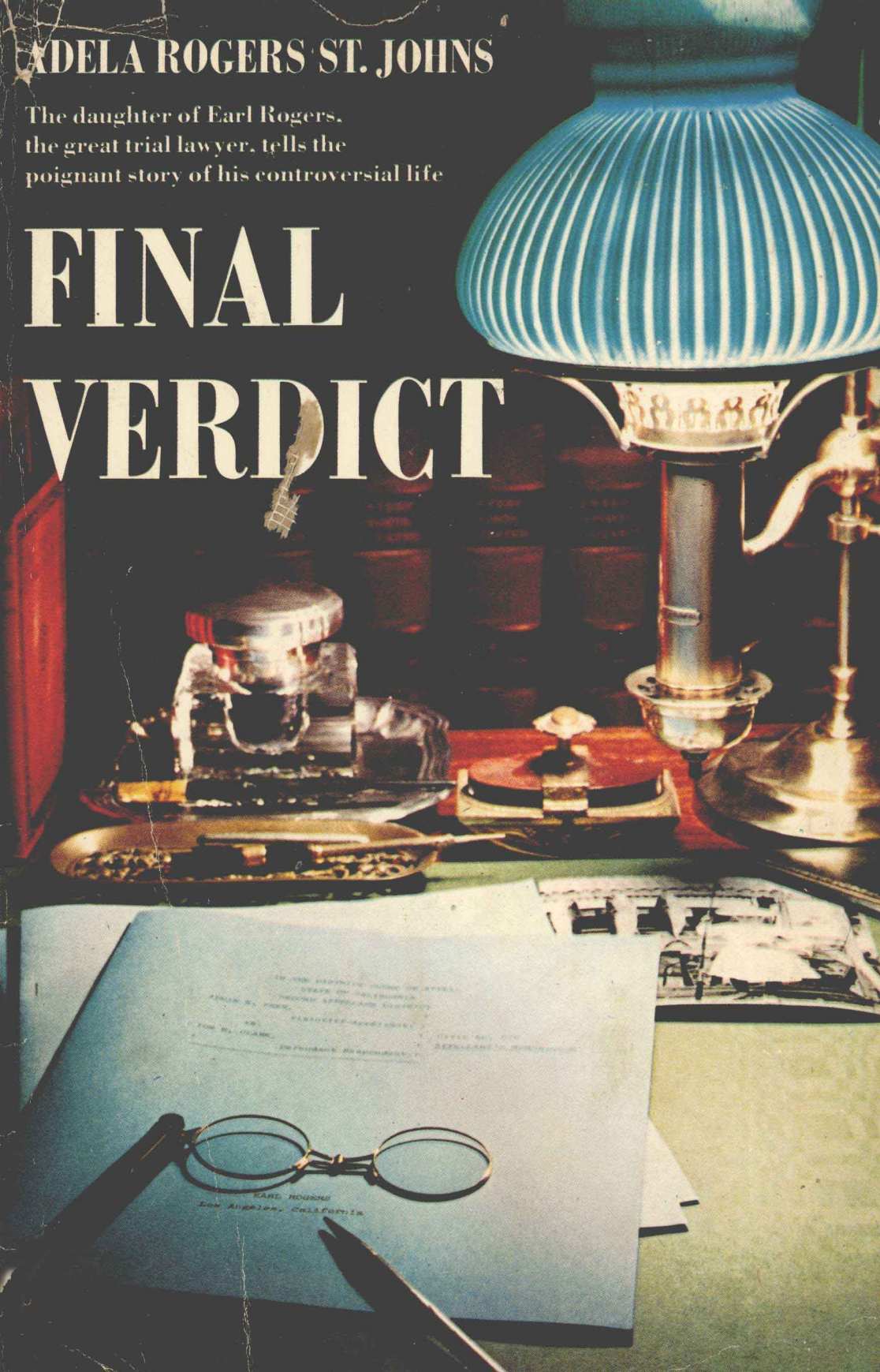
ADELA ROGERS ST. JOHNS

The daughter of Earl Rogers, the great trial lawyer, tells the poignant story of his controversial life

FINAL VERDICT



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To all of them deepest gratitude from my heart, and I can only hope what I've done is anywhere near worthy of their kindness and their faith.

Adela Rogers St. Johns
New York, N.Y.
March 31, 1962

PART ONE

ONE

We were sitting, my father and I, in my library, which at that period was also my office, workroom, and withdrawing chamber.

