm not a real juror, only a spare, number thirteen. I want to pry old stories out of them, gossip about hunting and dogs, about their favorite pickup trucks, their worst jobs. I want to ask them when and how it all started to go wrong for them. Did they hear a snap when the seams of their life began to come apart? But they will not be fooled into looking at me, not these wily old men with the crumpled faces. They believe the label on my chest and stare down at their unlaced shoes.

I stick my head out the door and swallow some air. The lighted thermometer on the bank reads twenty-eight degrees. Schmaltzy Christmas organ music rebounds from the brick-and-limestone shopfronts of the town square. The Salvation Army bell rings and rings. Delivery trucks hustling through yellow lights blare their horns at jaywalkers.

The bailiff must finally come fetch me, and I feel like a wayward sheep. On my way back upstairs, I notice the boy dusting the same square foot of iron filigree, and realize that he is doing this as a penance. Some judge ordered him to clean the metalwork. I'd like to ask the kid what mischief he's done, but the bailiff, looking very dour, is at my heels.

In the hallway she lines us up in our proper order, me last. Everybody stands up when we enter the

courtroom, and then, as if we have rehearsed these routines, we all sit down at once. Now come the facts.

The facts are a mess. They are full of gaps, chuckholes, switchbacks, and dead ends - just like life.

At the outset we are shown three small plastic bags. Inside the first is a 20 wad of aluminum foil about the size of an earlobe; the second contains two white pills; the third holds a pair of stamp-sized, squarish packets of folded brown paper. A chemist from the state police lab testifies that he examined these items and found cocaine inside the brown packets, hashish inside the wad of aluminum foil. As for the white pills, they are counterfeits of a popular barbiturate, one favored by politicians and movie stars. They're depressants - downers - but they contain no "controlled substances."

There follows half a day's worth of testimony about how the bags were sealed, who locked them in the narcotics safe at the Bloomington police station, which officer drove them up to the lab in Indianapolis and which drove them back again, who carried them in his coat pocket and who carried them in his briefcase. Even the judge grows bored during this tedious business. He yawns, tips back in his chair, sips coffee from a mug, folds and unfolds with deft thumbs a square of paper about the size of the cocaine packets. The wheels of justice grind slowly. We hear from police officers in uniform, their handcuffs clanking, and from mustachioed officers in civvies, revolvers bulging under their suitcoats. From across the courtroom, the bailiff glares at us above her librarian's glasses, alert to catch us napping. She must be an expert at judging the degrees of tedium.

"Do you have to go back and be in the jail again tomorrow?" my little boy asks me at supper.

"Not jail," I correct him. "Jury. I'm in the jury."

"With real police?"

"Yes."

"And guns?"

"Yes, real guns."

On the second day there is much shifting of limbs in the jury box when the confidential informer, whom the police call 190, takes the stand. Curly-haired, thirty-three years old, bear-built and muscular like a middle-range wrestler, slow of eye, calm under the crossfire of questions, 190 works -when he works - as a drywall finisher. (In other words, he gets plasterboard ready for painting. It's a dusty, blinding job;

you go home powdered white as a ghost, and you taste the joint filler all night.) Like roughly one-quarter of the construction workers in the county, right now he's unemployed.

The story he tells is essentially this: Just under a year ago, two cops showed up at his house. They'd been tipped off that he had a mess of stolen goods in his basement, stuff he'd swiped from over in a neighboring county. "Now look here," the cops said to him, "you help us out with some cases we've got going, and we'll see what we can do to help you when this here burglary business comes to court." "Like how?" he said. "Like tell us what you know about hot property, and maybe finger a drug dealer or so." He said yes to that, with the two cops sitting at his kitchen table, and - zap! -he was transformed into 190. (Hearing of this miraculous conversion, I am reminded of Saul on the road to Damascus, the devil's agent suddenly seeing the light and joining the angels.) In this new guise he gave information that led to several arrests and some prison terms, including one for his cousin and two or three for other buddies.

In this particular case, his story goes on, he asked a good friend of his 30 where a guy could buy some, you know, drugs. The friend's brother led him to Bennie's trailer, where Bennie offered to sell 190 about any kind of drug a man's heart could desire. "All I want's some hash," 190 told him, "but I got to go get some money off my old lady first." "Then go get it," said Bennie.

