

## From Chapter 23

Jem was sprawled on the sofa reading Popular Mechanics. He looked up. "It ain't right. He didn't kill anybody even if he was guilty. He didn't take anybody's life."

"You know rape's a capital offense in Alabama," said Atticus.

"Yessir, but the jury didn't have to give him death- if they wanted to they could've gave him twenty years."

"Given," said Atticus. "Tom Robinson's a colored man, Jem. No jury in this part of the world's going to say, 'We think you're guilty, but not very,' on a charge like that. It was either a straight acquittal or nothing."

Jem was shaking his head. "I know it's not right, but I can't figure out what's wrong- maybe rape shouldn't be a capital offense...."

Atticus dropped his newspaper beside his chair. He said he didn't have any quarrel with the rape statute, none what ever, but he did have deep misgivings when the state asked for and the jury gave a death penalty on purely circumstantial evidence. He glanced at me, saw I was listening, and made it easier. "-I mean, before a man is sentenced to death for murder, say, there should be one or two eye-witnesses. Some one should be able to say, 'Yes, I was there and saw him pull the trigger.'"

"But lots of folks have been hung- hanged- on circumstantial evidence," said Jem.

"I know, and lots of 'em probably deserved it, too- but in the absence of eye-witnesses there's always a doubt, some times only the shadow of a doubt. The law says 'reasonable doubt,' but I think a defendant's entitled to the shadow of a doubt. There's always the possibility, no matter how improbable, that he's innocent."

"Then it all goes back to the jury, then. We oughta do away with juries." Jem was adamant.

Atticus tried hard not to smile but couldn't help it. "You're rather hard on us, son. I think maybe there might be a better way. Change the law. Change it so that only judges have the power of fixing the penalty in capital cases."

"Then go up to Montgomery and change the law."

"You'd be surprised how hard that'd be. I won't live to see the law changed, and if you live to see it you'll be an old man."

This was not good enough for Jem. "No sir, they oughta do away with juries. He wasn't guilty in the first place and they said he was."

"If you had been on that jury, son, and eleven other boys like you, Tom would be a free man," said Atticus. "So far nothing in your life has interfered with your reasoning process. Those are twelve reasonable men in everyday life, Tom's jury, but you saw something come between them and reason. You saw the same thing that night in front of the jail. When that crew went away, they didn't go as reasonable men, they went because we were there. There's something in our world that makes men lose their heads- they couldn't be fair if they tried. In our courts, when it's a white man's word against a black man's, the white man always wins. They're ugly, but those are the facts of life."

"Doesn't make it right," said Jem stolidly. He beat his fist softly on his knee. "You just can't convict a man on evidence like that- you can't."

"You couldn't, but they could and did. The older you grow the more of it you'll see. The one place where a man ought to get a square deal is in a courtroom, be he any color of the rainbow, but people have a way of carrying their resentments right into a jury box. As you grow older, you'll see white men cheat black men every day of your life, but let me tell you something and don't you forget it- whenever a white man does that to a black man, no matter who he is, how rich he is, or how fine a family he comes from, that white man is trash."

Atticus was speaking so quietly his last word crashed on our ears. I looked up, and his face was vehement. "There's nothing more sickening to me than a low-grade white man who'll take advantage of a Negro's ignorance. Don't fool yourselves- it's all adding up and one of these days we're going to pay the bill for it. I hope it's not in you children's time."

Jem was scratching his head. Suddenly his eyes widened. "Atticus," he said, "why don't people like us and Miss Maudie ever sit on juries?"

You never see anybody from Maycomb on a jury- they all come from out in the woods."

Atticus leaned back in his rocking-chair. For some reason he looked pleased with Jem. "I was wondering when that'd occur to you," he said. "There are lots of reasons. For one thing, Miss Maudie can't serve on a jury because she's a woman-

"You mean women in Alabama can't-?" I was indignant.

"I do. I guess it's to protect our frail ladies from sordid cases like Tom's. Besides," Atticus grinned, "I doubt if we'd ever get a complete case tried- the ladies'd be interrupting to ask questions."

Jem and I laughed. Miss Maudie on a jury would be impressive. I thought of old Mrs. Dubose in her wheelchair- "Stop that rapping, John Taylor, I want to ask this man something." Perhaps our forefathers were wise.

Atticus was saying, "With people like us- that's our share of the bill. We generally get the juries we deserve. Our stout Maycomb citizens aren't interested, in the first place. In the second place, they're afraid. Then, they're-

"Well, what if- say, Mr. Link Deas had to decide the amount of damages to award, say, Miss Maudie, when Miss Rachel ran over her with a car. Link wouldn't like the thought of losing either lady's business at his store, would he? So he tells Judge Taylor that he can't serve on the jury because he doesn't have anybody to keep store for him while he's gone. So Judge Taylor excuses him. Sometimes he excuses him wrathfully."

"What'd make him think either one of 'em'd stop trading with him?" I asked.

Jem said, "Miss Rachel would, Miss Maudie wouldn't. But a jury's vote's secret, Atticus."

Our father chuckled. "You've many more miles to go, son. A jury's vote's supposed to be secret. Serving on a jury forces a man to make up his mind and declare himself about something. Men don't like to do that. Sometimes it's unpleasant."

"Tom's jury sho' made up its mind in a hurry," Jem muttered.

Atticus's fingers went to his watchpocket. "No it didn't," he said, more to himself than to us. "That was the one thing that made me think, well, this may be the shadow of a beginning. That jury took a few hours. An inevitable verdict, maybe, but usually it takes 'em just a few minutes. This time-" he broke off and looked at us. "You might like to know that there was one fellow who took considerable wearing down- in the beginning he was rarin' for an outright acquittal."

"Who?" Jem was astonished.

Atticus's eyes twinkled. "It's not for me to say, but I'll tell you this much. He was one of your Old Sarum friends..."

"One of the Cunninghams?" Jem yelped. "One of- I didn't recognize any of 'em... you're jokin'!" He looked at Atticus from the corners of his eyes.

"One of their connections. On a hunch, I didn't strike him. Just on a hunch. Could've, but I didn't."

"Golly Moses," Jem said reverently. "One minute they're tryin' to kill him and the next they're tryin' to turn him loose... I'll never understand those folks as long as I live."

Atticus said you just had to know 'em. He said the Cunninghams hadn't taken anything from or off of anybody since they migrated to the New World. He said the other thing about them was, once you earned their respect they were for you tooth and nail. Atticus said he had a feeling, nothing more than a suspicion, that they left the jail that night with considerable respect for the Finches. Then too, he said, it took a thunderbolt plus another Cunningham to make one of them change his mind. "If we'd had two of that crowd, we'd've had a hung jury."