

Anthony G. Covatta  
2565 Handasyde Avenue  
Cincinnati, OH 45208  
513.652.3750  
[acovatta@drewlaw.com](mailto:acovatta@drewlaw.com)

**With Uncle Walt at The Brothers Three**

It has been some years since I last regaled you with the adventures of my good friend, insurance salesman manqué Tom Blakeley. Those of you who have asked know that Tom is still in Santa Fe, or rather Galisteo, a bedroom town south of that lovely city, down the Turquoise Trail toward Albuquerque. Tonight's adventure emanates from events years ago at The Walt Blakeley Agency, the Cincinnati insurance concern owned at the time by Tom's Uncle Walt Blakeley.

Uncle Walt has figured little in the Blakeley Chronicles, but before embarking on this tale, a refresher course in Blakeley matters is in order for the many who have joined The Literary Club since the last installment. More seasoned members know that Tom Blakeley and I were pals at college and that Tom returned to Cincinnati to sell insurance with his Uncle Walt. Tom had two children with his first wife, Grace, now deceased. After Grace passed away, Tom sold the insurance agency left to him by Uncle Walt, and retreated to Santa Fe, where he teaches English at the Indian School. My own relationship with Tom has had its ups and downs, but we remain friends. Daughter Ingrid featured in a story about her marital difficulties in Idaho some years ago. Our last Blakeley story depicted young Walt Whitman Blakeley, Tom's son and Uncle Walt's namesake, whom we saw teaching at Bolton College in upstate Vermont, from which he was unceremoniously sacked.

Young Walt has recovered from that catastrophe and is now in his last year of law school at NYU. You will remember that he was unmarried when last we saw him. He was dating divorcee Nora Ferguson, then a clerk at the Northshire Book Store in

Manchester, Vermont. Things have progressed. Nora and Walt are now married with a child of their own and are living in Hoboken, New Jersey. Incredibly, Nora works in an insurance agency there, and somehow runs herd on their infant son, Alex, as Walt trudges off to classes each day and then clerks at a small downtown Manhattan firm in the warrens of lower Broadway. Nora's two daughters from her first marriage have bagged scholarships to Brown and Connecticut College, respectively, and are very sophisticated, driven young ladies looking forward to lucrative careers in the hedge fund industry, Park Avenue co-ops, and large summer houses in the Hamptons.

But this is not a story about young Walt, Tom's life in the golden West, or any of the current generation of Blakeley kith and kin. We are going back to the late 60s, when my friend Tom was a young insurance agent in downtown Cincinnati, working for his Uncle Walt, and thinking about going to law school himself. The Walt Blakeley Agency was a downtown fixture if a somewhat decrepit one. Walt and a long-dead partner, Fred Prendergast, offered general liability insurance to all comers, but as their mainstay dominated the surety bond business in Cincinnati from their second-story rat warren office at Ninth and Main, above the B/G Restaurant. Fred's great uncle, Pat Prendergast, a crony of Boss Cox, had been County Clerk of Courts in the 20s and 30s and there was no one in the courthouse who had a dirty little secret or bad habit that Fred and so Walt didn't know. If a bond could be had, Fred and Walt knew how to get it.

In his bleaker moments, Tom saw a long dark future ahead, a rocky if lucrative road of peddling insurance policies to the fearful and gullible, and writing bonds for those brushing up against the court system. He saw money dotting the trail, but

wondered what it would add up to. Perhaps the law would be just as lucrative but allow him to do good as well as do well. And so he was considering taking the LSAT and going to law school at UC or Chase – then a night school affiliated with the YMCA on this side of the river.

None of this is to say, and Tom would not say, that Fred Prendergast and Walt had misused their knowledge. They were students of human nature, more bemused than saddened by the frailty they saw around them, and they didn't take advantage of others for base gain. It was all just grist for the philosophical mill they ran at The Brothers Three, a disreputable neon sewer up Court Street toward the Kroger Building that they frequented most afternoons after work. When Fred died too young of a heart attack, Walt, a confirmed bachelor, silently but resolutely dropped Fred's name from the masthead. He said it pained him too much to see it. He increased his hours at the "Three" as its habitués called the watering hole, and changed no other habits.

