THE BURDEN OF PROOF

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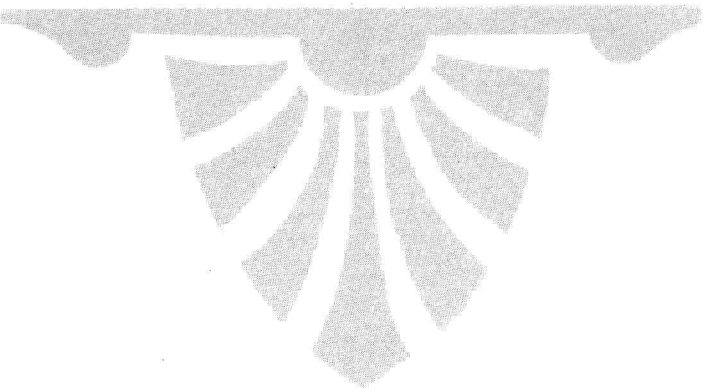
FARRAR STRAUS GIROUX

NEW YORK

PART ONE



1

THEY HAD BEEN MARRIED for thirty-one years, and the following spring, full of resolve and a measure of hope, he would marry again. But that day, on a late afternoon near the end of March, Mr. Alejandro Stern had returned home and, with his attaché case and garment bag still in hand, called out somewhat absently from the front entry for Clara, his wife. He was fifty-six years old, stout and bald, and never particularly good-looking, and he found himself in a mood of intense preoccupation.

For two days he had been in Chicago—that city of rough souls—on behalf of his most difficult client. Dixon Hartnell was callous, self-centered, and generally scornful of his lawyers' advice; worst of all, representing him was a permanent engagement. Dixon was Stern's brother-in-law, married to Silvia, his sister, Stern's sole living immediate relation and the enduring object of his affections. For Dixon, of course, his feelings were hardly as pure. In the early years, when Stern's practice amounted to little more than the decorous hustling of clients in the hallways of the misdemeanor courts, serving Dixon's unpredictable needs had paid Stern's rent. Now it was one of those imponderable duties, darkly rooted in the hard soil of Stern's own sense of filial and professional obligation.

It was also steady work. The proprietor of a vast commodity-futures trading empire, a brokerage house he had named, in

youth, Maison Dixon, and a series of interlocked subsidiaries, all called MD-this and -that, Dixon was routinely in trouble. Exchange officials, federal regulators, the IRS—they'd all had Dixon's number for years. Stern stood up for him in these scrapes.

But the present order of business was of greater concern. A federal grand jury sitting here in Kindle County had been issuing subpoenas out of town to select MD clients. Word of these subpoenas, served by the usual grim-faced minions of the FBI, had been trailing back to MD for a week now, and Stern, at the conclusion of his most recent trial, had flown at once to Chicago to meet privately with the attorneys representing two of these customers and to review the records the government required from them. The lawyers reported that the Assistant United States Attorney assigned to the matter, a young woman named Klonsky, declined to say precisely who was under suspicion, beyond exonerating the customers themselves. But to a practiced eye, this all had an ominous look. The out-of-town subpoenas reflected a contemplated effort at secrecy. The investigators knew what they were seeking and seemed intent on quietly encircling Dixon, or his companies, or someone close to him.

So Stern stood travel-weary and vexed in the slate foyer of the home where Clara and he had lived for nearly two decades. And yet, what was it that wrested his attention so thoroughly, so suddenly? The silence, he would always say. Not a tap running, a radio mumbling, not one of the household machines in operation. An isolated man, he drew, always, a certain comfort from stillness. But this was not the silence of rest or interruption. He left his bags on the black tiles and stepped smartly through the foyer.

"Clara?" he called again.

He found her in the garage. When he opened the door, the odor of putrefaction overwhelmed him, a powerful high sour smell which dizzied him with the first breath and drove up sickness like a fist. The car, a black Seville, the current model, had been backed in; the driver's door was open. The auto's white dome light remained on, so that in the dark garage she was wanly spotlit. From the doorway he could see her leg extended toward the concrete floor, and the hem of a bright floral shirtwaist dress. He could tell from the glint that she was wearing hosiery.