Where 190 went was to the police station. There they fixed him up to make a "controlled buy": searched him, searched his car; strapped a radio transmitter around his waist; took his money and gave him twenty police dollars to make the deal. Back 190 drove to Bennie's place, and on his tail in an unmarked police car drove Officer B., listening over the radio to every burp and glitch sent out by 190's secret transmitter. On the way, 190 picked up a six-pack of Budweiser. ("If you walk into a suspect's house drinking a can of beer," Officer B. later tells us, "usually nobody'll guess you're working for the police.") Inside the trailer, the woman Bennie lives with was now fixing supper, and her three young daughters were playing cards on the linoleum floor. 190 bought a gram of blond Lebanese hashish from Bennie for six dollars. Then 190 said that his old lady was on him bad to get her some downers, and Bennie obliged by selling him a couple of 714s (the white pills favored by movie stars and politicians) at seven dollars for the pair. They shot the bull awhile, Bennie bragging about how big a dealer he used to be (ten pounds of hash and five hundred hits of acid a week), 190 jawing along like an old customer. After about twenty minutes in the trailer, 190 drove to a secluded spot near the L & N railroad depot, and there he handed over the hash and pills to Officer B., who milked the details out of him.

Four days later, 190 went through the same routine, this time buying two packets of cocaine - two "dimes" worth - from Bennie for twenty dollars. Inside the trailer were half a dozen or so of Bennie's friends, drinking whiskey and smoking pot and watching TV and playing backgammon and generally getting the most out of a Friday night. Again Officer B. tailed 190, listened to the secret radio transmission, and took it all down in a debriefing afterwards behind the Colonial Bakery.

The lawyers burn up a full day leading 190 through this story, dropping questions like breadcrumbs to

lure him on, Mr. Prosecutor trying to guide him out of the labyrinth of memory and Mr. Defense trying to get him lost. 190 refuses to get lost. He tells and retells his story without stumbling, intent as a wrestler on a dangerous hold.

On the radio news I hear that U.S. ships have intercepted freighters bound out from Beirut carrying tons and tons of Lebanese hashish, the very same prize strain of hash that 190 claims he bought from Bennie. Not wanting to irk the Lebanese government, the radio says, our ships let the freighters through. Tons and tons sailing across the Mediterranean - into how many one-gram slugs could that cargo be divided?

Out of jail the defense lawyers subpoena one of 190's brothers, who is awaiting his own trial on felony charges. He has a rabbit look about him, face pinched with fear, ready to bolt for the nearest exit. His canary yellow T-shirt is emblazoned with a scarlet silhouette of the Golden Gate Bridge. The shirt and the fear make looking at him painful. He is one of seven brothers and four sisters. Hearing that total of eleven children - the same number as in my father's family - I wonder if the parents were ever booked for burglary or other gestures of despair.

This skittish gent tells us that he always buys his drugs from his brother, good old 190. And good old 190, he tells us further, has a special fondness for snorting cocaine. Glowing there on the witness stand in his yellow shirt, dear brother gives the lie to one after another of 190's claims. But just when I'm about ready, hearing all of this fraternal gossip, to consign 190 to the level of hell reserved by Dante for liars, the prosecutor takes over the questioning. He soon draws out a confession that there has been a bitter feud recently between the two brothers. "And haven't you been found on three occasions to be mentally incompetent to stand trial?" the prosecutor demands.

"Yessir," mutters the brother.

"And haven't you spent most of the past year in and out of mental institutions?"

"Yessir."

This second admission is so faint, like a wheeze, that I must lean forward 40 to hear it, even though I am less than two yards away. While the prosecutor lets this damning confession sink into the jury, the rabbit brother just sits there, as if exposed on a rock while the hawks dive, his eyes pinched closed.

By day three of the trial, we jurors are no longer strangers to one another. Awaiting our entry into court, we exhibit wallet photos of our children, of nieces and nephews. We moan in chorus about our Christmas shopping lists. The caterer tells about serving three thousand people at a basketball banquet. The boisterous old lady, to whom we have all taken a liking, explains how the long hairs on her white cats used to get on her husband's black suit pants until she put the cats out in the garage with heating

pads in their boxes.

"Where do you leave your car?" the accountant asks.

"On the street," explains the lady. "I don't want to crowd those cats. They're particular as all get-out."