Walt was a solitary drinker after Fred was gone, and so Tom was a bit puzzled when Walt asked him to join him at the Three one Friday afternoon in mid-December. "You've been working too hard, Tom," said Walt. "There's someone you ought to meet. A good lawyer. You need to see what practicing law is really like. We might even sell him a bond." This seemed especially odd, since Walt considered Tom the son he never had and was far from anxious for Tom to abandon the Agency for law school or anything else.

That Friday afternoon Tom was waylaid by a long phone call. When he arrived at the Three, Walt was already deep in drink and conversation with the interesting specimen/prospect at a booth in the barroom. The bar fronted on the back wall, with the

usual array of quarts of bourbon, Scotch, gin, vodka and other spirits spigotted and ready to pour. On the bar itself were jars of pickled eggs, pigs' feet, and garlic pickles. Has anyone ever seen another person eat one of these items? I hope not. In the middle of the room were a few forlorn Formica-topped tables, and at the other side darkly upholstered booths, the leather seats leaking poisonous fibers from incipient crevasses. Across from Walt in a corner booth and an array of Walt's Manhattan glasses and the visitor's beer steins, his glistening black hair brushed straight back from a high forehead, sat a handsome, slightly overweight lawyer in a red and blue rep necktie, sharp pinstripe navy blue three-piece suit, on cursory inspection much in need of dry cleaning, and scuffed and dirty Bass Weejuns.

This was, Tom quickly learned, Paul Martino, a Ninth Street lawyer of some repute with a catch-as-catch-can practice. Tom had noticed that from time to time Paul made the inside pages of the local sections of *The Enquirer* and *Post and Times-Star*. He had a penchant for the notorious. Tom recalled vividly that Paul had recently used his legal acumen to get a local lady of the street off a prostitution charge. When the undercover cop posing as a john solicited the girl's services and then arrested her for prostitution, like many of her sisters before her the young lady was quick to retain the services of the Law Offices of Paul Martino. When the case finally came to trial, the cop forthrightly and truthfully testified that the enterprising miss had asked him if he wanted a "three-way:" Paul created reasonable doubt by getting the cop to admit that she might well have been inviting him to share a late night snack at a nearby Cincinnati Chili parlor. The jury bought the theory and the girl walked.

This was typical of Paul's jurisprudence. Tom was not surprised to see that Martino was somewhat down at heel and handling some rough and tumble civil litigation, as such celebrated matters as the Cincinnati Chili case are not only not especially lucrative, but also few and far between. This time around Paul was moving for a temporary restraining order in a case and so would need a bond to secure the court's order if he was lucky enough to get one. As Paul told his story, Tom sensed that the stars did not seem to be in perfect alignment for his client. Paul's client was a working man, an enterprising fellow who labored for a major tree-trimming service. He had his own black market tree-trimming business on the side, shunting what business he could away from his unsuspecting national employer to his own local concern, run under the euphonious name, "Van the Tree Man."

Van's plans for the spring cutting season centered on upgrading his rolling stock. In need of ready cash to make the down payment on a more reliable truck than the ancient hulk he was driving, Van had sold his only truck to George Childress, a Madisonville industrialist who remodeled kitchens, bathrooms and anything else he could put a claw hammer and crow bar to in the Madisonville-Oakley Metroplex. Childress was an enterprising African-American who would later make his fortune fronting for larger concerns on minority set-aside projects. Childress died a happy man in the 1990s living on a sprawling farm south of Georgetown, Ohio, where he raised prize show cattle. At that time, however, the playing field was all too level, and Childress would pick up anything that was, as Shakespeare said, neither too hot nor too heavy to carry away. Like many small contractors, he was perpetually short of cash, using funds from one job to pay off overdue obligations on jobs two or three back.