Slowly, he stepped down. The heat in the garage and the smell which increased revoltingly with each step were overpowering, and in the dark his fear left him weak. When he could see her through the open door of the car, he advanced no farther. She was reclined on the camel-colored leather of the front seat. Her skin, which he noticed first, was burnished with an unnatural peachish glow, and her eyes were closed. It seemed she had meant to appear neat and composed. Her left hand, faultlessly manicured, was placed almost ceremonially across her abdomen, and the flesh had swollen slightly beneath her wedding rings. She had brought nothing with her. No jacket. No purse. And she had not fallen back completely; her other arm was rigidly extended toward the wheel, and her head was pinned against the seat at a hopeless, impossible angle. Her mouth was open, her tongue extruded, her face dead, motionless, absolutely still. In the whitewashed laundry room adjoining the garage he was immediately sick in one of the porcelain basins, and he washed away all traces before calling in quick order 911 and then his son.

"You must come straightaway," he said to Peter. He had found him at home. "Straightaway." As usual in stress, he heard some faint accentuation of the persistent Hispanic traces in his speech; the accent was always there, an enduring deficit as he thought of it, like a limp.

"Something is wrong with Mother," Peter said. Stern had mentioned nothing like that, but his son's feeling for these things was sure. "What happened in Chicago?"

When Stern answered that she had not been with him, Peter, true to his first instincts, began to quarrel.

"How could she not be with you? I spoke to her the morning you were leaving."

A shot of terrible sympathy for himself tore through Stern. He was lost, the emotional pathways hopelessly tangled. Hours later, toward morning, as he was sitting alone beneath a single light, sipping sherry as he revisited, reparsed every solemn moment of the day, he would take in the full significance of Peter's remark. But that eluded him now. He felt only, as ever, a deep central impatience with his son, a suffering, suppressed volcanic force,

while somewhere else his heart read the first clues in what Peter had told him, and a sickening unspeakable chasm of regret began to open.

"You must come now, Peter. I have no idea precisely what has occurred. I believe, Peter, that your mother is dead."

His son, a man of thirty, let forth a brief high sound, a cry full of desolation. "You *believe* it?"

"Please, Peter. I require your assistance. This is a terrible moment. Come ahead. You may interrogate me later."

"For Chrissake, what in the hell is happening there? What in the hell is this? Where are you?"

"I am home, Peter. I cannot answer your questions now. Please do as I ask. I cannot attend to this alone." He hung up the phone abruptly. His hands were trembling and he leaned once more against the laundry basin. He had seemed so coldly composed only an instant before. Now some terrible sore element in him was on the rise. He presumed he was about to faint. He removed his tie first, then his jacket. He returned for an instant to the garage door; but he could not push it open. If he waited, just a moment, it seemed he would understand.

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The house was soon full of people he did not know. The police came first, in pairs, parking their cars at haphazard angles in the drive, then the paramedics and the ambulance. Through the windows Stern saw a gaggle of his neighbors gathering on the lawn across the way. They leaned toward the house with the arrival of each vehicle and spoke among themselves, held behind the line of squad cars with their revolving beacons. Within the house, policemen roamed about with their usual regrettable arrogance. Their walkie-talkies blared with occasional eruptions of harsh static. They went in and out of the garage to gawk at the body and talked about events as if he were not there. They studied the Sterns' rich possessions with an envy that was disconcertingly apparent.

The first cop into the garage had lifted his radio to summon the lieutenant as soon as he emerged.

"She's cooked," the officer told the dispatcher. "Tell him he

better come with masks and gloves." Only then did he notice Stern lurking in a fashion in the dark hall outside the laundry room. Abashed, the policeman began at once to explain. "Looks like that car run all day. It's on empty now. Catalytic converter gets hotter than a barbecue—six, seven hundred degrees. You run that engine twelve hours in a closed space, you're generating real heat. That didn't do her any good. You the husband?"

He was, said Stern.

"Condolences," said the cop. "Terrible thing."

They waited.

"Do you have any idea, Officer, what occurred?" He did not know what he thought just now, except that it would be a kind of treachery to believe the worst too soon. The cop considered Stern in silence. He was ruddy and thick, and his weight probably made him look older than he was.

"Keys in the ignition. On position. Garage door's closed."

Stern nodded.

"It dudn't look like any accident to me," the cop said finally. "You can't be sure till the autopsy. You know, could be she had a heart attack or somethin right when she turned the key.

"Maybe it's one of them freak things, too," the cop said. "Turns the car on and she's thinkin about somethin else, you know, fixin her hair and makeup, whatever. Sometimes you never know. Didn't find a note, right?"

A note. Stern had spent the moments awaiting the various authorities here in this hallway, keeping his stupefied watch beside the door. The thought of a note, some communication, provided, against all reason, a surge of hope.

"You'd just as well stay out of there," the policeman said, gesturing vaguely behind him.

Stern nodded with the instruction, but after an instant he took a single step forward.

"Once more," he said.

The policeman waited only a moment before opening the door.