People compare their bowling scores, their insurance rates, their diets. The mason, who now weighs about 300 pounds, recounts how he once lost 129 pounds in nine months. His blood pressure got so bad he had to give up dieting, and inside of a year he'd gained all his weight back and then some. The nurse, who wrestles the bloated or shriveled bodies of elderly paupers at the city's old folks' home, complains about her leg joints, and we all sympathize. The security guard entertains us with sagas about shoplifters. We compare notes on car wrecks, on where to get a transmission overhauled, on the outgoing college football coach and the incoming city mayor. We talk, in fact, about everything under the sun except the trial.

In the hall, where we line up for our reentry into the courtroom, a sullen 45 boy sits at a table scrawling on a legal pad. Line after line he copies the same sentence: "I never will steal anything ever again." More penance. He's balancing on the first rung of a ladder that leads up - or down - to the electric chair. Somewhere in the middle of the ladder is a good long prison sentence, and that, I calculate, is what is at stake in our little drug-dealing case.

On the third day of testimony, we learn that 190 has been hidden away overnight by police. After he stepped down from the witness stand yesterday, Bennie's mate, Rebecca, greeted the informant outside in the lobby and threatened to pull a bread knife out of her purse and carve him into mincemeat. I look with new interest at the stolid, bulky, black-haired woman who has been sitting since the beginning of the trial right behind the defendant. From time to time she has leaned forward, touched Bennie on the shoulder, and bent close to whisper something in his good ear. She reminds me of the Amish farm wives of my Ohio childhood - stern, unpainted, built stoutly for heavy chores, her face a fortress against outsiders.

When Rebecca takes the stand, just half a dozen feet from where I sit in chair thirteen, I sense a tigerish fierceness beneath her numb surface. She plods along behind the prosecutor's questions until he asks her, rhetorically, whether she would like to see Bennie X put in jail; then she lashes out. God no, she doesn't want him locked away. Didn't he take her in when she had two kids already and a third in the oven, and her first husband run off, and the cupboards empty? And haven't they been living together just as good as married for eight years, except while he was in jail, and don't her three little girls call him Daddy? And hasn't he been working on the city garbage trucks, getting up at four in the morning, coming home smelling like other people's trash, and hasn't she been bagging groceries at the supermarket, her hands slashed with paper cuts, and her mother looking after the girls, all so they can keep off the welfare?

Damn right she doesn't want him going to any prison.

What's more, Rebecca declares, Bennie don't deserve prison because he's clean. Ever since he got out of the slammer a year ago, he's quit dealing. He's done his time and he's mended his ways and he's gone straight. What about that sale of cocaine? the prosecutor wants to know. It never happened, Rebecca vows. She was there in the trailer the whole blessed night, and she never saw Bennie sell nobody nothing, least of all cocaine, which he never used because it's too expensive - it'll run you seventy-five dollars a day -and which he never sold even when he was dealing. The prosecutor needles her: How can she remember that particular night so confidently? She can remember, she flares at him, because early that evening she got a call saying her sister's ten-year-old crippled boy was fixing to die, and all the family was going to the children's hospital in Indianapolis to watch him pass away. That was a night she'll never forget as long as she lives.

When I was a boy, my friends and I believed that if you killed a snake, the mate would hunt you out in your very bed and strangle or gnaw or smother you. We held a similar belief regarding bears, wolves, and mountain lions, although we were much less likely to run into any of those particular beasts. I have gone years without remembering that bit of child's lore, until today, when Rebecca's tigerish turn on the witness stand revives it. I can well imagine her stashing a bread knife in her purse. And if she loses her man for years and stony years, and has to rear those three girls alone, the cupboards empty again, she might well jerk that knife out of her purse one night and use it on something other than bread.

During recess, we thirteen sit in the jury room and pointedly avoid talking about the bread knife. The mason tells how a neighbor kid's Ford Pinto skidded across his lawn and onto his front porch, blocking the door and nosing against the picture window. "I took the wheels off and chained the bumper to my maple tree until his daddy paid for fixing my porch."