Van, a bluff country boy from the Eastern Kentucky hills, was not nearly so sophisticated as City Boy George. Innocent of the ways of commerce at this level, Van the Tree Man had unfortunately exchanged perfectly good title to his truck for a perfectly bad check from Childress Construction. George had the truck, and title to it. Van had neither truck nor any money to show for his pains. You may know that with motor vehicles, title is everything. The person who holds the title owns the truck. If you finance the purchase of a car or truck, you get a document that memorializes your lease; the bank or finance company holds the title as security and mails it to you when and only when you have made the last payment on the loan.

To unwind the transaction here would be a major undertaking, involving suit, for George was not about to simply surrender the title. A normal lawsuit in Hamilton County, Ohio now can take one year to 18 months before a judge with average motivation, and you throw in another year for appeal. Things were slower in the days of our tale. Van could not afford to be off the black market tree-trimming business for three or more years.

Problems. Yet another. George was unreachable. His office had neither an answering machine nor any occupant and all correspondence went unanswered. It looked to be a bleak Christmas indeed for Van the Tree Man. But Paul Martino had a plan to short circuit the system. As MacArthur had promised that the boys would be home from Korea by Christmas, 1950, Paul stated flatly that the truck would be back under Van the Tree Man's Christmas tree. Paul would file suit against Childress, seeking a temporary restraining order to force Childress to give back the truck immediately.

Now while this is bare knuckles litigation and much below the rarefied level of practice of the eminent barristers in this room, those members of the Literary Club bar who are still awake might have noticed a fairly sizable flaw in Paul's plan. For the uninitiated, a TRO, or temporary restraining order, is a time-honored procedure, a device arising under the ancient common law, designed to maintain the status quo by order of court, when there is no adequate remedy "at law" – when money damages at a remove of two or three years, or the very uniqueness of the object or situation to be preserved demand that the court take immediate "equitable" action. The "Chancellor" as the equity magistrate was called in the very old days might issue a temporary restraining order to keep things in place, to preserve matters as they stand at the moment the matter comes before him. In our day the judge handles both law and equity, and when sitting in equity rather than law looks more to basic principles of fairness than to the rigors of statute and case law.

Even Tom was vaguely aware that Paul's plan fell far short of airtight. For the status quo was that George Childress had the truck. In a perfect world, no judge would enter an order unscrambling the sales contract into which Van the Tree Man had freely, if not very brightly, entered. Contracts are not made to be broken in our commerce-friendly legal system. Moreover, Tom wondered how The Walt Blakeley Agency would find Martino the bond he would need to secure the TRO. In a matter such as this, if Martino was lucky enough to get a TRO, the judge would balance things by requiring Van the Truck Man to post a sizable bond protecting Childress should the Restraining Order have been improvidently granted. Getting the bond would not be easy. Van would certainly not have a strong balance sheet. Neither would Martino if he were crazy

enough to vouch for Van. Lawyers customarily would not do such a thing, and there was no indication that Martino lacked sufficient sanity to front money for a penniless client. Certainly Childress's attorney would ask for a high bond, arguing that the TRO if granted would cause Childress untold damage, literally putting him out of business, all for the loss of Van's sorry truck.

However, Tom had been working at the Walt Blakeley Agency long enough to know that this was not a perfect world, that things did not always go by the book. Far from it. He knew that Martino and Uncle Walt knew more ways into the Courthouse than the front door. Genial Uncle Walt promised Martino that the bond would be forthcoming, and after another round of pre-holiday cheer, Martino, pleading a late afternoon "conference call" wiped his mouth on his sleeve and was off. Uncle Walt answered Tom's quizzical expression with a somewhat defensive, but assertive – "Don't worry, this will work out. Tom, you worry too much."

A few days went by, and Tom had totally forgotten Martino and Van the Tree Man, when one afternoon, he saw Martino hustling out of Walt's musty office, a sheaf of creased and rumpled papers under his arm. Vaulting down the stairs, Paul headed for the Courthouse. Tom stuck his head into Walt's office, files piled on every flat surface. That day, like all days, the aroma of frying bacon and stale grease from the deep fryer wafted up through the porous floor from the B/G below.