• • •

He was known as Sandy, a name he had adopted shortly after his mother and sister and he had arrived here in 1947, driven

from Argentina by unending calamities—the death of his older brother, and then his father; the rise of Perón. It was his mother who had urged him to use this nickname, but he was never wholly at ease with it. There was a jaunty, comic air to the name; it fit him poorly, like someone else's clothing, and, therefore, seemed to betray all that helpless immigrant yearning for acceptance which he so ardently sought to conceal, and which had been in truth perhaps his most incorrigible passion.

To be an *American*. Having come of age here in the 1950s, he would always hear the whisper of special obligations in the word. He had never bought a foreign car; and he had forsaken Spanish years ago. Occasionally, in surprise, a few words, a favored expression might escape him, but he had arrived here determined to master the American tongue. In his parents' home there was no single language—his mother addressed them in Yiddish; with each other, the children used Spanish; his father talked principally to himself in windy high-flown German, which sounded to Stern as a child like some rumbling machine. In Argentina, with its deep Anglophile traditions, he had learned to speak the English of an Eton schoolboy. But here the idioms of everyday life flashed in his mind like coins, the currency of real Americans. From the first, he could not bear to use them. Pride and shame, fire and ice, burned away at him always; he could not endure the sniggering that seemed to follow even the slightest accented misuse. But in his dreams he spoke a rich American argot, savory as any jazzman's.

American optimism, on the other hand, he had never absorbed. He could not leave aside the gloomy lessons of foreign experience, of his parents' lives—emigrants, exiles, souls fleeing despots, never at rest. Certain simple propositions he took as articles of faith: things would often turn out badly. Seated in the living room in an overstuffed chair, amid Clara's raiku vases and Chinese tapestries, he accepted this like the coming true of an evil spell. He had the inkling of various tasks that were somehow imperative, but for the time being he had no thought to move; his limbs were weak from shock, and his heart seemed to labor.

Peter arrived not long after the paramedics. They had already rolled their white-sheeted cart into the garage to remove the body.

Wiry and always intense, Peter had burst into the house, disregarding the policemen at the front door. Why was it, Stern wondered, that he was so appalled by his son's hysteria, this hyperthyroid look of uncontrollable panic? Peter was immaculately kempt, a bone-thin young man with a highly fashionable hairdo. He wore a blousy French shirt with broad turquoise stripes; his pants were olive, but of a style never worn in any army, ballooning widely near the knee. Stern, even now, could not restrict a critical impulse. It was remarkable, really, that this man whose face was rigid with distress had taken the time to dress.

Rising finally, he encountered his son in the hallway leading from the foyer to the kitchen.

"I just can't believe this." Peter, like Stern, seemed to have no idea how to behave; he moved a single step toward his father, but neither man reached out. "My God," he said, "look at it. It's a carnival outside. Half the neighborhood's there."

"Do they know what happened?"

"I told Fiona Cawley." The Cawleys had lived next door to the Sterns for nineteen years. "She more or less demanded it. You know how she is."

"Ah," Stern said. He battled himself, but he found that a selfish shame, juvenile in its intensity, struck at him. This terrible fact was out now, news now, known. Stern could see the canny deliberations taking place behind Fiona Cawley's deadly yellow eyes.

"Where is she?" Peter demanded. "Is she still here?"

As soon as Peter had gone off to the garage, Stern recalled that he had meant to speak with him about calling his sisters.

"Mr. Stern?" The policeman who had gone into the garage was standing there. "Couple of the fellas wanted a word, if you don't mind."

They were in Stern's first-floor den, a tiny room that he kept largely to himself. Clara had painted the walls hunter green and the room was crowded with furniture, including a large desk on which certain household papers were carefully laid. It disturbed Stern to see the police stationing themselves in this room which had always been his most private place. Two policemen in uni-

form, a man and a woman, stood, while a plainclothes officer occupied the sofa. This third one, a detective apparently, rose desultorily to offer his hand.

"Nogalski," he said. He gripped Stern's hand tepidly and did not bother to look at him. He was a thick man, wearing a tweed sport coat. A hard type. They all were. The detective motioned to a facing easy chair. Behind Stern, the female officer mumbled something into her radio: We're talkin' to him now.

"You up to a few questions, Sandy?"

"Of what nature?"

"The usual. You know. We got a report to make. Lieutenant's on the way. Gotta fill him in. This come as a big surprise to you?" the cop asked.

Stern waited.

"Very much," he said.

"She the type to get all depressed and unhappy, the missus?"

This survey of Clara's character, to be attempted in a few sentences, was for the moment well beyond him.