Everyone, it seems, has been assaulted by a car or truck. Our vehicular yarns wind closer and closer about the courthouse. Finally, two of the women jurors - the cigarillo-smoking caterer and the elderly cat lady -laugh nervously. The two of them were standing just inside the plate-glass door of the courthouse last night, the caterer says, when along came a pickup truck, out poked an arm from the window, up flew a smoking beer can, and then BAM! the can exploded. "We jumped a yard in the air!" cries the old woman. "We thought it was some of Bennie's mean-looking friends," the caterer admits. Everybody laughs at the tableau of speeding truck, smoking can, exploding cherry bomb, leaping jurors. Then we choke into sudden silence, as if someone has grabbed each of us by the throat.

Four of Bennie's friends - looking not so much mean as broken, like shell-shocked refugees - testify on his behalf during the afternoon of day three. Two of them are out-of-work men in their twenties, with greasy hair to their shoulders, fatigue jackets, and clodhopper boots: their outfits and world-weary expressions are borrowed from record jackets. They are younger versions of the old men with caved-in

faces who crouch on benches downstairs, sheltering from December. The other two witnesses are young women with reputations to keep up, neater than the scruffy men; gold crosses dangle over their sweaters, and gum cracks between crooked teeth. All four speak in muttered monosyllables and orphaned phrases, as if they are breaking a long vow of silence and must fetch bits and pieces of language from the archives of memory. They were all at Bennie's place on the night of the alleged cocaine sale, and they swear in unison that no such sale took place.

Officer B., the puppetmaster who pulled the strings on 190, swears just as adamantly that both the sales, of cocaine and of hash, did take place, for he listened to the proceedings over the radio in his unmarked blue Buick. He is a sleepy-eyed man in his midthirties, about the age of the informant and the defendant, a law-upholding alter ego for those skewed souls.

Double-chinned, padded with the considerable paunch that seems to be issued along with the police badge, Officer B. answers Mr. Prosecutor and Mr. Defense in a flat, walkie-talkie drawl, consulting a sheaf of notes in his lap, never contradicting himself. Yes, he neglected to tape the opening few minutes of the first buy, the minutes when the exchange of hashish and money actually took place. Why? "I had a suspicion my batteries were weak, and I wanted to hold off." And, yes, he did erase the tape of the debriefing that followed buy number one. Why? "It's policy to reuse the old cassettes. Saves the taxpayers' money." And, yes, the tape of the second buy is raw, indecipherable noise, because a blaring TV in the background drowns out all human voices. (Listening to the tape, we can understand nothing in the scrawking except an ad for the American Express Card.) The tapes, in other words, don't prove a thing. What it all boils down to is the word of the law and of the unsavory informer versus the word of the many-times-convicted defendant, his mate, and his friends.

Toward the end of Officer B.'s testimony, there is a resounding clunk, like 55 a muffled explosion, at the base of the witness stand. We all jump - witness, judge, jury, onlookers - and only relax when the prosecutor squats down and discovers that a pair of handcuffs has fallen out of Officer B's belt. Just a little reminder of the law's muscle. All of us were envisioning bombs. When Officer B. steps down, the tail of his sportcoat is hitched up over the butt of his gun.

The arrest: A squad car pulls up to the front of the trailer, and out the trailer's back door jumps Bennie, barefooted, wearing T-shirt and cut-off jeans. He dashes away between tarpaper shacks, through dog yards, over a stubbled field (his bare feet bleeding), through a patch of woods to a railroad cut. Behind him puffs a skinny cop (who recounts this scene in court), shouting, "Halt! Police!" But Bennie never slows down until he reaches that railroad cut, where he stumbles, falls, rolls down to the tracks like the sorriest hobo. The officer draws his gun. Bennie lifts his hands for the familiar steel cuffs. The two of them trudge back to the squad car, where Officer B. reads the arrest warrant and Bennie blisters everybody with curses.

The judge later instructs us that flight from arrest may be regarded as evidence, not of guilt but of consciousness of guilt. Oh ho! A fine distinction! Guilt for what! Selling drugs? Playing hooky?

Original sin? Losing his job at Coca-Cola? I think of those bleeding feet, the sad chase. I remember a drunken uncle who stumbled down a railroad cut, fell asleep between the tracks, and died of fear when a train passed over.

On day four of the trial, Bennie himself takes the stand. He is shorter than I thought, and fatter - too many months of starchy jail food and no exercise. With exceedingly long thumbnails he scratches his jaw. When asked a question, he rolls his eyes, stares at the ceiling, then answers in a gravelly country voice, the voice of a late-night disk jockey. At first he is gruffly polite, brief in his replies, but soon he gets cranked up and rants in a grating monologue about his painful history.