For a long time there had been silence between us.

When Papa broke it, the famous voice which had made juries believe that black was white and, sometimes, the guilty were innocent was almost the same as of old. "The truth cannot hurt anybody," he said. "In the end, the truth is light—always. Remember that, Nora."

No one else ever called me Nora, second of my baptismal titles. Papa always did. It was his own "small name" for me. Looking back, Nora—the girl Nora—seems part of another incarnation. Some of it I have forgotten, most of it is clearer to me than yesterday.

My heart was heavy just then with hope that had exploded, a red balloon blown too full, and he knew that.

A few weeks before he had come back from Loma Linda, looking just great. I'd taken that check for $50,000 in good faith. Or—I thought I had. We needed it *so bad.* You could have erased three zeros and we still needed it. So I might have been kidding myself. Then—he had disappeared for two days and though there he sat, back again safe and sound, under my rooftree, *my father,* he wasn't Earl Rogers, the greatest criminal lawyer of his day, to whom a man charged with murder would gladly pay that sum as a retainer. If he had it, and this one did—or his friends did.

Likewise we had just composed and sent to a distinguished law firm a letter thanking them but declining their offer of a sizable yearly fee for Earl Rogers to act as adviser and consultant for them on trial and courtroom work.

"Frankly," Papa said, "I'd rather be dead. Wouldn't you? To advise legal dullards, to be consulted by puddingheads who have no inventive cells of their own, then to sit back as though you had a broken wing and watch a lot of blithering nincompoops make antic hay of your lovely design—"

"I thought you wanted to," I said.

"No no," my father said. "Good God! Certainly not!"

"You like to teach," I said, "to help young men who might—"

"That's another matter," my father said. "Then, they are teachable. How can you advise men who prefer *not* to go into court? Whose main objective is to stay *out,* in any compromise? How can you fire them to

trial tempo? You might as well try to teach a peace-loving truck driver how to fight Jack Johnson in the ring."

"You can stay right here and write," I said, "write your own story. Write all the things you've always said you were going to if you had time. Write a plea to abolish capital punishment. Make a record of your own *firsts*—the first time something was *done* in a courtroom—"

His smile stopped me in my tracks. Our eyes met and held until I knew that he knew what he didn't need to go to any doctor to find out. He said, "I couldn't tell the truth, few men can about themselves. They don't know it. Also—we all must give ourselves the best of it. Only an egomaniac like Cellini, or the occasional objective historian, can write a truthful autobiography. You write it, Nora, when the time comes. I give you permission. On one condition."

"Ah," I said, and rolled a cigarette and handed it to him, "I know there's a catch in it."

"The truth," he said, and the words rang in the old way, "the whole truth, nothing but the truth. Little men are dissolved in it. If there is any gold, truth makes it shine the more brightly. I'll chance it. Promise me that, Nora."

I promised.

Then I said, "What about Mama?"

His face went white, it showed the fine bones, I saw the sign death had etched, *I'll be along presently, don't go way.*

"No," he said.

He still hates her, I thought. He must have really loved her, when they were young, through the chaos of their own long civil war.

I said, "Papa, why should she be the only one? If the truth is right for you, how can I ever tell that truth about you without telling her part of so much of it? How could it be the whole truth?"

He didn't answer me.

I had promised.

So I have never written the book.

All the years since his death, a few weeks later in a cheap rooming house where he'd gone so that I should not see the end of our tragedy, people have kept saying to me, you *must.* You must write a book about your wonderful father. Jerry Giesler kept saying to me, I've only got bits and pieces of it, you're the only one who knows the whole story. Judges, other lawyers, Max Steuer and Bill Fallon and Leibowitz, would corner me and say Rogers was the best of us all, there should be a record of his work. Teachers in law schools all over the country have written to ask the facts about some of his cases. The reporters, the bailiffs, old-timers around the courthouses in Los Angeles and San Francisco keep saying to me, Nobody like Rogers around now, never been anybody like him, best

trial lawyer that ever lived, they say. Senator Hiram Johnson, the great Progressive, used to seek me out in Washington to say, "You ought to write a book about my favorite enemy and most-feared opponent." When he was getting ready to make a picture called *State's Attorney*, Jack Barrymore urged me on, he said, "I know you did it as fiction and my sweet-scented brother Lionel got to play the role. *I* watched Earl day after day in court, courtrooms were my favorite playground and class room, I saw all the lawyers who got star billing, Earl Rogers was the only genius among them. Write the *true* story and this time let me play him." People Earl Rogers had defended wrote me, traveled miles to find me, to say, "He saved my life. Why don't you write a book about him?" The innocent he had saved from the last injustice pleaded with me.