"She was a serious person, Detective. You would not describe her as a blithe personality."

"But was she seeing shrinks, you know, anything like that?"

"Not to my knowledge. My wife was not of a complaining nature, Detective. She was very private."

"She wasn't threatening to do this?"

"No."

The detective, mostly bald, looked directly at Stern for the first time. It was evident he did not believe him.

"We haven't found a note yet, you know."

Stern stirred a hand weakly. He could not explain.

"And where have you been?" one of the cops behind Stern asked.

"Chicago."

"For?"

"Legal business. I met with a number of lawyers." The fact that Dixon might be in very serious difficulties, so sorely troubling only an hour ago, recurred to Stern now with a disconcerting novelty. The urgency of that situation waved to him like a hand disappearing in the deep, out of reach for the time being.

"How long you gone?" Nogalski asked.

"I left very early yesterday."

"You talk to her?"

"I tried last night, but there was no answer. We have a symphony series. I assumed she had gone for coffee afterwards with friends."

"Who spoke to her last, so far as you know?"

Stern deliberated. Peter's shrill manner would quickly antagonize the police.

"My son might have."

"He out there?"

"He is quite emotional at the moment."

Nogalski, for whatever reason, allowed himself a brief, disparaging smile.

"You do that often?" one of the cops behind him asked.

"What is that, Officer?"

"Travel. Out of town?"

"Occasionally it is necessary."

"Where'd you stay?" the woman asked. Stern tried not to react to the drift of the questions. The officers, of course, knew by now who he was and reacted accordingly—they despised most criminal defense lawyers, who hindered the police at every turn and were often richly rewarded for their efforts. To the police, this was a natural opportunity—a chance to pester an adversary and to indulge their customary nasty fancies about foul play and motives. Maybe the spick was humping his girlfriend in Chi while somebody for hire set this up. You never know unless you ask.

"On this occasion, I was at the Ritz." Stern stood. "May I go? My son and I have yet to speak with his sisters."

Nogalski was watching him.

"This doesn't make much sense," said the detective.

It made no sense, the man said. This was his professional opinion. Stern looked intently at Nogalski. It was one of the hazards of Stern's calling that he seldom felt grateful to the police.

Coming back down the hall, Stern could hear Peter's voice. He was carrying on about something. The same ruddy-faced cop who had shown Stern into the garage was listening impassively. Stern took his son by the elbow to draw him away. This was

intolerable. Intolerable! Some tough element of resistance within him was wearing away.

"My God, they're going to do an autopsy—did you know that?" asked Peter as soon as they were alone in the corridor. Peter was an M.D. and today apparently he was haunted by his past, the pathological exams he had practiced on the bums turned up in gutters, the gruesome med school humor as six or seven students studied the innards of the deceased. Peter suffered with the thought of his mother as another mound of lifeless anatomy awaiting the coroner's saw. "You're not going to allow that, are you?"

A good deal shorter than his son, Stern observed Peter. Was it only with his father that this craven hysteria occurred? Stern wondered. The climate of their relations did not seem to have changed for years. Always there was this lamenting hortatory quality, too insistent to be passed off as mere whining. Stern had wondered for so long what it was his son expected him to do.

"It is routine, Peter. The coroner must determine the cause of death."

" 'The cause of death'? Do they think it was an accident? Are they going to do a brain scan and figure out what she was thinking? For God sake, we won't have a body left to bury. It's obvious. She killed herself." No one yet had said that aloud. Stern registered Peter's directness as a kind of discourtesy—too coarse, too blunt. But no part of him riled up in shock.

This was not, he said, the moment to cross swords with the police. They were, as usual, being idiotic, conducting some kind of homicide investigation. They might wish to speak next to him.

"Me? About what?"

"Your last conversations with your mother, I assume. I told them you were too distressed at the moment."

In his great misery, Peter broke forth with a brief, childish smile. "Good," he said. Such a remarkably strange man. A peculiar moment passed between Stern and his son, a legion of things not understood. Then he reminded Peter that they needed to call his sisters.

"Right," said Peter. A more sober cast came into his eye. Whatever his differences with his father, he was a faithful older brother.

Down the hall, Stern heard someone say, "The lieutenant's here." A large man ducked into the corridor, peering toward them. He was somewhere near Stern's age, but time seemed to have had a different effect on him. He was large and broad, and like a farmer or someone who worked outdoors, he appeared to have maintained most of the physical strength of youth. He wore a light brown suit, a rumpled, synthetic garment, and a rayon shirt that hung loosely; when he turned around for a second, Stern could see an edge of shirttail trailing out beneath his jacket. He had a large rosy face and very little hair, a few thick gray clumps drawn across his scalp.