Walt told him the chase was on. Paul was off to file his suit against Childress Construction and George Childress personally. By a stroke of good fortune, the straight-laced, not overly receptive jurist who was that month's equity judge was off to Florida for the holidays and coming off the bench on to the bench was veteran Judge



Eugene (“Clean Gene”) Weskamper, an Elder grad who had played pulling guard on the Panthers teams on which Walt had been a plucky, quick, if undersized halfback. Had it not been for brawny Weskamper, Walt Blakeley might well have spent his adult life in a wheel chair. At that moment, Tom, innocent as he was, nevertheless did a mental double take in Walt’s direction. Uncle Walt’s perfunctory attendance at church on Easter and some Christmases was not enough to earn the divine intervention by which so many of Walt’s clients drew Weskamper as their trial judge. Other factors, Tom suspected, must be at work, but neither then nor later could he determine what they were.

There was snow and more snow that week, and then a hard freeze, increasing the gloom permeating downtown as the great holiday approached. Business was slow, not least because Christmas was only a few days off. Tom accompanied Walt to The Brothers Three for a slight libation the Monday of Christmas week. The day of days was to fall on the following Sunday. As the two Blakeleys silently sipped their drinks, a downcast counselor Martino entered, somberly kicking slush and snow off his sodden Weejuns. The case was eating Paul alive. Things were not going well, and Van the Tree Man was turning ugly. While Van’s meager retainer had long since been exhausted, this didn’t keep Van from querulously demanding results. When Paul had ticked off all the things he was doing to run George Childress to ground, Van had testily told him, “Paul, you just forgot one thing.” – “What?” “He’s got the truck.” Van could be marginally good humored, but Paul was hard put to stomach the irate phone calls he was getting at odd hours from Van’s hard-bitten and humorless wife.

Other than Van's noting that possession is nine points of the law – whatever that means – Paul had not reckoned on one other crucial item. He still couldn't find Childress. This was a shame, for, to Tom's surprise, Clean Gene Weskamper had granted Paul's TRO prohibiting further transfer of the truck.

Had Tom gone on to law school and practiced in Cincinnati, he would not have been so surprised. For in those days many TROs were granted *ex parte*, that is, with only one side, the party asking for the order appearing before the Court. The lawyer's custom then was to either neglect to inform the other party at all of this application or have his secretary call opposing counsel fifteen minutes after he had hot footed out the door, relating that the boss was on his way to the courthouse. [Ed. Note: This writer confesses with some shame that in the early days of his practice he jocularly referred to "St. Francis X. Parte" as the patron saint of his practice. Of course, such quasi-unethical customs no longer obtain in our perfect world, where Justices of the Supreme Court go duck hunting with donors to their political party on the eve of major decisions and their wives work for partisan right wing causes that appear before the Court.]

Back to our theme. Like many Hamilton County judges then and now, Weskamper had come up through the system, first serving as a Prosecutor and then moving on to the bench when there was an opening and a Republican governor to appoint the fortunate candidate to the open seat. Thus the judges were adept at criminal practice, but as former prosecutors found civil practice foreign, and even repellent. Martino knew that while he could not get even the pliant Weskamper to order return of the truck on the facts before him, he could easily convince the old prosecutor, who knew a criminal even before he saw him, that a sneaky Childress could well sell the

truck and abscond with the proceeds. And this on the basis of no evidence whatsoever. As Martino quipped to the Blakeleys, if Weskamper believed that, he probably believed in Santa Claus as well.

But who did know where the truck might be by now? How could Martino get George Childress's attention? Paul had one last arrow in his quiver. He knew that Weskamper loved to have impromptu hearings, his feet up on the counsel's table in the middle of his courtroom, and Paul intended to schedule one, ordering Childress to appear with the title of the truck the following morning to demonstrate that the status was still quo. If he didn't show, and he wouldn't, pliable Weskamper would almost certainly find Childress in contempt and issue a bench warrant for his arrest. If Paul could then find him, he could start to turn the screws by serving the bench warrant, providing for his immediate arrest for failing to abide by the Court's prior order for appearance.