I have been too frightened.

It is not easy to write of anyone so close to you. I have been afraid that I could not make the truth do him justice. Because it was a tragedy, I have feared I might not be able to make anyone else understand him and what he was. Times change, you begin to see with different eyes, a little wiser perhaps, things startle you that at the time were splendidly part of your life. I am closer to him now because I have caught up with him in time.

Another reason entirely brought me in the end here to Carmel, where he and I and Jack London, his friend and my godfather-by-adoption, used to visit California's poet George Sterling.

Something else has driven me. Shoved me into the chair behind my typewriter to try once more. To tell the truth and nothing but the truth, though maybe not the whole truth. A few things are to me outside that promise still. What is here is the truth as I remember it, as I lived it, my eyewitness account, my I-was-there story. This may not always be exactly what happened, it is what I think happened. I am chronologically a bad witness and ask your indulgence as to dates. There are parts of my own life I have left out because they were not important to us—Papa and me. I have said so little about my three brothers, because in the early days our family somehow got divided into my mother and her son on one hand. Papa and me on the other. My father loved his son Bogart, but Mama somehow separated them right in the beginning. And of course the little boys, who made such a difference to me, were born too late, they never saw Papa to remember him, and he hardly knew them, which was sad. So—this is the story of my father and of me his daughter, Nora, nothing else.

Just lately, as I myself have come to the time when I begin to wonder what I am going to say to God about certain things and what I am going to ask Him about others, or as I examine my heart to find what the

Recording Angel has probably set down in his great golden book, always and always I come upon one great unanswered question in my life.

A *moment of truth* haunts me now and I know it always has.

Whenever I try to find out what the score is, the question that takes hold of me and that I ask myself over and over is about that day in the courtroom when I was so young, so strong, so torn and baffled, the day when I made the decision which determined his fate.

On the witness stand, when he said, "Look at me, Nora," and began his cross-examination, I had his destiny in my hands. I, who loved him more than anything else in the world.

I know that. What I don't know is whether I was right or wrong in what I did.

So the story must begin there so that it is plain why at last I must tell it.

TWO

Every detail of that courtroom is vivid to me. I can walk right into it. Everybody in it still exists for me. *Then* is *now*.

Of all the courtrooms where Earl Rogers fought to save a man's life, I remember it best. I know it by heart.

This time his own life was at stake.

I, his daughter, was chief witness for the prosecution.

It felt like a nightmare, but I knew it wasn't. Too real and accustomed, the big, ugly, stately room, with the huge windows, dark woodwork, green walls, and shadowy corners. A shaft of light from the gilt head of the flag hit the court reporter's pencil that moved to keep a record of all that was done there that desperate day. Empty dark chairs in the jury box—no jury this time. Only the judge. What day, month, number of the Superior Court of Los Angeles County I can't recall, but I know Louis Myers was on the bench. Years later, as the circle moved, Earl Rogers' grandson was to be part of this judge's distinguished law firm, O'Melveny and Myers, and by then he was a revered elder statesman of the Bar. On the day that decided my father's fate and mine, he was very young to be a judge at all. I can see him there, on the bench, intent upon a long legal document, tense and grave and judicial, unhappy in foreknowledge of this case about to come before him in which he would have to rule upon the present sanity of the greatest lawyer of his time and space.

At the back of the room the reporters were gathered, restless and suspicious, their faces expressionless to cover the realization that they

had bound and gagged themselves by the promise they'd made me. One I've never known them to make voluntarily before or since. To me, not for me—for Papa. Because he'd been their idol. Why, Earl Rogers' office was a *beat*, same as the police station, the city hall, the Federal Building, the D.A. "I hope you know you only got a job on a paper because you might be a leak out of your old man's office," they had said to me when I showed up, looking down their noses at my pigtails. Oh—he was their boy all right.

Today the room was almost empty. Usually when Papa tried a case, the court and corridors, often the lawns and sidewalks and streets, even the windows across the walls and the branches of the trees were jammed. For instance when we tried the case of McComas for shooting his mistress, or of Gabrielle D'Arley in her Red Kimono, they'd had to call out the riot squads. This time, the boys had kept their word, hardly anybody knew what was going on.

