

*ANATOMY OF A MURDER**25th Anniversary Edition*

By Robert Traver

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When it was first published in 1958, the novel *Anatomy Of A Murder* became a best-seller. Subsequently, it was turned into a successful motion picture, an Otto Preminger classic, which continues, thankfully, to be seen on television. *Anatomy Of A Murder* is the work of a Michigan prosecuting attorney, John D. Voelker, who writes under the name "Robert Traver" — he is now a retired Justice of the Michigan Supreme Court who resides in the Upper Peninsula of that great State, the scene of the events and trial which are the subject of the book. It is fitting that there should be a 25th Anniversary Edition of it, with a special Introduction by the author. Books and novels about the law have flowed from Traver's fertile imagination and busy pen over the years — the latest is *People Versus Kirk* involving murder and hypnosis. *Anatomy* involves murder, rape and irresistible impulse. Although these are novels, there is much to be learned from them in terms of law-in-action, evidence and trial practice.

The introduction to this edition of *Anatomy* contains, inter alia, a delightful account of Justice Voelker's friendship with the great American advocate, the late Joseph N. Welch of Boston, who played the part of Judge Weaver in the motion picture version of the story. These two kindred souls planned to write a book together but, alas, Mr. Welch died before this could be done. Anyone who has read Welch's book *The Constitution*, a book built upon his televised series on the U.S. Constitution, with its pictures of notable events and leading cases, can readily imagine just what a fine book it would no doubt have been (A brief account of Joseph N. Welch's life and work is to be found in (1971), 38 Manitoba Bar News at p.246).

The 25th Anniversary Edition of *Anatomy* is not revised, abridged, or anything of that sort. It is the same great story, "a gripping tale of deceit, murder, and a sensational trial", triggered by alleged rape, tested on a lie-detector, with the defence or excuse of irresistible impulse raised, and with psychiatric opinion evidence elicited via hypothetical question. The problems of the relevancy and the admissibility and the cogency of evidence pro and con, along with the concept of proof beyond a reasonable doubt — and, above all, perhaps, Judge Weaver's jury instruction — all contribute, in due proportion, to the grip of the tale. But, to be sure, as in real life, humour insists on its role, even in the worst of human situations. And what can be worse than rape and murder brought together in the context of an insanity plea? Some humour is essential, and Robert Traver does not overlook this.

The irresistible impulse defence in *Anatomy* is predicated on an old Michigan case, *People v. Durfee* (1886), 29 N.W. 109; 62 Mich. 487. Upon

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that, defence counsel build their monumental hypothetical question put to the psychiatrist on the witness stand.

But, let us not forget the lie-detector test mentioned above! What role could it play, if any? What does the law have to say about that?

Well, of course, for the solutions to these and related issues one must turn to Robert Traver's *Anatomy Of A Murder*.

Now, as to Canadian law on these points, one must turn to *Borg*, [1969] S.C.R. 551 and *Abbey* (1982), 138 D.L.R. (3d) 202 (S.C.C.) with reference to irresistible impulse and to opinion evidence; to *Phillion* (1978), 74 D.L.R. (3d) 136 (S.C.C.) with reference to lie-detector evidence; and to *Bleta* (1964), 48 D.L.R. (2d) 139 (S.C.C.) with reference to the hypothetical question technique.

Robert Traver has explored "those vast neglected boneyards of the law" and given his attention to "that busiest of all stages in our society, the public courtroom." He refers to this in his Introduction; and see, also, his article in (1982), 68 American Bar Association Journal at p.1104, entitled "Buried Courtroom Tales."

The latest edition of *Anatomy*, with the author's Introduction, deserves the attention of that generation of law students who missed the first edition of 1958. Not only will they encounter rape, murder, lie-detector testing, irresistible impulse, expert opinion on hypothetical questions — the matters mentioned above, they will encounter, also, law-in-action, human nature and humour. However, a word of warning — *Anatomy Of A Murder* can be addictive!