Wednesday about 11:00, Martino appeared in the agency office. Could he use the phone? The pipes had burst at his place overnight, and his office was sub zero. He had just been to see the initially miffed Duke Carver, Childress's attorney, who wouldn't help him find George, but somehow was aware of the suit papers. Duke did let it slip that George might be temporarily holed up at the shop of a Newtown electrician with whom he sometimes worked— Junior Miracle. When Tom registered his disbelief in the existence of such a person, Paul observed laconically that you couldn't make up names like that.

At any rate, Paul was serving papers, he hoped, on Childress and Miracle. Weskamper was now more than ready to jail Childress for his contempt, and his

henchman Miracle for good measure. Paul was trying to reach the Sheriff's deputy who had the papers, and tip him off about Miracle Electronics.

He asked Tom to call Miracle's shop and ask for George Childress. God knows why Paul was so delicate about it, but there it was – he didn't want to have to be a witness himself. Against his better judgment, Tom called.

– “Hello? Miracle ‘Lectric, Junior speakin’.”

– “May I speak to George Childress?”

– “Fuck you.” Click.

– “Paul, he's there.”

With that, Paul was on the phone to the Sheriff. After the Deputy's initial protest that they couldn't find Childress and Miracle anywhere and Paul's explaining very patiently just where Miracle Electronics was on Main Street in Newtown, there was a final slurp of coffee, and the Deputy was on the case. That afternoon at the “Three,” Uncle Walt gave Tom a progress report. Childress was in jail, with a hearing scheduled for Friday morning, December 23, before Weskamper. What about the not so aptly named Junior Miracle? The Sheriff's Department was only willing to do so much, the deadpanned Deputy had explained. The black Childress could justly spend a couple of nights in jail, but white Junior was properly released on his own recognizance.

Why wait until Friday? Tom wanted to know. Walt explained the missing part of the puzzle. On Thursday, Paul would let Duke Carver know that if Childress didn't produce the truck keys and title at the hearing on Friday morning, he would spend Christmas weekend in the County Jail, and maybe even New Years evening and day.

Childress liked the good life. He would see no merit in spending his holidays with the Sheriff.

Tom thought this was pretty rough justice. Wanting to see if the game was really played this way, he thought he would be in Weskamper's room Friday morning at 11:00 when the hearing was scheduled. Late as always, he got to Weskamper's room, running down the echoing marble hallways of the empty courthouse about 11:15. By this time, the wheels of justice in Hamilton County had ground to a halt, with the notable exception of Clean Gene's room.

In an otherwise cavernously empty room, most of the players were present. He could see Weskamper through the open door of his office, judiciously reading the sports pages of *The Enquirer*, spit polished brogans up on his desk. His bailiff was slowly searching the drawers of his desk, one after the other, looking for some untold but assuredly essential article, not finding it and periodically slamming an offending drawer shut. The constable was quietly doing her nails, resolutely ignoring the few people in the room. Carver was planted at one attorney desk, Martino at the other. Carver had just delivered the punch line of a private joke that Martino found hysterically funny. Perched nervously in the back row was the only civilian spectator other than Tom, a magnificent physical specimen, obviously in her early 20s, her pert bottom seated on the edge of one of the hideously uncomfortable pews that then as now served as seating for taxpayers unfortunate enough to come into contact with their justice system. Below a long gracefully oval face with bright brown eyes and full lips, her ample breasts blossomed like Christmas roses straining against the sheer crimson blouse covering but not hiding them. Her miniskirt was sure to give her pneumonia in such weather, despite

a very tight three-quarter-length leather jacket, flared open at the top that did nothing to hide long slender legs below. What was a looker like this doing here instead of the bar at The Stirrup Cup?

Tom realized, as the girl nervously twirled a set of keys around her lacquered purple and gold nails that she was delivering the keys to Childress to turn over to the court. A few minutes passed. A pudgy Sheriff's deputy emerged from a door in the back wall – where Tom knew the court's lockup was. Hobbling after him in shackles was Childress. To Tom's surprise Childress was a wizened little man with sparse receding hair, graying at the temples, probably in his mid 50s. With a cry almost of pain, the girl jumped up and clattered on her spike heels to console him. It being Christmas week, the Deputy did little to cool the tropical reunion.