In the middle of the last row I saw Earl Rogers' sister, my Aunty Blanche. Her red hair was pinned back tight, she had on her fighting face, to buffet the tears no doubt. She'd been the tent-pole, the burden-bearer to help put her big brother through college, she'd toured as a pianist on the Orpheum circuit, played accompaniments for opera stars on concert tours across the land, while Earl got his start, his chance, she adored him. To give me moral support, there she was, though she hadn't been able to bring herself to sign the papers. For just being there, he never forgave her, never spoke to her again, he could not bear it that she had come to look upon his shame. I saw a deputy or two, a stray female confused in the wrong place, and hidden just inside the door, the district attorney himself. For a moment my heart sank. Then I remembered that he was a Southern gentleman, he was there to see that a fallen foe who had made his life hell for him over the years got a fair deal.

Hugh Baillie, all-time great newspaperman, reporter, war correspondent, editor, head of United Press, in the chapter "Rogers and Darrow" in his memoirs, *High Tension*, speaks of that courtroom on that day. "Only Earl Rogers saved the Great Defender [Darrow] from ending his career prematurely within what he called, in his closing address to the jury, 'the dim gray walls of San Quentin.' Now Rogers was nearing the end of the road. He had always been a heavy drinker and now his family was forced to attempt to commit him to a sanitarium for a cure, against his wishes. He conducted one of his last great trials in his own defense. The high point was his cross-examination when he had his daughter Adela on the stand."

That was the high point, all right.

I was "the family." I, his little girl, the only person on earth he had trusted. Against his wishes, I had done this to him.

I sat inside the railing by myself, I suppose partly because in courtrooms with Papa that is where I always sat. Too, I had to be by myself. I had thought a good deal about what I should wear, Papa had always been so particular about clothes for court. I really didn't know exactly, I ended up in a dark blue skirt and a white blouse starched stiff, with a high collar. By then, I had pinned my pigtails up around my head in two braids, and I wore a sailor hat. For the taste of those times I was much much too skinny, I must have had some looks or something I don't recall, because several young men had asked my hand in marriage. Papa had not liked any of them much. Nor had I.

Came the old familiar stir, the rushing sound a ship makes as it drives through the water. Or was it only an echo in my mind as I sat there trying to swallow the lump in my throat.

Papa came down the aisle just the way he always had and sat down at the counsel table. Of course he was the defendant, he was also acting as his own attorney. Who else? *If you can get Earl Rogers to defend you*—he could.

I tried hard not to look at him, but it didn't make any difference. I could see him just the same. His shoulders in a dark blue coat, exquisitely tailored by Eddie Schmidt, were held like a general's. I saw he'd had the suit pressed. People waited on Papa, they *wanted* to, it never seemed right or possible that he should do things for himself. I was glad to see he had on a clean collar. Clarence Darrow liked to be dirty, it was part of his conception of being The Common Man, though we knew lots of them and never met any as sweaty-dirty as Darrow, but for a man like Papa, who was a gentleman and a scholar, nothing was such a badge of degradation as a soiled collar. With him, sitting beside him, was a big man, sort of easygoing. Papa spoke to him as though he was somebody on *Rogers' staff*, instead of a male nurse-attendant and deputy from the county hospital who had him in custody.

My heart began to hammer as I looked at that man. For a minute I thought I was going to be sick, I'd have to go out.

I was remembering Papa once when he'd had a murder jury out for the second night. That particular time the D.A. hadn't asked for the rope—the rope which was Papa's deadly enemy. To have a man he defended hanged was a horror he'd never been able to contemplate. When it came, at long last in the Bundy case, it broke him. But that night as the long hours crawled over us, his client was facing life imprisonment, and Papa burst forth madly, striking a clenched fist into his palm, against his temple, the wall, the table, shouting, "Maybe the death penalty is more merciful. To spend your whole life locked up in a cage like a wild animal, never to taste freedom again, to be in the power of jailers some of whom may be fiends—right now as he waits for this verdict the man is locked up, he

can pace only so many steps each way, man's inhumanity to man—I'd go mad, I'd go *mad*. Men who are locked up must go mad in some degree—as beasts do—"

As I thought of this, Jim Pope of the *Herald* knelt down beside me and said in a whisper, "The judge sent word he's going to accept what's in the complaint, unless Mr. Rogers insists on calling all the witnesses."

Of course I knew what was in the complaint. I had read it before I signed it.