He graduated from high school in 1968, worked eight months at RCA and Coca-Cola, had a good start, had a sweetheart, then the Army got him, made him a cook, shipped him to Vietnam. After a few weeks in the kitchen, he was transferred to the infantry because the fodder-machine was short of foot soldiers. "Hey, listen, man, I ain't nothing but a cook," he told them. "I ain't been trained for combat." And they said, "Don't you worry; you'll get on-the-job training. Learn or die." The artillery ruined his hearing. (Throughout the trial he has held a hand cupped behind one ear, and has followed the proceedings like a grandfather.). Some of his buddies got shot up. He learned to kill people. "We didn't even know what we was there for." To relieve his constant terror, he started doing drugs: marijuana, opium, just about anything that would ease a man's mind. Came home from Vietnam in 1971 a wreck, got treated like dirt, like a baby-killer, like a murdering scumbag, and found no jobs. His sweetheart married an insurance salesman.

Within a year after his return he was convicted of shoplifting and burglary. He was framed on the second charge by a friend, but couldn't use his only alibi because he had spent the day of the robbery in bed with a sixteen-year-old girl, whose father would have put him away for statutory rape. As it was, he paid out two years in the pen, where he sank deeper into drugs than ever before. "If you got anything to buy or trade with, you can score more stuff in the state prisons than on the streets of Indianapolis." After prison, he still couldn't find work, couldn't get any help for his drug thing from the Veterans' Administration, moved in with Rebecca and her three girls, eventually started selling marijuana and LSD. "Everytime I went to somebody for drugs, I got ripped off. That's how I got into dealing. If you're a user, you're always looking for a better deal."

In 1979 he was busted for selling hash, in 1980 for possessing acid, betrayed in both cases by the man from whom he had bought his stock. "He's a snitch, just a filthy snitch. You can't trust nobody." Back to prison for a year, back out again in December 1981. No jobs, no jobs, no damn jobs; then part-time on the city garbage truck, up at four in the morning, minus five degrees and the wind blowing and the streets so cold his gloves stuck to the trash cans. Then March came, and this 190 guy showed up, wanted to buy some drugs, and "I told him I wasn't dealing any more. I done my time and gone straight. I told him he didn't have enough money to pay me for no thirty years in the can." (The prosecutor bristles, the judge leans meaningfully forward: We jurors are not supposed to have any notion of the sentence that

might follow a conviction on this drug charge.)

In his disk-jockey voice, Bennie denies ever selling anything to this 190 snitch. (He keeps using the word "snitch": I think of tattle-tales, not this adult betrayal.) It was 190, he swears, who tried to sell him the hash. Now the pills, why, those he had lying around for a friend who never picked them up, and so he just gave them to 190. "They was give to me, and so I couldn't charge him nothing. They wasn't for me anyway. Downers I do not use. To me, life is a downer. Just to cope with every day, that is way down low enough for me." And as for the cocaine, he never laid eyes on it until the man produced that little plastic bag in court. "I don't use coke. It's too expensive. That's for the bigwigs and the upstanding citizens, as got the money."

Sure, he admits, he ran when the police showed up at his trailer. "I'm flat scared of cops. I don't like talking to them about anything. Since I got back from Vietnam, every time they cross my path they put bracelets on me." (He holds up his wrists. They are bare now, but earlier this morning, when I saw a deputy escorting him into the courthouse, they were handcuffed.) He refuses to concede that he is a drug addict, but agrees he has a terrible habit, "a gift from my country iA exchange for me going overseas and killing a bunch of strangers."

After the arrest, forced to go cold turkey on his dope, he begged the jail doctor - "He's no kind of doctor, just one of them that fixes babies" - to zonk him out on something. And so, until the trial, he has spent eight months drowsing under Valium and Thorazine. "You can look down your nose at me for that if you want, but last month another vet hung himself two cells down from me." (The other guy was a scoutmaster, awaiting trial for sexually molesting one of his boys. He had a record of severe depression dating from the war, and used his belt for the suicide.)

"The problem with my life," says Bennie, "is Vietnam." For a while after 65 coming home, he slept with a knife under his pillow. Once, wakened suddenly, thinking he was still in Vietnam, he nearly killed his best friend. During the week of our trial, another Vietnam vet up in Indianapolis shot his wife in the head, imagining she was a gook. Neighbors got to him before he could pull out her teeth, as he used to pull out the teeth of the enemies he bagged over in Vietnam.