The tawdry drama played out. After Weskamper took to the bench and called the case, the keys were ceremoniously transferred from the girl, to Childress, to Duke, to the court's bailiff, to Paul. With that, Weskamper sonorously told Mr. Childress that he was purged of contempt. Eyeing the girl, he wished him a very Merry Christmas. The charming young lady – what did you say her name was, Duke? – could wait for Mr. Childress in the lobby of the Courthouse. It wouldn't take more than an hour or so for Mr. Childress's release papers to be processed.

Tom walked out with Martino and Carver, who were off to the Three to mend fences, discuss finer points of practice, and have a holiday lunch. Carver gave Paul the truck title, duly endorsed back to Van, told Paul where the truck was located and promised Paul that Van would be greeted with no more than small arms fire when he went to retrieve it – during daylight hours, of course. As Tom peeled off to get back to

the Agency, he heard the two barristers chuckling about Childress's ability to attract good-looking women. Duke opined that he didn't know what George's secret was, but that he had never seen him with other than a prime specimen on his arm. The lawyers agreed that this was an admirable aspect of Childress's character.

That afternoon, Tom and Uncle Walt held a postmortem on the year at The Three before Tom went home to his young family and Walt repaired to his solitary apartment at the Phelps. Tom expressed his amazement at how things had turned out. Walt told him that he had always found Martino a very creative lawyer. He was little surprised that he had been able to pull the thing off.

Tom had only one final question: how had Van the Tree Man and Paul been able to come up with financials strong enough to warrant approval of the bond? Uncle Walt shook his head and looked incredibly apologetic, but with the hint of a sly smile, confessed. "Tom, can you believe it, I promised Gene that I would look over the financials and walk over to the courthouse to sign the bond book if everything was in shape. I was so busy with Christmas preparations that I never got around to it. Gene must have figured everything had worked out ..."

Tom now knows that Walt expected more approval of his strategic memory lapse than he gave his beloved Uncle that day. Xavier grad Uncle Walt took great pride in knowing but would never boast that he was smarter than most of us, Ivy League lawyers included. Tom regrets not giving Walt his yearned-for due for this stratagem, but imagines without self-loathing that this is about when he determined not to go to law school, and when he began to feel the gradual disenchantment that eventually led him to leave both the insurance business and Cincinnati, the home of his forefathers.

So much for Van the Tree Man. He recedes into the increasingly watery soup of memory, eventually to be forgotten, like almost everything else. Wrapping things up in the present, you might want to know about Tom's second wife, Sally, who has taken a break from politics after serving as Bill Richardson's Chief of Staff for the last two years of his second term as Governor of New Mexico. She was not thrilled with Richardson's lame explanation of how a non-existent youthful tryout with the Yankees had shown up on his resumé. She has forgiven Bill, as she calls the Governor, but now busies herself with the grandchildren, as does Tom, who is still teaching at the Indian School. Tom's daughter Ingrid, whom you met some years ago, is now a lawyer in Albuquerque. So both of Tom's children have embarked on a career in the law, the path Tom chose not to follow all those years ago. Ingrid married her geologist sweetheart, and her boys are now in their early teens, on the dean's list and playing varsity soccer and tennis at their exclusive private high school, hoping they are sharp enough and good enough to get into Stanford.

Ingrid is partner in the local office of one of the large firms that burgeoned with the tech boom in Silicon Valley and then spread over the West. She specializes in mergers and acquisitions and is a director of a hedge fund or two. After the near cataclysm at the end of the Bush administration and some resulting lean years, things are looking way up. When not with Sally and Tom for the holidays, Ingrid and her men can be found at their posh condo, pool and Jacuzzi included, at Cabo San Lucas. Shaking his head, Tom only hopes that Ingrid and young Walt, yet to find his own niche in the law, find a deeper justice than he did in his days with Uncle Walt at The Brothers Three.



Sally Blakeley still loves Tom, but wishes the years had given him more of the philosophical sense of humor she senses Uncle Walt possessed. After all, you can't take these things seriously, can you?

Presented to The Literary Club of Cincinnati  
May 20, 2013

191571