The testimony of the cops who'd picked him up. He'd been *driving*, which he couldn't do well *sober*. One of the motorcycle officers—Papa had a bias against motorcycle cops—had a broken nose, which he said was the result of Papa resisting arrest with an *oar*, though where he got an oar unless he'd been rowing in West Lake Park I couldn't imagine and anyhow a cop should be smart enough to know Papa would resist arrest and been looking for it. There was also the record from the emergency hospital, where he had delivered a lecture on medical jurisprudence to the ambulance drivers, which they said was brilliant but made no sense, though whether that was their fault or Papa's who could say? Then followed the round of examinations and his behavior in the ward at the county hospital out near Alhambra, where they were obliged to take people who refused to come up with their names and addresses. Or couldn't remember who they were and send for somebody.

A lot of what happened had been left out, otherwise half the nurses and doctors would have been fired on the spot, that much I knew.

The trouble with people like Papa and Willard Mack, the top playwright, of the moment, was that they could always get around everybody no matter how hard-boiled. I picked up a lot from nurses I knew, and Marjorie could always get anything from any male—Marjorie Rambeau, theater and movie star and beauty, at that time married to Willard Mack, who had written for her such Broadway hits as *Cheating Cheaters* and *Eyes of Youth*.

Tell you the truth, a lot of it was legend. Years later when I was doing an exposé for the Los Angeles *Examiner*, of the County Hospital where six men had died from injections of a new wonder drug called neosalvarsan, or 606, they were still telling the tale of the high jinks that took place once when Earl Rogers and Willard Mack were in the ward at the same time.

Some of that was in the complaint too.

They hadn't, it seemed, arrived simultaneously.

Only on awakening in adjoining cots had they discovered each other.

"Ah," said Mr. Mack, trying to make sure he could see, "it is you. I was just going to call you."

"Do," Earl Rogers said. "Keep your mouth shut and call me."

"I intended to ask you to come to see me—" Bill Mack said.

"I can't do that," Rogers said. "I'm already here. One of the gravest miscarriages of justice since those ward heelers stabbed Julius Caesar, but these things will happen in a republic."

"—and get me out," Bill Mack said.

"As your legal adviser," Rogers said, "let me caution you. Think this over. Don't act hastily. Are you sure you want to get out?"

By this time they had managed to sit up and, being without their usual elaborate nightwear, had draped themselves in sheets. Mack was a six-foot-two Irishman with curly black hair and a smile as winsome as the first tulip. They wore their togas with an air of having been born on the Appian Way. Quite a pair. No wonder that soon the other patients, inmates, internes, nurses, and orderlies were gathered to make up the audience to which both were accustomed.

"There are advantages to being *in*," Earl Rogers said. "Peace. Quiet. No arguments. No domestic pressure."

"The great disadvantage," Mac said, "is that pathologically my system requires a certain amount of Old Grand-Dad, from time to time. I become dehydrated and this causes frothing at the mouth."

"We are not without resources," Rogers said. "Nurses have bowels of mercy. Let us try what can be done."

Oh—it could be done.

Always. Papa was a tough man to say no to. There was a tenderness about him, as though he was doing *you* a favor. Out of the kindness of their hearts; because Mr. Rogers was so wonderful or had done something so great for somebody they knew; or was always helping poor people who couldn't pay a big fee; or they loved him or they were too goddam stupid to see that sneaking him just one little one was a devastating catastrophe.

After they had imbibed a nondehydrating draught or two they were so debonair everybody began to dance the cakewalk.

"I'd have paid to see it," one of the internes told Marj Rambeau when, a couple of days later, she located her missing spouse. "It was funnier than the Orpheum." "I thought so too," Marjorie said, "the first three years." But the interne was lost in his beautiful memories. "We played charades," he said, "even Dr. Duvalles. You should have seen Dr. Duvalles land on his behind trying to portray the fall of Lucifer." One of the nurses I'd met before said, "Honestly, we *died*. Of course gentlemen always think we nurses know everything anyhow—not that Mr. Rogers wasn't always a gentleman I assure you, it wasn't actually—anyhow, Mr. Mack was acting out *something* and pretending to be *somebody* and Mr. Rogers guessed Napoleon when he was too constipated to come out for the battle of

Waterloo, and Mr. Mack was furious. He said Nobody with a soul could mistake his impersonation of Mona Lisa for Napoleon *anywhere* and then Mr. *Rogers* said, Come come, dear boy, haven't you ever suspected that constipation might be the causa belli behind that smile, hasn't it sometimes looked a trifle bowel-bound to you? Then Mr. *Mack* said, Oh *I* see, she was on the waterloo too, imagine! Well, as I said, we were in stitches—"

One of the doctors was having a discussion with them about reincarnation and Mr. Rogers said he'd been an acrobat at least *once* and Mr. Mack said modestly, "You know, I'm almost sure I was the mother of the Gracchi" and fell flat on his face. Then it crashed upon the doctor that somehow they were right back where they came in three days before and all was to do over.