When I look at Bennie, I see a double image. He was drafted during the same month in which I, studying in England, gave Uncle Sam the slip. I hated that war, and feared it, for exactly the reasons he describes - because it was foul slaughter, shameful, sinful, pointless butchery. While he was over there killing and dodging, sinking into the quicksand of drugs, losing his hearing, storing up a lifetime's worth of nightmares, I was snug in England, filling my head with words. We both came home to America in the same year, I to job and family, he to nothing. Ten years after that homecoming, we stare across the courtroom at one another as into a funhouse mirror.

As the twelve jurors file past me into the room where they will decide on Bennie's guilt or innocence,

three of them pat my arm in a comradely way They withdraw beyond a brass-barred gate; I sit down to wait on a deacon's bench in the hallway outside the courtroom. I feel stymied, as if I have rocketed to the moon only to be left riding the ship round and round in idle orbit while my fellow astronauts descend to the moon's surface. At the same time I feel profoundly relieved, because, after the four days of testimony, I still cannot decide whether Bennie truly sold those drugs, or whether 190, to cut down on his own prison time, set up this ill-starred Bennie for yet another fall. Time, time - it always comes down to time: in jail, job, and jury box we are spending and hoarding our only wealth, the currency of days.

Even through the closed doors of the courtroom, I still hear the ticking of the clock. The sound reminds me of listening to my daughter's pulse through a stethoscope when she was still riding, curled up like a stowaway, in my wife's womb. Ask not for whom this heart ticks, whispered my unborn daughter through the stethoscope: It ticks for thee. So does the courtroom clock. It grabs me by the ear and makes me fret about time -about how little there is of it, about how we are forever bumming it from one another as if it were cups of sugar or pints of blood ("You got a minute?" "Sorry, have to run, not a second to spare"). Seize the day, we shout, to cheer ourselves; but the day has seized us and flings us forward pell-mell toward the end of all days.

Now and again there is a burst of laughter from the jury room, but it is always squelched in a hurry. They are tense, and laugh to relieve the tension, and then feel ashamed of their giddiness. Lawyers traipse past me - the men smoking, striking poses, their faces like lollipops atop their ties; the women teetering on high heels. The bailiff walks into our judge's office carrying a bread knife. To slice her lunch? As evidence against Rebecca? A moment later she emerges bearing a piece of cake and licking her fingers. Christmas parties are breaking out all over the courthouse.

Rebecca herself paces back and forth at the far end of my hallway, her 70 steps as regular as the clock's tick, killing time. Her bearded and cross-wearing friends sidle up to comfort her, but she shrugs them away. Once she paces down my way, glances at the barred door of the jury room, hears muffled shouts. This she must take for good news, because she throws me a rueful smile before turning back.

Evidently the other twelve are as muddled by the blurred and contradictory "facts" of the case as I am, for they spend from noon until five reaching their decision. They ask for lunch. They ask for a dictionary. They listen again to the tapes. Sullen teenagers, following in the footsteps of Bennie and 190, slouch into the misdemeanor office across the hall from me; by and by they slouch back out again, looking unrepentant. At length the three-hundred-pound mason lumbers up to the gate of the jury room and calls the bailiff. "We're ready as we're going to be." He looks bone-weary, unhappy, and dignified. Raising his eyebrows at me, he shrugs. Comrades in uncertainty.

The cast reassembles in the courtroom, the judge asks the jury for its decision, and the mason stands up to pronounce Bennie guilty. I stare at my boots. Finally I glance up, not at Bennie or Rebecca or the lawyers, but at my fellow jurors. They look distraught, wrung out and despairing, as if they have just

crawled out of a mine after an explosion and have left some of their buddies behind. Before quitting the jury room, they composed and signed a letter to the judge pleading with him to get some help - drug help, mind help, any help - for Bennie.

The ticking of the clock sounds louder in my ears than the judge's closing recital. But I do, with astonishment, hear him say that we must all come back tomorrow for one last piece of business. He is sorry, he knows we are worn out, but the law has prevented him from warning us ahead of time that we might have to decide on one more question of guilt.

