

# THE HENNEPIN LAWYER

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14

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## “Liars Dice”: A Novel O. Henry Would Have Liked \*

Early in the 1958 best-seller, *Anatomy of a Murder*, the defense lawyer, “Polly” Biegler, played by a wily Jimmy Stewart in the movie, agrees to defend a surly army lieutenant charged with murdering a man he thinks raped his wife. Conferring in the county jail, Biegler first delivers a “lecture” to his client about various defenses to the charge, including insanity, and then asks him to describe his mental state at the time of the killing. Not surprisingly, that description turns out to be a perfect match for what ultimately is the successful defense of “irresistible impulse.” In a later meeting, the defendant remarks, “Have you forgotten it was you who injected insanity into this case?” “No,” the Stewart character lamely replies, “I merely told you what the possible legal defenses were — it was you who told me facts from which one might conclude you may have been insane.”

This exchange comes to mind after finishing *Liars Dice*, the first novel of Minneapolis attorney, Robert Gust. In a preface, Gust writes that parts of his story are based on “actual events.” For better and for worse, there is a great deal of realism in this novel.

Debi Krueller, a housewife in Hibbing, flees her abusive husband, Lester, and finds refuge in the home and in the bedroom of Duke MacKenzie, a neighbor. Late one night, Lester Krueller breaks into Duke’s home brandishing a shovel. Duke shoots him. As Lester withers on the floor, his wife calls 911. Duke disappears into the night. Days later, Duke’s body is found near a pistol — a suicide, so the sheriff concludes. The Koochiching County attorney charges Lester with aggravated assault and burglary. Lester in turn brings a civil assault suit against the estate of

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\* Book review of *Liars Dice*, a novel, by Robert Gust, published by Syren Book Company in 2005. This review by Douglas A. Hedin appeared first on pages 14-15 of the October 2006 issue of *The Hennepin Lawyer*. Though reformatted, it is complete. It is posted on the MLHP with the permission of the Hennepin County Bar Association.

MacKenzie. After Duke's homeowner's insurance company denies coverage, Hank MacKenzie, the executor of estate, who professes to want "the best lawyer money can buy," hires Dixon Ulysses Donnelly, a 35-year-old Minneapolis business lawyer. Donnelly files an answer alleging that Duke shot Lester in self-defense and a counterclaim for wrongful death, theorizing that Lester's crime caused Duke's suicide.

A great deal of this novel unfolds through dialogue. While lawyers are always concerned with language in their work, Gust recognizes the particular importance of the spoken word in the world of litigation — Donnelly plots strategy with his client, confers with Lester's lawyer and the county attorney, interviews witnesses, takes depositions, argues motions, picks a jury, and tries the case. But conversation is a trap — it is easy to turn on but hard to turn off. Perhaps one-quarter of this novel could have been cut out through rigorous editing and it would not have suffered one bit.

Take, for example, Donnelly's depositions of Debi and Lester Krueger. In all legal literature, there are few descriptions of depositions as realistic as Gust's account of these two. Donnelly instructs the witnesses, he proceeds chronologically, he watches their body language, his mind wanders, he squelches objections by Krueger's lawyer, he scans police reports, he takes a break and then winds up. The thirty pages it took to relate these pre-trial episodes could have been condensed into a page or two.

The development of multi-dimensional characters is difficult for all novelists but especially hard for a lawyer-turned-novelist. The adversary system doesn't lend itself to the development of multi-sided portraits of individuals. Curiously, several of Gust's most interesting and deftly drawn characters are non-lawyers. He strains to give depth to Donnelly. Rather ominously, we are told early in the novel, "There were few subjects about which Dixon didn't have opinions and he relished the role of the contrarian." Throughout the book, Donnelly spouts off on all sorts of subjects — public housing, how women's personalities develop, and so on. Rather than emerging as a thoughtful observer of society, he becomes a tiresome know-it-all, just another lawyer who likes the sound of his own voice.

"Legal thrillers" always seem to include a discussion of some legal principle. These references distinguish this genre from its close relative, the detective story. Dixon Donnelly lectures his client about numerous

legal rules as if he were reading from a West hornbook. Only in hindsight do we see that Donnelly's recitation of black letter law is a critical part of Gust's intricate plot.

In the criminal trial, Lester is found guilty of assault but acquitted of burglary. He appeals and, during the middle of the civil trial, the Minnesota Court of Appeals reverses his conviction. As the civil trial begins, Donnelly has the quandary of trying to prove his case through the testimony of hostile police investigators and that of Lester and Debi, who have since reconciled.

On the third day of trial, Debi testifies in support of Lester, but becomes so distraught that Donnelly's cross is continued until the next day. The next morning, following suggestions from his client, Donnelly asks gentle, sympathetic questions. Suddenly Debi blurts out astonishing charges against her husband — she says they have been lying about what happened at Duke's house since the beginning of the case. On redirect, Lester's lawyer "was now in the unenviable position of trying to discredit his own witness." He fails. Debi leaves the courthouse and disappears into a treatment program. Donnelly not only wins his counterclaim but may get the insurance company to "pony up" as well.

Just as we are about to put this long novel down and turn out the light, we see that there are about two dozen more pages to go. We pick it up.

Donnelly is meeting with Hank MacKenzie. He is in a celebratory mood. Hank starts to talk, and for once Donnelly listens. It turns out that when Donnelly was lecturing us about the law at the beginning of the book, Hank actually was listening. And he was particularly interested to learn that a lawyer could not be charged with innocently putting on false evidence at a trial. Hank tells Donnelly that before Debi testified, she met secretly with him to discuss her husband and . . . Holy Toledo, what an ending!

The "best lawyer money can buy" discovers that he has been a puppet, his client the puppeteer. (The title of the novel is the name of a game of chance but figuratively refers to the tricks people use — in this case, the lawyer's client — to get what they want). One point of Gust's novel is that a case always belongs to the client, never the lawyer, but what really interests him are the range of experiences of every lawyer while working up a big case for trial — it's a journey of surprises, suspense,

disappointments, success, and much else. At the end of his odyssey on the Iron Range, Dixon Ulysses Donnelly appears to have become a wiser and more chastened person.

Like most first novels, this one has many flaws, but it is well worth reading. In fact, it probably should be required reading for those who lecture at mandatory CLE seminars on legal ethics in this state. ■



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