At the same moment, Earl Rogers dropped the bright mask of comedy and madcap roistering that had had everybody in stitches and the doctor saw the gray despair and desperation in a death-sweat on his brow, and felt the palpitations of a driven heart that shook him in an ague and it turned him serious faster than ever before in his medical career.

When they sent for me, I didn't go to the ward, I went to the doctor in charge. A fine man, a sound mental as well as physical diagnostician. He'd known us—Papa and me—for years.

"What do you think I ought to do, Doctor?" I said. "I'm sort of—stumped."

For a few seconds he sat with his eyes closed. Then he said, "I wish we could persuade him to go up to Loma Linda, the Seventh-Day Adventists do a remarkably successful job with this up there. Or I know several top men who have sanitariums of their own, where he could have the best treatment. Obviously, if he continues this way—"

"He won't go," I said. "I've tried and tried. His own doctors, his doctor friends, have told him. I even got Bishop Conaty to talk to him. Not that Papa believes in God but he does believe in the Bishop."

"We all do," the doctor said absently. "Then, my dear child, if he won't help himself, you and I must help him whether he likes it or not. A man as noble as Earl—oh yes, I know a great deal about him—must be saved from himself in spite of himself."

Or as Hugh Baillie puts it, "against his wishes."

As I drove back to town I thought I'd better consult Jerry Giesler. In our office he was still the "No" man, he always knew the worst. On the other hand, he'd come into our office as a boy, he'd read all his law under Papa, his exterior was colorless dry-as-dust, but he had a stupendous brain and a flaming admiration for and devotion to Earl Rogers. I always knew the only reason Jerry wanted to marry me was because I was Earl Rogers' daughter.

If Jerry saw the worst, the bad side, he also faced it. So as Papa had taught him to do with precision he made out the case against Papa, the way he always saw the case against our client. There was the day Papa had gone into a new judge's court and started to try the wrong case, the judge had been unimpressed by the Earl Rogers name and reputation and turned quite nasty. There was a client who'd paid a real big fee for which Papa forgot to prepare the case or show up to try it. Milton Cohen, so good with money, had a barn dance trying to square that one. The out-of-proportion number of continuances, the disapproval on the faces of the judges as they regarded the more and more dubious doctors' certificates. Complaints by clients to the Bar Association when blustering Frank Dominguez and Paul Schenck in his white ten-gallon Stetson appeared instead of the great Earl Rogers they had engaged to defend them.

With that, there peered at us the specter of which Jerry and I were terrified. Had long been terrified.

Disbarment.

I had also some *woman*—mother-daughter—fears of my own. When I was quite small Papa had bounced me out of the back seat of an open touring car going over the Casitas grade. He ought not to *drive*. And that rooming house where I'd found him—he didn't *eat*. Nobody to take care of him.

"We've got to do something," Jerry said. "Let me talk to him."

A lot of good that would do, I said. It jolted my hopes lower, though. I saw how panicky Jerry was, he was the last man alive to talk to Mr. Rogers about anything personally unpleasant unless he figured it was life or death.

I said, "Okay," and then I went up the hill to the Press Room in the courthouse. In the bare, dirty old room with its battered desks and antique typewriters and telephones, I asked the beat man if I signed a commitment so that my father would be held in a sanitarium and given a cure in spite of himself—would they keep it out of the papers?

Their first reaction was that I had lost my wits.

Earl Rogers was headline news, always had been, in their opinion always would be. A man couldn't fool around with *news*. That only was sacred to them.

Desperately I said, "No man ever played fairer with you on news than Rogers, did they? He made news for you when you didn't have any, didn't he? He was a newspaperman, you know that, before he was a lawyer. Two or three of you'd be on a weekly in Azusa if he hadn't saved your hides. Or in jail or still paying alimony to one of those babes you collected if he hadn't done your legal work for nothing. Did he ever refuse to take care of your family or your friends or some bum in some story of yours? If it's going to be on the front page I can't do it, it's tough enough—"