He dropped his chin toward Stern in a knowing fashion.

"Sandy," he said.

"Lieutenant," Stern answered. He had no memory of this man, except having seen him before. Some case. Some time. He was not thinking well at the moment.

"When you get a chance," the lieutenant said.

Some confusion rose up between Stern and his son.

"You talk to him. I'll call," said Peter. "You know, Marta and Kate. It's better from me."

With a sudden lucid turn, the kind of epiphanal instant he might have expected at a time of high distress, Stern recognized a traditional family drama taking place. As his children had marched toward adulthood, Peter had assumed a peculiar leadership in the family—he was the one to whom his sisters and mother often turned. He had forged intensive secret bonds with each of them—Stern did not know how, because the same alliances were never formed with him. This terrible duty, Stern realized, should be his, but the paths of weakness were well worn.

"Please say I shall speak to them soon."

"Sure." A certain reflective light had come over Peter; he leaned against the wall for an instant, absorbing it all, worn out by his own high emotions. "Life," he observed, "is full of surprises."

In Stern's den, the lieutenant was receiving a report from his

officers. Nogalski had come strolling up as Stern emerged from the hallway. The lieutenant wanted to know what the policemen had been doing. Nogalski spoke. The others knew they had no place to answer.

"I was asking a few questions, Lieutenant."

"Think you've asked enough?" Nogalski took a beat on that. They did not get along, the detective and the lieutenant—you could see that. "Maybe you could lend a hand outside. There's a real bunch of gawkers."

When the other officers were gone, the lieutenant gestured for Stern. He knocked at the door with the back of his hand so that it closed part way.

"Well, you got a shitpot of troubles here, don't you, Sandy? I'm sorry to see you again, under the circumstances." The lieutenant's name was Radczyk, Stern remembered suddenly. Ray, he thought. "You holdin' up?" he asked.

"For the time being. My son is having some difficulty. The prospect of an autopsy for some reason upsets him."

The cop, shifting around the room, seemed to shrug.

"We find a note someplace, we could do without it, I guess. I could probably fix it up with Russell's office." He was referring to the coroner. "They can always measure the C.O. in the blood." The old policeman looked at Stern directly then, aware probably that he was being too graphic. "I owe, you know," he said.

Stern nodded. He had no idea what Radczyk was talking about.

The policeman sat down.

"The fellas go over all the usual with you?"

He nodded again. Whatever that was.

"They were very thorough," said Stern.

The lieutenant understood at once.

"Nogalski's okay. He pushes, he's okay. Rough around the edges." The lieutenant looked out the door. He was the type someone must have called a big oaf when he was younger. Before he had a badge and a gun. "It's a tough thing. I feel terrible for you. Just come home and found her, right?"

The lieutenant was doing it all again. He was just much better at it than Nogalski.

"She sick?" the lieutenant asked.

"Her health was excellent. The usual middle-age complaints. One of her knees was quite arthritic. She could not garden as much as she liked. Nothing else." From the study window, Stern could see the neighbors parting to let the ambulance pass. It rolled slowly through the crowd. The beacon, Stern noticed, was not turning. No point to that. He watched until the vehicle carrying Clara had disappeared in the fullness of the apple tree, just coming to leaf, at the far corner of the lot, then he brought himself back to the conversation. The left knee, Stern thought.

"You don't know of any reason?"

"Lieutenant, it should be evident that I failed to observe something I should have." He expected to get through this, but he did not. His voice quaked and he closed his eyes. The thought of actually breaking down before this policeman revolted him, but something in him was bleeding away. He was going to say that he had much to regret right now. But he was sure he could not muster that with any dignity. He said, "I am sorry, I cannot help you."

Radczyk was studying him, trying to decide, in all likelihood, if Stern was telling the truth.

A policeman leaned into the room through the half-open door.

"Lieutenant, Nogalski asked me to tell you they found something. Up in the bedroom. He didn't want to touch it till you seen it."

"What is that?" asked Stern.

The cop looked at Stern, unsure if he should answer.

"The note," the officer said at last.

It was there on Stern's highboy, jotted on a single sheet of her stationery, laid out beside a pile of handkerchiefs which the housekeeper had ironed. Like the grocery list or a reminder to get the cleaning. Unassuming. Harmless. Stern picked up the sheet, overcome by this evidence of her presence. The lieutenant stood at his shoulder. But there was very little to see. Just one line. No date. No salutation. Only four words.

"Can you forgive me?"