The legal question posed for us on the morning of day five is simple: Has Bennie been convicted, prior to this case, of two or more unrelated felonies? If so, then he is defined by Indiana state law as a "habitual offender," and we must declare him to be such. We are shown affidavits for those earlier convictions - burglary, sale of marijuana, possession of LSD -and so the answer to the legal question is clear.

But the moral and psychological questions are tangled, and they occupy 75 the jury for nearly five more hours on this last day of the trial. Is it fair to sentence a person again, after he has already served time for his earlier offenses? How does the prosecutor decide when to apply the habitual offender statute, and does its use in this case have anything to do with the political ambitions of the sleek young attorney? Did Bennie really steal that \$150 stereo, for which he was convicted a decade ago, or did he really spend the day in bed with his sixteen-year-old girlfriend? Did Vietnam poison his mind and blight his life? Two sheriff's deputies guard the jury today; another guards me in my own little cell. The bailiff would not let me stay out on the deacon's bench in the hall, and so, while a plainclothes detective occupies my old seat, I sit in a room lined with file cabinets and stare out like a prisoner through the glass door. "I have concluded," wrote Pascal, "that the whole misfortune of men comes from a single thing, and that is their inability to remain at rest in a room." I agree with him; nothing but that cruising deputy would keep me here.

This time, when the verdict is announced, Rebecca has her daughters with her, three little girls frightened into unchildlike stillness by the courtroom. Their lank hair and washed-out eyes remind me of my childhood playmates, the children of dead-end, used-up West Virginia coal miners who'd moved to Ohio in search of work. The mother and daughter are surrounded by half a dozen rough customers, guys my age with hair down over their shoulders and rings in their ears, with flannel shirts, unfocused eyes. Doubtless they are the reason so many holstered deputies and upholstered detectives are patrolling the courthouse, and the reason I was locked safely away in a cell while the jury deliberated.

When the mason stands to pronounce another verdict of guilty, I glimpse what I do not want to glimpse: Bennie flinging his head back, Rebecca snapping hers forward into her palms, the girls wailing.

The judge accompanies all thirteen of us into the jury room, where he keeps us for an hour while the deputies clear the rough customers from the courthouse. We are not to be alarmed, he reassures us; he is simply being cautious, since so much was at stake for the defendant. "How much?" the mason asks. "Up to twenty-four years for the drug convictions, plus a mandatory thirty years for the habitual offender charges," the judge replies. The cleaning woman, the nurse, and the TV repairman begin crying. I swallow carefully. For whatever it's worth, the judge declares comfortingly, he agrees with our decisions. If we knew as much about this Bennie as he knows, we would not be troubled. And that is just the splinter in the brain, the fact that we know so little - about Bennie, about Vietnam, about drugs, about ourselves - and yet we must grope along in our ignorance, pronouncing people guilty or innocent, squeezing out of one another that precious fluid, time.

And so I do my five days in the thirteenth chair. Bennie may do as many 80 as fifty-four years in prison, buying his drugs from meaner dealers, dreaming of land mines and of his adopted girls, checking the date on his watch, wondering at what precise moment the hinges of his future slammed shut.

AFTERWORD

Use of the present tense is common, these days, both in essay and fiction. Many times it seems only an affectation, not integral to the telling of a particular tale but merely the fashion. The present tense can provide an artificial heightening of effect, a technical urgency, playing the moment's tape. I suppose it comes from television, as our brains turn into small Sonys: There is no past tense on the screen that alters so rapidly before us, on which advertisers with fifty cuts in thirty seconds speed epics into telegrams.

There are legitimate uses for the present tense. Scott Russell Sanders's "Doing Time in the Thirteenth Chair," his essay on jury duty, is indeed a "personal narrative about the culture of violence in America" - and it is narrative first of all. We follow the story as it unfolds, gradually and finally arriving at the moral of the story. The present tense allows us to understand events as they happen, not from the perspective of a digested experience. The result is not only a greater immediacy, which could be merely technical, but more intimacy with the author's voice - as we learn with him and not just from him.

BOOKS AVAILABLE IN PAPERBACK

In Limestone Country. Boston: Beacon Press. Nonfiction.

The Paradise of Bombs. Boston: Beacon Press. Essays.

Secrets of the Universe: Scenes from the Journey Home. Boston: Beacon Press. Essays. Wilderness

Plots: Tales About the Settlement of the American Land. Ohio State University Press. Short stories.